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Senate

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

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by guest Chaplain Rev. Father John McCormick, St. James Cathedral, Orlando, FL.

The guest Chaplain offered the following prayer:

Almighty God, our Father, as men and women called to honor the Nation that You have called us to live in by our generous and public life of service, strengthen our sense of gratitude for the many blessings with which we have been endowed. We stand in this Chamber, surrounded by the many monuments and burial sites that honor all the men and women who, throughout the passing of time, have made the ultimate sacrifice that has enabled our country to be a beacon of light and goodness for all peoples.

As we begin this day of work in Your kingdom, extend Your hand of blessing and protection over the Members of this body. Hold close those who serve with honor and sacrifice in the military services and their family members whose sacrifice mirrors that of their loved ones. Bless and protect us all. Make us ever grateful for what You have done in and through each one of us. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 5, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following our remarks, there will be a period of 1 hour for Senators to speak in morning business. I have had numerous requests this week by Republicans and Democrats to speak on issues they want to address. I hope they now will come.

Following morning business, the Senate will be back on the appropriations bill we have worked on this week. I filed cloture on the bill last night and announced to the Senate that we will continue work on this until we finish it one way or the other. I hope we work out something to vote tonight. If we can't, we will do it in the morning. The filing deadline for first-degree amendments is 1 p.m. today. Rollcall votes in relation to pending amendments, of which we now have six, are expected to occur throughout the day. As those who were here last night will remember, I indicated that we had covered a wide universe of amendments. I had spoken to Senator KYL, the assistant Republican leader, and a number of other Senators—Mr. CRAPO and Mr. INHOFE—who wanted to offer amendments. We agreed to do those. We have six amendments pending. We will see how we do disposing of amendments today. I hope we can move through them fairly quickly. I look forward to doing what I can to finish as quickly as we can.

MEASURE PLACED ON THE CALENDAR—H.R. 146

Mr. REID. Mr. President, H.R. 146 is at the desk and due for a second reading.

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

The bill clerk read as follows:

A bill (H.R. 146) to establish a battlefield acquisition grant program for the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812, and for other purposes.

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

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

RECOGNITION OF THE MINORITY LEADER

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

ORDER OF BUSINESS

Mr. MCCONNELL. Mr. President, I see the Senator from Florida here. A constituent of his was here this morning to give the opening prayer.

I have a couple of consent agreements, I say to my friend the majority leader, that I believe are objected to on his side.

Mr. REID. I might surprise you.

Mr. MCCONNELL. I will withhold on propounding these requests because I

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

know the Senator from Florida would like to offer observations about his guest.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

WELCOMING THE GUEST CHAPLAIN

Mr. MARTINEZ. Mr. President, I was so proud to have my pastor and very good friend deliver the opening prayer. Father McCormick and I have known each other since 1983, when he first came to our parish church of St. James in Orlando. He is a product of Dublin, Ireland, but he became a proud citizen in 1973, much as I did in 1971. He has not only been a tremendous source of faith and inspiration to me and my family and, more importantly, perhaps, my children, but he has also been a tremendous advocate for the poor and needy in our community. He does tremendous work overseas as well in a program called Food for the Poor where the Caribbean nations and Latin America have benefited greatly from his generosity and hard work.

There are a couple of things I must point out. He has also developed a love for American football since coming here. But not being perfect, he has chosen the Cowboys over the Redskins. And then in a further imperfection that may be less forgivable, he has chosen the Gators over the Seminoles in Florida. I frequently have been a patient listener as he, on Sunday mornings, regales about the Gators and beats up on the Seminoles. Today is my day for revenge. I am awfully proud to have him here. He is a wonderful friend. I know he has looked forward to this day.

I thank the Chair for the courtesy of allowing me to say a couple words about my dear friend and pastor.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, we join the Senator from Florida in welcoming his pastor this morning. I am pleased to see that he will be forgiven for his sin of advocating the success of the Cowboys and the Gators.

UNANIMOUS-CONSENT REQUESTS—H.R. 1105

Mr. MCCONNELL. Mr. President, on behalf of Senator GRASSLEY, the ranking Republican on the Finance Committee, I ask unanimous consent that when the Senate resumes consideration of H.R. 1105, the omnibus bill, the pending amendments be set aside and, on behalf of Senator GRASSLEY, it be in order to call up amendment No. 628, which strikes section 102 related to IRS private debt collection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, this is a topical issue. From news accounts this morning, I heard it mentioned a couple of times. I will be happy to work with Senator GRASSLEY, see how we work through these amendments. I think it is something we could do. I know he would agree to a reasonable time period. We will see what we can do to work that out. For this time, I object, but I hope we can work something out.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MCCONNELL. Mr. President, on behalf of Senator SESSIONS, I ask unanimous consent to take up amendment No. 604, which relates to a 5-year reauthorization of the E-Verify Program.

Mr. REID. Mr. President, I am not as familiar with that as Senator SESSIONS. I know he has talked about that on a number of occasions. I will be happy to have my staff look at this, and hopefully we can work our way through the amendments we have. I know Senator SESSIONS feels strongly about this. I hope we can work out something and have him come and present this amendment. But for this morning, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

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

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

The bill clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

The Senator from North Dakota.

HEALTH CARE REFORM

Mr. DORGAN. Mr. President, last evening President Obama had invited the chairs and ranking members of committees in both the House and Senate to the White House for dinner. I wanted to mention that the opportunity for Republicans and Democrats, both chairs and ranking members of committees, to spend some time with the President was very important, a very important signal by the President to the Congress that he wants to work with everybody. He didn't give a speech. He and his wife, the First Lady, welcomed the Members of Congress. I was pleased to be there. My point is, this President is trying to reach out and change the culture, which is so important.

This afternoon, I have been invited by the President to join a number of my colleagues, Republicans and Democrats, to go to the White House for a health care summit. Once again, the President is reaching out to see if there are ways for Republicans and Democrats, who work for the same masters—that is, American interests and the American people—to come together and find ways to reach significant policy goals. Do we have a need to address our health care problems? Absolutely. We spend much more than any other group of people on the face of the Earth on health care. Our costs are much greater than anyone else's, yet the outcomes are not. We rank 41st in life expectancy despite the fact that we spend far more than anyone else in the world on health care. Health care costs are accelerating. They are injuring businesses paying for health care insurance for employees. Health care costs are strangling family budgets. Health care costs are hurting Government, which has to pay for Medicare and Medicaid. We have to get a handle on it.

The President is saying: Let's try to find a sensible, thoughtful way to reform health care. A good start is to invite a group of Republicans and Democrats from the Congress, a group of people from the private sector, from the health care industry, from the consumer side, supporters and opponents of various kinds of reforms and changes, to a summit at the White House to say: Let's talk. Let's try to figure out how we address these issues.

I commend the President because we have to change the culture. This cannot possibly continue to be an ''us versus them'' Congress or a Congress and Presidency that is deeply divided.

This country faces very serious challenges. The fact is, we have to work together to solve them. The very serious financial challenge, the crisis we face, is going to require the best energies all of us have and the best ideas of all of us. Included in the financial crisis is what health care costs are doing to the economy. That is why the President has indicated that one of the first issues we have to tackle, even as we try to stabilize the economy, is to address the issue of the burgeoning cost of health care. So I commend the President, and I look forward to the meeting today at the White House. I think it will be a good start to at least begin discussing health care costs.

I want to talk about one piece of health care costs because yesterday Senator SNOWE from Maine, myself, Senator MCCAIN from Arizona, my colleague Senator STABENOW from Michigan—we announced, on behalf of 25 Senators, a piece of legislation we introduced yesterday dealing with prescription drug costs. One of the fastest rising items of health care costs is the cost of prescription drugs.

Now, we have introduced this legislation before, and it has successfully

been blocked. But things have changed in a very dramatic way. The makeup of the Senate has changed. One of the people who cosponsored our legislation in the last session of the Congress is now sitting in the White House—then Senator Barack Obama, now President Obama. He was a cosponsor. The Chief of Staff at the White House, Rahm Emanuel, was one of the key sponsors in the House. So the fact is, we think we have an opportunity to pass legislation that will put some downward pressure on prescription drug prices. This is bipartisan and nonpartisan. This stretches from JOHN MCCAIN to President Obama. Both Presidential candidates were cosponsors in the last session of Congress of this identical piece of legislation. Many other Republicans and Democrats have joined us, so that as we introduced it, there are 25 original cosponsors.

Now, let me describe the problem we face in this country. By consent, I wish to show two bottles that did contain medicine. These are bottles of Lipitor. Lipitor, by the way, is a drug that I think probably is the most prescribed drug in this country, or at least one of the top prescribed drugs in this country. It is a cholesterol-lowering drug. Lipitor is made in Ireland and then shipped around the world.

Here is the way Lipitor is shipped in these bottles: same size, same cap; the only difference is, one is blue, one is red; the same pill put in the same bottle, made by the same company, FDA inspected. This red one goes to the United States. This blue one goes to Canada. The difference? This red one costs twice as much.

The U.S. consumer is told: You pay more than twice as much for the same prescription drug. Why? By what justification should not just Lipitor but other medicines be priced in a manner that says to the American consumer: You pay much more than we are asking others around the world to pay for the identical prescription drug? There is no justification.

Zocor, here is an example of a cholesterol-lowering drug. The United States and Canada—$5.16 for a 20-milligram pill in the United States; $2.45 in Canada.

Let me describe where these drugs are coming from. We are told by the opponents of this: Well, if drugs were to come into this country from outside the country, there might be a counterfeiting problem. Well, do you know what. Most of these drugs are made outside of our country. Lipitor is made in Ireland. Nexium is made in France. Tricor is made in France. Vytorin is made in Singapore and Italy and the UK.

Now, my point is simple: We have a law in this country that says the drug companies can import drugs into our country, made in other regions of the world, but consumers cannot, registered or licensed pharmacists cannot, and wholesalers cannot. Our piece of legislation is very simple. It says, let's provide some competition here. If the prescription drug industry is selling their drugs in virtually every other country in the world for a fraction of the price they sell those drugs here, let's let licensed pharmacists in our country purchase them from Canada or another country and pass the savings along to the consumer. Let's let wholesalers who are licensed in this country access those lower cost prescription drugs. Let's allow American consumers to access those drugs from Canada.

Now, I sat on a hay bale out on a farm 1 day at a little town meeting where there were 40 or 50 farmers, and we sat and talked about life and about the farm program and about what was going on in their region of North Dakota.

There was one old codger there who was kind of lamenting what it was costing him to live. He said: We don't make much money. We don't have much spendable income. And he said: I'm over 80 years old, and my wife has been fighting breast cancer for the last 3, 3½ years. He said: She has to take a drug called Tamoxifen. He said: So we have been going to Canada to try to buy Tamoxifen because it costs 80 percent less in Canada. It is the same drug—exactly the same drug—prescribed for an elderly woman who is fighting cancer, but you can pay much, much, much more here in the United States or much, much, much less in other countries. He said: For us, we have to drive to Canada to try to access this drug.

Americans should not have to do that. This ought to be a fair pricing strategy for American consumers, and today it is not. So we have introduced legislation that has substantial safety requirements attached to it. We provide substantial additional funding for the Food and Drug Administration. We provide pedigree requirements for drug lots produced anywhere in the world. We provide much more inspection of plants that produce drugs the FDA is approving. By the way, we know that substantial amounts of ingredients come from China and elsewhere. We also know that despite the fact there are supposed to be inspections of many of these plants, the inspections are few and far between.

The legislation we have introduced will dramatically increase the margin of safety—not decrease it—increase the margin of safety. What it will do is allow the American public to have access to lower cost prescription drugs. If one part of driving up the costs of health care in this country, as rapidly as it has gone—if one part of that is the rapidly increasing price of prescription drugs, then we can remedy that. We can simply say to the pharmaceutical industry: Give us the opportunity to have the same kind of pricing the rest of the world has. We can make that happen, not by asking them to give it to us, but by requiring a circumstance where our pharmacists and our wholesalers can access those same lower cost drugs.

Now, what does it mean? Well, we could save with this legislation about $50 billion in the next 10 years for American consumers; and about $10 billion of that would be saved by the Federal Government for its programs, Medicare and Medicaid.

Here is a New York Times piece. It says: ''More Americans Are Skipping Necessary Prescriptions, the Survey Finds.'' That was from January of this year. It says: One in seven Americans under 65 went without prescribed medicines, as drug costs spiraled upward in the United States, a nonprofit research group said.

Well, we can fix this. We can pass this legislation. As I indicated earlier, finally I think we have a bit of a tailwind here. We have a President who wants this. He put it in his budget. So now we have put in the architecture of a complete piece of legislation. We have worked on it for many years. My colleague, Senator SNOWE, and I, and many others—from Senator KENNEDY, Senator MCCAIN, Senator GRASSLEY, Senator STABENOW—all of us have worked to make this happen: increase the margin of safety, reduce prescription drug prices, and give the American people the opportunity to have some sort of competitive prescription drug prices that others all around the world have as a result of the current scheme that—let me not use the term ''scheme''—as a result of the current pricing policies of the prescription drug industry.

Let me complete my statement by saying, we introduced this legislation yesterday. We will continue to try to access more and more cosponsors. Whether this is a part of a health care reform bill or passed on its own, I think it is going to be good news for American consumers.

Let me say one more time that the President's call today for a health care reform summit at the White House is one more example of bringing Republicans and Democrats together. This President is determined to do that. That is good news because there are a lot of good ideas that can come from every corner of this Chamber and every corner of the political system.

We ought to work together to give the American people the best of what both political parties have to offer rather than the worst of each, and nowhere is that more important than to do it in health care reform.

I thank the President for creating this summit this afternoon. One of the issues I will raise there will be the prescription drug importation bill, which I think could put some downward pressure on prescription drug prices, and that would be good for the people who live in this country and be good for this country's budgets and business budgets and so on.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

OMNIBUS APPROPRIATIONS

Mr. CARDIN. Mr. President, I take the floor in defense of one of our most successful environmental statutes. Since its nearly unanimous passage in 1973, the Endangered Species Act has protected nearly 2,000 species from extinction. That success has contributed significantly to the economic benefit of this Nation. According to a study by the Fish and Wildlife Service, wildlife-related recreation—meaning hunting and fishing and wildlife watching—generated more than $122 billion in revenue in 2006. So this statute has protected wildlife diversity and has protected our economy.

In my home State of Maryland, wildlife watching generated over $1 billion in revenue and sustained over 10,000 jobs.

In December of 2008, the Bush administration finalized two rules that undercut the success of the Endangered Species Act. Now, that was in December of 2008, after the elections, after Senator Obama was elected President of the United States. The Bush administration issued two regulations in an effort to undermine the Endangered Species Act.

One rule undermines important safeguards for all threatened and endangered species. The other withholds key protections from the polar bear.

I believe it is critical the safeguards that have worked to protect endangered species for decades be reinstated. Section 429 of the fiscal year 2009 Omnibus Appropriations Act would give the Secretaries of Interior and Commerce the authority they need to do that. It will allow the Secretaries to reverse the Bush administration's midnight regulations and reinstate the regulations previously in place.

To understand why this special authority is needed, I think it is helpful to understand how devastating the rule changes are. So let me say a little bit about the two rules President Bush put in place.

For decades, under section 7 of the Endangered Species Act, Federal agencies have consulted with scientists at the Fish and Wildlife Service or the National Marine Fisheries Service to make sure an agency's planned actions do not jeopardize a threatened or endangered species.

In line with a long record that expressed a low regard for science, in December, 2008, the Bush administration finalized a rule that effectively eliminated the critical role scientists play in the section 7 system of checks and balances. What the Bush administration regulation did was to allow a Federal agency to avoid consultation with the scientists in making its determination as to whether there was an impact on an endangered species.

Professional scientific organizations argued, came out and said, quite frankly, this is unacceptable. The agency does not have the capacity to make a determination as to whether a species is endangered by the action of the agency. They do not have the budget. They do not have the expertise. And, quite frankly, they have a different mission. So the impact of this regulation could have a devastating impact on the protection—legitimate protection—of wildlife.

Now, some of my colleagues argue that requiring consultation with independent scientists will slow infrastructure projects funded through the recently passed American Recovery and Reinvestment Act. But let me remind my colleagues that the projects that are ready to go have already gone through this environmental review. They are ready to go. They will not be delayed as a result of section 7 of the Endangered Species Act. We are ready to proceed. And as President Obama recently said:

> With smart, sustainable policies, we can grow our economy today and preserve the environment.

But, quite frankly, these changes to the consultation rule were not the only regulations the Bush administration issued. We had the one that would compromise consultation with scientists in issuing the appropriate safeguards under the Endangered Species Act. The other was specifically aimed toward the polar bear. The new rule granted no new protections to the polar bear. Now, the President's regulations said differently, but that is not the case. The special rule not only denied additional protections normally provided under the Endangered Species Act, but it set a bad precedent for weakening ESA safeguards.

The new rule does not require plans to monitor, minimize, or mitigate impacts that could harm the bears. And the rule does not allow scientists and agencies to even consider climate change as a factor that could injure polar bears.

Last year, I had the opportunity, along with members of the Environment and Public Works Committee, to visit Greenland. We saw firsthand what is happening in regard to the loss of the snow caps and the impact it is having on the polar bear population.

Global climate change is clearly affecting the future stability of the polar bears, and the regulation that was issued in December compromises that. It is quite clear why. Seven editorials from newspapers in 32 States oppose the Bush administration's efforts. Dozens of wildlife, scientific, and environmental organizations oppose the change. In addition, eight State attorneys general, including the attorney general of Maryland, have filed suit to have these regulations withdrawn.

So we have an amendment that has been offered. The amendment would take out of the omnibus bill the additional authority we want to give to the agencies so that they can reverse the midnight changes attempted by the Bush administration. I would urge my colleagues to reject that amendment. Let's not compromise the protections we have in the Endangered Species Act that allow Federal agencies to have the best information before they take action on their projects. It is what we should be doing. It does preserve the diversity of wildlife in this Nation. It maintains the leadership of the United States on these types of issues. It is the right policy. We should go through regular order when we change it. The Bush administration did not do that. They did this as a last-minute gesture of the Bush administration. Let's restore the status quo, and then let's look at the normal regulation process for modifications that may be needed.

I would urge my colleagues to reject the amendment offered that will undermine the Endangered Species Act.

With that, I yield the floor.

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

Mr. MARTINEZ. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

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

Mr. MARTINEZ. Mr. President, I rise this morning to speak once again about the pending bill before the Senate—the very large and significant omnibus spending bill—but more specifically about provisions in this bill that have very little to do with spending and have a lot to do with foreign policy, including provisions relating to U.S. and Cuban relations. I decided to inform the Senate of a few things that are in this morning's press and why what this bill will do makes so little sense for the United States at this moment in time and why it would be a mistake for us to approve the current bill.

The current bill is an attempt to, frankly, usurp from the Executive the prerogative to conduct foreign policy. In his campaign, the President indicated there were some things he wanted to change about U.S. policy toward Cuba relating to travel and remittances. I would hope that would be done in the order of Presidential prerogatives and not by a legislative fiat but that, as it is done, it is done in a way that is conducive to the best interests of our Nation and the best interests of our long-term foreign policy objectives. Unfortunately, it is being done in a haphazard way, without real clarity about the implications it will have relating to what is attempting to be done.

One of the issues relates, more importantly than all, perhaps, to agricultural business trade with Cuba. This is a $780 million-a-year business which is now done by the Cubans paying cash before they can receive the goods, before the goods leave our ports. This was done in the prior administration because, in fact, the Cuban Government was not exactly playing it as it was supposed to. The shipments would get to Cuba and then payment would not be there when the goods arrived, but maybe 30 days later, maybe 60 days

later, and it was all of a sudden creating a problem. So we fixed the problem, and American farmers are protected. They get to sell their goods to Cuba—and $780 million is not an insignificant amount of sales—they get paid in cash, and they get paid before the goods leave the port. That makes a lot of sense for America. It may not make a lot of sense for Cuba because it is an inconvenience. But I don't think we should be making policy to the convenience of a brutal, dictatorial regime so close to our shores and which is a hostile and avowed enemy of the United States.

But what happened today in the news that is of interest? Well, several things. Let's see, how do we begin. There has been great hope that there will be change in Cuba because Raul Castro is now in charge. I remember as a child always hearing that Raul Castro was the enforcer; that Fidel was the nice guy and Raul was the tough guy. Raul Castro is credited with over 500 deaths under his supervision in the first months of the revolution. In addition to that, he is the head of the armed forces—the armed forces where an Air Force plane was directed by him and authorized by him to shoot down civilian airplanes in the Florida straits, killing three Americans and an American resident. That was done to an unarmed civilian aircraft.

So there is great hope that this guy is going to be somehow an agent of change, is going to be an agent of pragmatism, and is going to be someone who is less ideological. I remember hearing all the time how the real ideologues were Raul Castro and Ernesto Guevara. Those were the two ideologues. They were the real Communists. It was Raul Castro who first went to the Soviet Union and made deals with them about beginning this arms buildup that led to the missile crisis that put the world in peril.

So now we are talking about the future of Cuba. So he has had a shakeup. He has really had a military coup. If it was anyone else other than a romantic revolutionary in Cuba, the U.S. press would be talking about this as, in fact, a military coup, which is really what has happened. He has tightened the circles.

There is an article today by the AP which talks about the closing of the ranks. The fact is that the only rays of hope, the only people under 75 years of age in any position of significant leadership—Carlos Lage and Felipe Perez Roque have both been ousted. Worse than that, now Fidel Castro has said they were undignified, or some other term such as that, which means they have now fallen into disgrace, never to be heard from again, and they are not going to be the future leaders. Many people thought Carlos Lage was the logical next successor. Nobody really knows who will be leading Cuba in the future. But much like the sclerotic Soviet Union leadership of the time before Gorbachev where they were passing around the titular head of government from one 80-year-old to another, the Cubans are doing the very same thing. It is the same old guard. Ramiro Valdes, an enforcer, a tough guy, a hard-liner, no-nonsense, ''kill them first, ask questions later''—that is who is really the effective No. 2 to Raul Castro today. So there is no real hope of change with this bunch in charge.

Here is the other thing that is of significance and importance to our U.S. interests. This is not about the interests of the Cuban Government: If we buy agricultural products from you, then you become a lobbyist for us and you advance our agenda, and at the top of that agenda is we don't want to have to pay cash when we pick up the goods. We want credit. We want the goods to be paid for when they get to Cuba, in our own sweet time, which is really nothing more than another way of eroding the trade sanctions we have with Cuba.

So there is another article today in the Miami Herald talking about Cuban influence in Venezuela spreading. Now, we know Hugo Chavez is not a friend of the United States. We also should remember that for almost 50 years now, Fidel and Raul Castro and their band of collaborators have not been friends of the United States. They, in fact, have been avowed enemies of the United States and continue to be at every international forum, at every place where they can be heard.

So this story today in the Miami Herald tells us that some 40,000 Cubans are now working in Venezuela, and of course Cuba receives 90,000 to 130,000 barrels of oil a day as a subsidy to continue their work and their repression of the Cuban people and the terrible living conditions they are in. So they are in public education, which is a way of controlling minds and hearts.

I remember how the first Ministry that went to an avowed Communist after Defense was Education. Armando Hart became the head of Cuba's Education Ministry back in the early 1960s. It is a way of controlling what people are reading, what people are studying, because education is subverted for political propaganda purposes to wash the minds of young people. Now, this sounds all Cold War-ish and it sounds like crazy stuff, but it is going on today.

So with Cuba's help, in addition to that, sources within the Venezuelan military say that Cuban military experts control several security circles that protect President Hugo Chavez. He doesn't trust his Venezuelans. He has to have his Cuban thugs there to keep him alive and protect him. They have penetrated strategic areas of the armed forces and the central government, including the situation room and Venezuela's Presidential palace. So they run his security, they run his situation room, the equivalent of our White House, and Cuban advisers play a critical role.

Now, why is that important? Well, it is important because it shows the linkage, the alliance, the partnership, the working together of Venezuela and Cuba to try to spread their brand of anti-Americanism and socialism throughout Latin America where they are having, frankly, significant success with Venezuela's oil wealth and with Cuba's know-how of the security apparatus and control.

That is all working very well for them because, see, here is the next news item in that same article in the Miami Herald. It also mentions that an additional area where the Cubans are providing their dark expertise is in that of policing. They are working as advisers to the police forces throughout the country, and Cuban advisers will play a critical role. It won't be long before we will be seeing the Committees for the Defense of the Revolution coming to a neighborhood near you in Venezuela. That is unfortunate, and that is bad for the Venezuelan people.

But here is now another thing not in the policy interests of the United States, another headline: This morning, Chavez orders expropriation of Cargill's rice plant. Another Miami Herald story. Well, the last I knew, Cargill is an American company. The last I knew, American investors invested their good money and have processing plants in a company based in Minneapolis, MN, and they operate in Venezuela. They invested in good faith. In good faith, they attempted to provide a service to the Venezuelan industry and commerce. So now we find out it is a purposeful, continuing attempt to expropriate, without appropriate compensation, American properties.

We go full circle. This is how the Cuban trade sanctions began under the Eisenhower administration—it almost sounds comical now. The fact is that it began because of Cuba's expropriations of American property in Cuba without proper compensation and in violation of every international law and rule in existence. So today we find that, in partnership, the Cubans and Venezuelans are once again continuing this advance of anti-Americanism, of expropriation of American properties, of taking out each and every one.

I believe this article details that Empresas Polar, another private enterprise, is no longer going to be private because the government is taking it over. Over the past year, Chavez has nationalized Venezuela's largest telephone, electric, and cement companies. His government is also negotiating compensation for a takeover of the country's biggest steelmaker, Sidor. So, as we can see, it is a pattern of government control. From the police forces that are being trained now by the Cubans—have been, really—to the security apparatus around President-for-life Hugo Chavez, to everything else that goes on around them, we find that the Cuban presence is there and is continuing and is ever-present.

So at a time when all of this is taking place, at a time when just today

these three articles are in our news media—this is just today, by the way. There are things such as this every day about what is going on in Latin America right under our noses. So on this very day, when these three news articles—we are probably going to take a vote tonight where we are going to pass a spending bill that contains provisions dealing with foreign policy issues that have not been through hearings, that have not had the consultation and input of the executive branch, and we will just go headlong into that. This is not to mention, by the way, the 9,000 earmarks—some of which are very questionable and some of which are by a company under Federal investigation as we speak—and a tremendous amount of spending that completely violates what the President said would be the change and the hope that the American people had, that there would be a new day, that we would be looking at every line in the budget and we would be looking at all the spending with a fine-tooth comb, and, by golly, there will not be earmarks because I will stop earmarks. I remember the President saying that. I wish today he would stand up and live up to those campaign promises.

It is a very lame excuse to say that this is last year's business. This is happening on a Democratic majority watch in both Houses of the Congress. This is happening on the watch of a President who promised differently during his campaign. So whether it be because of what is in this bill as it relates to spending or whether it is by the overreach of seeking to dictate foreign policy in a very misguided and mishandled way, where, frankly it isn't really clear where we are left if the provisions in this bill are passed as to how the U.S. Government will enforce its regulations that are now being disbanded.

It is making a real mess and mockery of the process. For a lot of those reasons, I hope my colleagues on both sides of the aisle will consider whether it is wise to support this bill, whether it is, in fact, a good idea or whether we should be looking at ways in which we can allow reason to prevail and put the best interests of the United States first, not the best interests of the agricultural import Cuban company that forces those whom they buy product from to sign a memorandum of understanding, where they agree to lobby on behalf of Cuba's agenda. One of the top items of that agenda is this issue of not having to pay cash as the goods leave the port.

I know the chair worries about the rice farmers in Arkansas. It is great they can sell rice in Cuba. Rice to Cubans is like potatoes to the Irish. We love to eat rice with every meal. It is great that Arkansas is selling rice to Cuba. Isn't it great also that those rice growers from Arkansas are getting paid for it? The last thing we need in these economic times is to provide credit to a country that is uncreditworthy. They have the worst credit in the world, save one other country. I would like to know what is that country. Out of every country in the world, only one country has worse credit than Cuba. So to the second worst credit country, we are going to give them credit as they purchase food rather than simply allow the current business to continue; $780 billion is not a bad piece of business.

It is going great. It ain't broke. Don't fix it. This bill seeks to fix that and more in a misguided and wrong way, which I know is not in the best interest of the United States.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I rise in support of the Fiscal Year 2009 Omnibus Appropriations Act.

Before I begin, I want to commend Chairman INOUYE for his leadership in bringing this bill forward. Over the course of this grueling week of debate, he has done his best to ensure that this process has been civil, open, and transparent. In doing so, he has protected the authority and responsibility of the Congress to shape the funding priorities of this country.

I would be remiss if 1 did not recognize the work of Senator BYRD, who laid the groundwork in the Appropriations Committee last year, winning bipartisan support for nearly all of the bills that comprise this legislation.

Finally, I wish to acknowledge the work of all of the subcommittee chairs, but in particular, Senator MIKULSKI, for her support in helping address the needs of New England's lobster and groundfish harvesters who continue to be severely impacted by Federal regulations and catch restrictions and face the prospect of losing not only their livelihoods but a way of life. Because she has been such an effective advocate for the watermen of Chesapeake Bay, she has recognized, perhaps more than anyone outside New England, the economic and cultural importance of our fishing communities, as well as the strain they are under.

Mr. President, setting aside the fact that we must pass a bill now in order to avoid a Government shutdown, the fact is this is the right bill for us to pass.

It will, as I indicate, avoid disruption of essential services to the Nation at a time when the American people demand and need the support of a functioning Government.

This legislation complements the American Recovery and Reinvestment Act by funding additional programs that will save and create thousands of jobs. It includes continued investments in transit, highway, and water infrastructure. These kinds of investments are sorely needed throughout the country. In Rhode Island, trucks and other large vehicles must be diverted from a key stretch of the interstate because of concerns about its structural integrity. This is a disruption in commerce that Rhode Island and the region can ill-afford. This package includes funding to help speed the repairs at this important stretch of highway.

The bill will also ensure we are investing in the institutions that are responsible for protecting the public interest, but have fallen down on the job. Indeed, over the course of this decade, we have witnessed the unraveling of essential regulatory agencies, from the Consumer Product Safety Commission to the Food and Drug Administration, often with alarming results. Certainly, the failure to provide adequate resources for these agencies has been a major contributor to their failures. With the supplemental appropriations bill passed last year and continuing with this legislation, we have begun to reverse the effects of years of chronic underfunding. Senator DURBIN, in response to the concerns that Senator DODD, and I raised with respect to funding for the Securities and Exchange Commission, SEC, worked to increase funding for the Commission in this bill. The additional $37 million provided here will give the SEC resources to aggressively investigate and prosecute fraud that cost taxpayers and investors billions of dollars. Coupled with systemic reform within the Commission, this funding will help restore investor confidence and integrity to our markets.

Thanks to the efforts of Senator HARKIN, this legislation also continues to invest in our most valuable national resource—our people. As the successor to the late Claiborne Pell, I am gratified that this omnibus bill substantially increases funding for the grant bears his name. This legislation, together with the funding provided in the economic recovery package, will help boost the maximum Pell grant by $619 to $5,350 in fiscal year 2009. It is worth noting how far we have come. Just 2 years ago, the maximum Pell grant was stuck at $4,050—the same level it had been funded at over the previous 4 years.

To supplement Pell grant and other higher education assistance, this legislation maintains funding for the Leveraging Educational Assistance Partnership, leveraging additional need-based grant aid and support services for our neediest students and families. It also boosts funding for the teacher quality enhancement grants by $17 million to improve college teacher preparation programs and ensure that every classroom in America has a high-quality teacher.

The bill increases funding for the state library program under the Library Services and Technology Act to $171.5 million. I have long advocated for this funding level because it is the amount necessary to reach a key goal included in the 2003 reauthorization of the Museum and Library Services Act that I authored to double the minimum State allotment. This additional funding will help libraries respond to the

demand for free access to all types of information and digital and online service. With the economic crisis we are suffering through, libraries have become critical centers for guidance and career services for unemployed workers as they search for jobs, and families as they search for the diversion that a public library can provide in very difficult economic times.

The bill increases funding for the National Institutes of Health by almost $1 billion, which will fund 10,600 new research grants. I strongly supported the historic doubling of NIH funding between 1998 and 2003. Regrettably, since 2003, our investment in science has eroded. As a result, only 24 percent of research projects are currently funded, compared to 32 percent in 1999. I am glad that with the economic recovery bill and this bill, we will reverse that trend and invest in lifesaving research that will result in cures and treatments for debilitating diseases.

The bill increases funding for community health centers by $125 million, which will provide access to an additional 470,000 uninsured Americans. In my State, this program just awarded a grant to a health clinic that was on the verge of shutting its doors. The funding is a lifeline that saved 25 jobs, and could create another 22 jobs within the next 18 months. More important, the center will provide primary health care, mental health counseling, and dental care to those who have lost their jobs, and with them their health insurance, during this economic crisis. This will keep people healthy and reduce health care costs in the future.

The bill increases support for health care workforce programs, which is critical to increase access to primary care and to address the nursing shortage that our country faces.

Lastly, the bill increases funding for immunizations by $30 million, which will provide vaccinations to an additional 15,000 children. Immunizations are one of the most cost-effective ways to improve health and an important component in transforming our health care system to prevent sickness, and not just treat it.

Mr. President, for all of these reasons and more this bill makes the right investments in our country and I urge its passage.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Madam President, I wish to discuss the DC voucher program, officially the DC Opportunity Scholarship Program. This is a program that was established in 2004 to provide low-income families with scholarships to attend private schools in the District of Columbia.

The legislation we are debating, unfortunately, makes it harder for that program to continue. The fiscal year 2009 omnibus legislation includes language that would end the scholarship program in September 2010, and it says we could not continue it by appropriation, which is unusual. It would also add the requirement that the DC City Council would have to approve whatever we did.

That is a very unwise situation, I believe. The U.S. Secretary of Education, Arne Duncan, said yesterday that poor children getting vouchers to attend private schools in the District of Columbia should be allowed to stay there. He said that to the Associated Press. I am reading from that article where it says that Secretary Duncan opposes vouchers. But he says essentially that Washington is a special case, and kids already in private schools on the public dime should be allowed to continue.

To quote him directly, he said that ''I don't think it makes sense to take kids out of a school where they're happy and safe and satisfied and learning. . . . I think those kids need to stay in their school.''

I think Secretary Duncan is right. I also think—and I said this at his hearing—that Secretary Duncan is the best of the distinguished appointments President Obama has made. He can be a real help to the children in this country. I look forward to working with him.

I am an original cosponsor of an amendment that Senators ENSIGN, LIEBERMAN, GREGG, VOINOVICH, KYL, DEMINT, BROWNBACK, and CORNYN have introduced that would solve this problem, that would remove the language from the omnibus bill that would make it harder for the DC Voucher Program to continue.

I think we should also take note that DC Mayor Adrian Fenty and Chancellor Michelle Rhee, both of whom are acting courageously to try to improve the schools in the District, favor keeping the program.

The Washington Post, the Chicago Tribune, the Wall Street Journal editorial pages have all voiced support of this program since this omnibus language was introduced in the House. The DC program is being singled out.

I understand this may cause some problem with some House Members who would rather see us not amend the bill that came to us, but that is our job. This is the Senate. That is the House of Representatives. If, in a great big bill that spends $410 billion, we see some things that need to be improved, we ought to have a chance to improve them. In this case, there is broad agreement with the President's Education Secretary and many others that the DC kids need this and deserve this. There are 1,700 children currently attending private schools in DC using these opportunity scholarships of up to $7,500 a year.

I make this point to call attention to the DC voucher program and the importance of making certain we have a chance to amend the omnibus bill—the bill before us—so we do not make it harder for the DC voucher program to continue. If that means we have to go on into next week in order to have a sufficient number of amendments, then we should do that.

I appreciate the fact that the majority leader has adopted this year, as he should, the practice that the Senate is a place that is distinguished primarily by virtually unlimited debate and virtually unlimited amendments and then we vote. So a premature conclusion to this bill before we have a chance to improve it, such as keeping the DC voucher program, I think would be unwise.

Madam President, I ask unanimous consent to have printed in the RECORD the Associated Press article, the Washington Post editorial, the Chicago Tribune editorial, and the Wall Street Journal editorial.

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

US SCHOOLS CHIEF WANTS DC KIDS TO KEEP VOUCHERS

(By Libby Quaid)

WASHINGTON.—Education Secretary Arne Duncan said Wednesday that poor children getting vouchers to attend private schools in the District of Columbia should be allowed to stay there even as congressional Democrats work to end the program.

His remarks, in an interview with The Associated Press, put the Obama administration at odds with Democrats who oppose the program because it spends public dollars on private schools.

Duncan opposes vouchers. But he said Washington is a special case, and kids already in private schools on the public dime should be allowed to continue.

''I don't think it makes sense to take kids out of a school where they're happy and safe and satisfied and learning,'' Duncan told said. ''I think those kids need to stay in their school.''

Democrats in Congress have written a spending bill that would effectively end the program after next year. The bill says Congress and the city council would have to OK more money, which is unlikely.

A vote is expected later this week.

Lawmakers, in a statement accompanying the bill, said no new children should be enrolled in the program. And they said D.C. schools chancellor Michelle Rhee should take steps to minimize any disruption for kids as they transition back into public schools.

The issue of vouchers exposes a deep fissure between Republicans, who support them, and Democrats, who oppose them.

Republicans insist that parents deserve a choice if their kids are in failing schools, saying vouchers create competition that puts pressure on public schools to do better.

Democrats say it is impossible to expect public schools to do better while precious public dollars are being siphoned away to private schools.

''I don't think vouchers ultimately are the answer,'' Duncan said. ''We need to be more ambitious. The goal shouldn't be to save a handful of children. The goal should be to dramatically change the opportunity structure for entire neighborhoods of kids.''

The voucher program in Washington has been an exception in the debate over vouchers. Because of the sorry state of public

schools in the nation's capitol, some Democrats were willing to allow it in 2003 when a Republican-led Congress created the voucher program.

And while big-city school superintendents generally oppose vouchers, Rhee, the schools chancellor, has said she is open to the District's voucher program.

''I don't think vouchers are going to solve all the ills of public education, but parents who are zoned to schools that are failing kids should have options to do better by their kids,'' Rhee told The New York Times recently.

The D.C. program gives scholarships to about 1,700 poor kids so they can attend private schools.

It is the only federal voucher program in the country. Other cities and states have similar programs—vouchers are available in Milwaukee, Cleveland, Florida, Utah, Arizona and Georgia—but they are paid for with local tax dollars.

Several states offer tax credits to help pay for private school, but those are also local and not federal programs.

Obama sent mixed messages on vouchers during his presidential campaign. He told the Milwaukee Journal Sentinel in February 2008 that he was open to vouchers if research showed they work. But his campaign swiftly backtracked, issuing a statement saying Obama had always been a critic of vouchers.

Supporters of the District's voucher program are quick to point out that Obama's daughters attend a private school in Washington, Sidwell Friends School, that also has students whose tuition is paid through the voucher program.

When asked about Duncan's remarks, Sen. Lamar Alexander, R–Tenn., said the education secretary was ''exactly right.''

''Senators should listen to him by voting this week to continue funding vouchers for DC schoolchildren,'' Alexander said.

[From The Washington Post, Mar. 2, 2009].

'POTENTIAL' DISRUPTION?

ENDING D.C. SCHOOL VOUCHERS WOULD DASH THE BEST HOPES OF HUNDREDS OF CHILDREN

Rep. David R. Obey (Wis.) and other congressional Democrats should spare us their phony concern about the children participating in the District's school voucher program. If they cared for the future of these students, they wouldn't be so quick as to try to kill the program that affords low-income, minority children a chance at a better education. Their refusal to even give the program a fair hearing makes it critical that D.C. Mayor Adrian M. Fenty (D) seek help from voucher supporters in the Senate and, if need be, President Obama.

Last week, the Democrat-controlled House passed a spending bill that spells the end, after the 2009–10 school year, of the federally funded program that enables poor students to attend private schools with scholarships of up to $7,500. A statement signed by Mr. Obey as Appropriations Committee chairman that accompanied the $410 billion spending package directs D.C. Schools Chancellor Michelle A. Rhee to ''promptly take steps to minimize potential disruption and ensure smooth transition'' for students forced back into the public schools.

We would like Mr. Obey and his colleagues to talk about possible ''disruption'' with Deborah Parker, mother of two children who attend Sidwell Friends School because of the D.C. Opportunity Scholarship Program. ''The mere thought of returning to public school frightens me,'' Ms. Parker told us as she related the opportunities—such as a trip to China for her son—made possible by the program. Tell her, as critics claim, that vouchers don't work, and she'll list her children's improved test scores, feeling of safety and improved motivation.

But the debate unfolding on Capitol Hill isn't about facts. It's about politics and the stranglehold the teachers unions have on the Democratic Party. Why else has so much time and effort gone into trying to kill off what, in the grand scheme of government spending, is a tiny program? Why wouldn't Congress want to get the results of a carefully calibrated scientific study before pulling the plug on a program that has proved to be enormously popular? Could the real fear be that school vouchers might actually be shown to be effective in leveling the academic playing field?

This week, the Senate takes up the omnibus spending bill, and we hope that, with the help of supporters such as Sen. Joseph I. Lieberman (I–Conn.), the program gets the reprieve it deserves. If it doesn't, someone needs to tell Ms. Parker why a bunch of elected officials who can send their children to any school they choose are taking that option from her.

[From the Chicago Tribune, Mar. 3, 2009]

A VOTE FOR IGNORANCE

''If there was any argument for vouchers, it was, 'Let's see if it works.' And if it does, whatever my preconception, you do what's best for kids.''—Barack Obama, Feb. 13, 2008.

There's a novel concept—approaching education policy with the paramount goal of helping students rather than, say, teachers unions or school bureaucracies. So novel, in fact, that within days of making that statement, Obama thought better of it. ''Senator Obama has always been a critic of vouchers,'' his campaign declared.

Now Democrats in Congress are lining up to oppose this alternative rather than waiting to see if it works. In the giant spending bill passed last week by the House, they cut off money for the only federally financed voucher program in the U.S.

It's in Washington, D.C., which has among the worst schools in America. A 2007 report found that fewer than half of the capital's grade-school pupils are proficient in reading or math—and results are worse in higher grades.

In 2004, Congress financed a pilot program to give some 1,900 children vouchers to attend private schools.

It's a modest undertaking, providing just $7,500 per child—less than a third of what the District of Columbia spends per pupil in public schools. It only begins to satisfy the demand for educational alternatives, since more than 7,000 kids applied for the vouchers. Ninety-nine percent of the recipients, by the way, are black or Hispanic, with an average family income of less than $23,000.

But vouchers are anathema to many in the Democratic Party because teachers unions feel threatened by the prospect of more children going to non-union private schools. So this bill says there will be no more money for the program after this year and directs the head of D.C.'s public schools to ''promptly take steps to minimize potential disruption and ensure smooth transition'' for kids who will be forced back into schools their parents found wanting.

Democrats to kids: Tough luck.

What's the hurry here? This experiment has yet to run its course, with only two years' worth of data assessed so far. Patrick Wolf, a University of Arkansas professor who is leading the assessment, found that children who got vouchers have performed no better than those who were turned down. But he says there have been ''large positive effects'' on their parents'' satisfaction.

And there are reasons for hope. Of the 10 studies of existing voucher systems, says Wolf, nine found significant academic improvements.

President Obama doesn't need to be told about the deficiencies of Washington's public schools: He rejected them in favor of a private school for his daughters.

Ask how many members of Congress send their children to public schools in D.C.

They are pushing through legislation that is grossly unfair fashion toward 1,900 children and their parents who don't have the luxury of paying for private schools.

We need more information about the effects of school vouchers. Should Democrats in Congress have their way, we won't get it.

If they want to end the experiment at such an early stage, it's not because they think it's failing, but because they fear it's working.

[From the Wall Street Journal, Mar. 3, 2009]

WILL OBAMA STAND UP FOR THESE KIDS?

Dick Durbin has a nasty surprise for two of Sasha and Malia Obama's new schoolmates. And it puts the president in an awkward position.

The children are Sarah and James Parker. Like the Obama girls, Sarah and James attend the Sidwell Friends School in our nation's capital. Unlike the Obama girls, they could not afford the school without the $7,500 voucher they receive from the D.C. Opportunity Scholarship program. Unfortunately, a spending bill the Senate takes up this week includes a poison pill that would kill this program—and with it perhaps the Parker children's hopes for a Sidwell diploma.

Known as the ''Durbin language'' after the Illinois Democrat who came up with it last year, the provision mandates that the scholarship program ends after the next school year unless Congress reauthorizes it and the District of Columbia approves. The beauty of this language is that it allows opponents to kill the program simply by doing nothing. Just the sort of sneaky maneuver that's so handy when you don't want inner-city moms and dads to catch on that you are cutting one of their lifelines.

Deborah Parker says such a move would be devastating for her kids. ''I once took Sarah to Roosevelt High School to see its metal detectors and security guards,'' she says. ''I wanted to scare her into appreciation for what she has at Sidwell.'' It's not just safety, either. According to the latest test scores, fewer than half of Roosevelt's students are proficient in reading or math.

That's the reality that the Parkers and 1,700 other low-income students face if Sen. Durbin and his allies get their way. And it points to perhaps the most odious of double standards in American life today: the way some of our loudest champions of public education vote to keep other people's children—mostly inner-city blacks and Latinos—trapped in schools where they'd never let their own kids set foot.

This double standard is largely unchallenged by either the teachers' unions or the press corps. For the teachers' unions, it's a fairly cold-blooded calculation. They're willing to look the other way at lawmakers who chose private or parochial schools for their own kids—so long as these lawmakers vote in ways that keep the union grip on the public schools intact and an escape hatch like vouchers bolted.

As for the press, complaints tend to be limited to the odd column or editorial. That's one reason it was so startling back in 2000 when Time magazine's Tamala Edwards, during a live televised debate at Harlem's Apollo Theater, asked Al Gore about the propriety of sending his own son to private school while opposing any effort to extend the same choice to African-Americans without his financial wherewithal. As CNN's Jeff

Greenfield would note later in the same debate, Mr. Gore ''bristled'' when Ms. Edward's put the question to him.

Virginia Walden-Ford, executive director of D.C. Parents for School Choice, wouldn't mind making a few more politicians bristle. ''I'd like to see a reporter stand up at one of those nationally televised press conferences and ask President Obama what he thinks about what his own party is doing to keep two innocent kids from attending the same school where he sends his?''

As for Sidwell, the school has welcomed the Opportunity Scholarship program. Though headmaster Bruce Stewart declines to get into either politics or the Obamas, he says that a program that gives parents more educational options for their children is not only good for their kids, it's good for the community. Plainly he's not doing it for the money: Even the full D.C. voucher covers only a small fraction of Sidwell's actual costs.

All of which leaves the First Parent with a decision to make: Will he stand up for those like his own children's schoolmates—or stand in front of the Sidwell door with Mr. Durbin? It's hard to imagine white congressional Democrats going up against him if he called them out on an issue where they have put him in this embarrassing position. This, after all, is a man who has written of the ''anger'' he felt as a community organizer, when his attempts to improve things for Chicago school kids ran up against an ''uncomfortable fact.''

''The biggest source of resistance [to reform],'' he said, ''was rarely talked about ... namely, the uncomfortable fact that every one of our churches was filled with teachers, principals, and district superintendents. Few of these educators sent their own children to public schools; they knew too much for that. But they would defend the status quo with the same skill and vigor as their white counterparts of two decades before.''

Let's just say that Sarah and James Parker—and thousands just like them—could use some of that same Obama anger right about now.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, the Senator from Tennessee is a friend of mine. He has served as Secretary of Education, we talk about education issues, and we share a common admiration for the new Secretary of Education. But I would like to correct, while he is still on the floor, a few of the things he said.

Five years ago, the Bush administration said, for the first time in the history of America, we will create a federally funded voucher program. Here is what it says: Federal taxpayers' dollars will be given to parents of students in the District of Columbia—Washington, DC—who want to put their kids in private schools. The Federal Government will pay a certain amount of money in tuition vouchers to those schools on behalf of the students and their parents.

It was a 5-year experiment, and there was a lot of controversy associated with it. Some of us were skeptical. I offered three amendments to this DC voucher program. The first amendment I offered in the Appropriations Committee said that all the teachers in the voucher schools—the private voucher schools—have to have a college degree. The amendment was defeated. It was defeated because those pushing for voucher schools said that is going to stop creativity, it is going to confine these schools, and we should let them do what they are going to do.

I didn't buy that because, frankly, we impose those standards on public schools across America, but my amendment was defeated.

Now, the second amendment I offered said the DC voucher schools—the buildings themselves—had to pass the fire safety code of the District of Columbia for teaching children. All right? The amendment was defeated. Those pushing the voucher program said: You know, you don't get it. This is about a creative approach to education. It may not be the traditional classroom setting. We defeat your amendment.

The third amendment said: Well, in fairness, if the argument is that voucher schools are better than DC public schools, there ought to be a common standard to judge them. So my amendment said they shall take the same achievement test—the voucher school students and the public school students—so we can then compare apples to apples. My amendment was defeated, and the argument was voucher schools have to be allowed this creativity to think anew and to try different things. I don't buy it.

So I started with real skepticism and I voted against this program. Now, in the ensuing time—the 4 or 5 years—1,700 students have received Federal subsidies to go to private schools. It is the only place in America I know where that is happening. The idea, of course, was that at the end of this experimental authorization period, we would try to step back and ask: Was this a good idea? Was it good for the kids, good for the families, good for the District of Columbia, and our Nation?

That was the idea behind it. This law creating these DC voucher schools was to expire this year in June. Now, my committee funds the District of Columbia, the Federal funds that go into it, and so we said: You know, that may be too abrupt. It may not be fair. So what we will do is we will extend through the 2009–2010 school year the DC voucher schools, but somebody has to step back and take a look at this and ask: Is it working?

When the Government Accountability Office went to take a look at it, they said that some of these schools are world class—these voucher schools—and some of them end up being classes taught in the basement of a private church in the District of Columbia by people who don't have the competence to teach.

Now, the Senator from Tennessee doesn't want that to happen in his State, and I don't want it to happen in my State, and I certainly don't think it should happen here on our watch. So I extended this program 1 year, and it is in the hands of Senator JOE LIEBERMAN. Senator LIEBERMAN is the chairman of the Committee on Homeland Security and Governmental Affairs. He gave his personal assurance to the Members of the Senate that there will be a hearing and an attempt to markup reauthorization of this program. That is the orderly process, it is the sensible process, and at the end of the day we are going to learn a lot about the voucher schools and how they are doing.

Now, in the meantime—and I know the Senator from Tennessee knows this—I would say we have a new school chancellor in the District of Columbia who is trying her very best to bring reform to public education. I know some of her proposals are controversial, but I think she is on the right track to bring in quality teachers and a quality learning environment in the public schools. So let us look at this thing in the perspective of an experiment for 5 years, that was extended 1 year by this bill, that we can take an honest look at and ask: Did it work?

Put aside for a moment whether you agree the Federal Government ought to put money into the hands of families to send kids to private schools and ask the basic question: Did it work? Are the students better off? Are they learning more? That is a legitimate question, and I want to know the answer, and I will bet the Senator does too. In the meantime, we should provide an environment for the public schools in the District of Columbia to have real reform, and that involves some money, I am sure, but it ought to be money we invest wisely as we invest in the voucher schools. There have been a few articles that have been inaccurate about the DC voucher program, and I wished to present my point of view on that program while the Senator from Tennessee is still here. I wish to move to another topic, unless he wants to address a question, which I would be happy to entertain.

Mr. ALEXANDER. I thank the Senator from Illinois, and I look forward to working with him on helping the District of Columbia, including the mayor and the superintendent in the District who would like for this to continue.

The question I have is: Why is it necessary for this legislation to insist that the program end in September of 2010 and that we add the provision the city council would have to approve it if it is continued by the Congress?

Usually, when we have education programs whose authorization runs out, we continue them for a while as we go through the analysis the Senator talked about, such as the Higher Education Act which took us 6 years or the Head Start Act which took us 3 or 4 years or No Child Left Behind or so many others. Why is it necessary that we even address the ending of this program in this legislation?

Mr. DURBIN. I might say, in response to the Senator from Tennessee, that is a legitimate question. When the law was written, that is what it said: This program will expire. The authorization will end. I have extended it in

this bill an additional year so we can take the time not to push the kids out of the classrooms and take the time to make the judgment whether it is working.

One of your colleagues, whom you vote with frequently and who sits behind you, from Oklahoma, who has this passion about authorizations, he says: You know, you do an authorization bill, and you are talking about spending money. I don't happen to agree with him. I think it takes an appropriation in addition to an authorization. But if an authorization has any meaning, particularly when dealing with a new venture, in terms of Federal taxpayer dollars going to private schools, I think we owe it to everybody—the taxpayers as well as the parents, teachers, and kids—to ask the hard questions.

If the GAO comes in and tells us someone somewhere in the District of Columbia has created what they call a voucher school so that their wife can declare herself principal and their daughter can declare herself a teacher and the kids can sit in a building which doesn't have a fire exit, I am a little worried about that. I don't think we ought to go on with business as usual in that situation, and I would like to at least have an honest appraisal.

I would say to the Senator from Tennessee, it is my impression Senator LIEBERMAN of Connecticut is leaning toward the voucher school program, so he doesn't come to this with prejudice against it. I would not presume that is his ultimate position, but I think he will be an honest broker. He will bring all the facts out. I think that is why we are here, and I think it is a legitimate exercise of our responsibilities.

Mr. ALEXANDER. I thank the Senator from Illinois, and would only note that Senator LIEBERMAN is a cosponsor of the amendment we would like to have a chance to vote on.

AMENDMENT NO. 607

Mr. DURBIN. Madam President, there is an amendment pending—and it is an amendment offered by Senator WICKER of Mississippi—which is one of those red-hot amendments that gets people riled up around here because it deals with a controversial issue, and that is the issue of abortion.

Of course, many of us have stated our positions on the record time and again, but this comes down to a specific element here. What Senator WICKER does is to strike the language in the bill that permits funding of the U.N. Population Fund for six limited purposes. He has stated that his reason for doing so is to make certain we don't put money into China, where there is evidence of coercive abortion and involuntary sterilization; and he certainly says he doesn't want Federal funds to be spent for the promotion of abortion anywhere in the world.

I would say there are two elements of the bill which I would recommend to all Members before they vote on the Wicker amendment, which I hope they will oppose. Page 763 of the bill—it is a big one, but I will point you to the specific page, 763—says:

. . . none of the funds made available in this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization:

A flatout prohibition. It is already there. Then when it comes to the issue of China, which has been the centerpiece of this debate about coercive abortions and involuntary sterilization, there is a long section—page 929—which I will refer my colleagues to. The net result is this. It says in the first paragraph:

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount of funds that the UNFPA is budgeting for the year in which the report is submitted for a country program in the People's Republic of China.

So we ask the Secretary of State to go to New York and find out how much money is going to China, where we suspect coercive abortion and involuntary sterilization. The second paragraph says we will then deduct that amount of funds from any money that goes to the United Nations for family planning.

So it is specific, and we are specific in terms of these practices. We can't spend any money for these practices; and, secondly, no money to the People's Republic of China which is not set off by a reduction in the Federal investment.

Now, let me tell you why this amendment not only ignores the clear language of the bill but should not be passed. There are six limited purposes for which we are trying to use the U.N. Population Fund, and they are, among other things, to reduce genital mutilation and obstetric fistula and to provide voluntary family planning and basic health care to women and girls.

It has been my opportunity and honor to visit Africa. In one of those visits, with Senator BROWNBACK of Kansas, we went to the Democratic Republic of Congo, which doesn't get the publicity of many places in Africa, but it has been one of the killing fields. There have been thousands—maybe hundreds of thousands—of people killed in this region. It has been torn back and forth since the Rwandan genocide, with the exploitation of minerals. The net result has been the poorest people on Earth, smack dab in the center of Africa, have been pushed out of their villages and into refugee camps, and they have been victimized by guerilla soldiers.

Well, I went to a hospital in Goma, which is in the Democratic Republic of Congo. It is one of those places where you think if God has a bad day, the first thing he does is look at Goma because they have had it all—poverty, disease, all the strife of guerrillas and all the war that revolves around them and, to put the icing on the cake, a volcano which erupts with regularity. These poor folks get it in every direction. But there in Goma was a hospital called DOCS hospital. DOCS hospital is sustained and financed by protestant churches in the United States. It has a modern surgical suite, paid for by the United Nations.

When you go to this hospital, you see women lined up in a row, hanging onto their meager belongings, waiting for the chance to be admitted to the hospital. Why? Because this is the only place within hundreds of miles where they can go for surgical treatment of what is known as obstetric fistula. Obstetric fistula—I will try to describe it; not being a doctor—is the result of early pregnancies, long labors of young girls, rape, terrible mutilation that occurs and causes serious problems for these women. They become incontinent, they are unable to join their families, they are shunned by their villages. This is their only hope. They come to this hospital and they wait. They sit in the dust in the road hoping—and it is sometimes weeks later—to be seen by a doctor. They cook outside and help one another, and then they may go through a surgery. At the end of the surgery, they end up two to a bed trying to recuperate. Some of them, because they are so badly mutilated, have to go through multiple surgeries and wait month after weary month while a handful of surgeons and nurses do heroic jobs in trying to put their lives back together.

Is that worth putting some money into? Is it? Is it worth saying to the U.N. Population Fund: Can you help these people? Can you bring in some doctors, some surgeons to treat them? They are victims, helpless victims, who are trying to put their lives back together. I think it is money well spent.

I have a friend of mine named Molly Melching. Molly Melching is in Senegal. She was in the Peace Corps there, and after her service in the Peace Corps she decided to stay on. She has created an organization called Tostan. Tostan is trying to stop the ritualistic genital mutilation of girls. It is horrible, and it is dangerous. Village by village, tribe by tribe, Molly is making progress, and I think that is the right thing to do, for the dignity of these young girls and for the role of women in these African societies. Is it worth money from the United Nations Population Fund? I think it is.

And voluntary family planning, we have ascribed to that particular goal in America, that women should have a choice to plan their families with their spouse and with their conscience. I think the same thing, short of abortion, should be available through the United Nations Population Fund. Unfortunately, the Wicker amendment strikes the language which permits funding for those purposes. It is not right.

We know you cannot spend the money here for coercive abortion, we

know you cannot spend the money here for involuntary sterilization, we know if you spend the money in China we are going to take it away from the United Nations.

This amendment goes too far. I urge my colleagues, particularly those who are of a persuasion that opposes abortion and believe they should oppose it in every circumstance, give women in the poorest countries on Earth the option of voluntary family planning. Do something for these poor women who have been victimized by rape and war, and these young pregnancies that unfortunately cause so much damage to their bodies. Give them a chance to put their lives back together. Also, when it comes to genital mutilation, the United Nations should be in the forefront of promoting modern treatment of women and not leave ourselves in the distant dark past of these tribal customs. I am sure Senator WICKER does not intend for this to happen, but I am afraid that is the result of it.

I urge my colleagues to oppose the Wicker amendment.

ORDER OF PROCEDURE

Mr. DURBIN. Madam President, I ask unanimous consent that a vote with respect to amendment No. 607, as modified, occur at 12:10—that is the Wicker amendment; that there be 45 minutes of debate with respect to the amendment prior to the vote, equally divided and controlled between the leaders or their designees, that no amendment be in order on the amendment prior to a vote in relation thereto.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

OMNIBUS APPROPRIATIONS ACT, 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1105, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1105) making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Wicker modified amendment No. 607, to require that amounts appropriated for the United Nations Population Fund are not used by organizations which support coercive abortion or involuntary sterilization.

Thune modified amendment No. 635, to provide funding for the Emergency Fund for Indian Safety and Health, with an offset.

Murkowski amendment No. 599, to modify a provision relating to the repromulgation of final rules by the Secretary of the Interior and the Secretary of Commerce.

Cochran (for Kyl) amendment No. 634, to prohibit the expenditure of amounts made available under this Act in a contract with any company that has a business presence in Iran's energy sector.

Cochran (for Inhofe) amendment No. 613, to provide that no funds may be made available to make any assessed contribution or voluntary payment of the United States to the United Nations if the United Nations implements or imposes any taxation on any United States persons.

Cochran (for Crapo (and others) amendment No. 638, to strike a provision relating to Federal Trade Commission authority over home mortgages.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I ask unanimous consent I may speak for 10 minutes as in morning business.

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

Mr. SPECTER. I have sought recognition to comment about the pending bill. As I reflect on it, I am speaking on the bill and do not need to put it in morning business. It is on the bill itself.

I note the majority leader has filed a motion for cloture and it is scheduled for 9:30 tomorrow. We may vote on it today. But whenever we vote on it, there are some observations I have. I want to give my thinking on the issue. My current inclination is to vote against cloture because there has been insufficient time to offer amendments.

This omnibus bill contains most of the budget process and there are a great many amendments pending. I compliment the majority leader for moving from the position of blocking all amendments. We have had considerable discussion last year, and even before that, about a practice of majority leaders taking procedural steps known as—there is an arcane procedure, inside-the-beltway talk—filling the tree, stopping amendments being offered and then moving to cloture. I have opposed cloture and have urged that regular order be followed in allowing amendments to be offered.

The unique feature about the Senate is that any Senator can offer virtually any amendment at virtually any time on virtually any bill. That, plus unlimited debate, makes this a very extraordinary body where we can focus public attention on important matters of public policy and acquaint the public with what is going on and seek to improve our governance.

The majority leader has objected to quite a number of amendments coming up. Looking over the list, there are quite a number of amendments which I believe merit consideration. Senator GRASSLEY has tried to advance amendment No. 628. He did again this morning. There was an objection raised to it.

Senator SESSIONS has sought to offer amendment No. 604 and he has been blocked on four occasions from offering this amendment on the economic stimulus.

Senator VITTER has a number of amendments, one of which is amendment No. 636, involving drug reimportation from Canada.

Senator ENSIGN has amendment No. 615, cosponsored by Senator VOINOVICH, Senator KYL, Senator DEMINT, Senator BROWNBACK, and Senator CORNYN, which would deal with a subject where they are seeking to have a vote.

I do not necessarily agree with all of these amendments. In fact, as I review them, there are some I disagree with. But I believe Senators ought to have an opportunity to offer amendments.

Yesterday the Senate voted on an issue involving Emmett Till, and many Senators voted against that amendment, as I understand it, to avoid having an amendment agreed to on the omnibus which would require a conference with the House of Representatives. I think it is something we ought to decide on the merits, as to the amendment, without respect to having a conference.

Regular order under our legislative process is to exercise our judgment on amendments. Then, if the Senate bill is different from the House bill, if an amendment is agreed to, then you have a conference. That is the way we do business. That is regular order. To determine how you are going to vote on an amendment in order to avoid a conference seems to me to be beside the point.

If there were some emergency, some reason to avoid a conference, perhaps so. But there is time to have a Senate bill which disagrees with the House bill and to have a conference and iron it out on regular order. Whenever we depart from regular order, it seems to me, we run into potential problems. The institutions of the Senate have been crafted over centuries. The Senate is smarter than I am, certainly, and perhaps smarter than other Senators. But I think we ought to follow the regular order. That is why I am disinclined to vote for cloture.

I know the majority leader wants to move this bill, but we have time to take up these amendments. If we move on into additional sessions of the Senate later this week, later tonight, later next week, then I think that is what ought to be done and Senators ought to have an opportunity to offer these amendments.

In the absence of any other Senator seeking recognition, 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. LEAHY. 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. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. At 11:25 the Senate will begin 45 minutes of debate on amendment No. 607, and the time will be equally divided.

Mr. LEAHY. Are we still in morning business?

The PRESIDING OFFICER. No, the Senate is on the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 607

Mr. LEAHY. Madam President, I understand that we are on the Wicker amendment. I have listened to the statements made about it. It is hard to understand what the real purpose of the amendment is, although the junior Senator from Mississippi says the purpose is as follows: To require that amounts appropriated for the United Nations Population Fund are not used by organizations which support coercive abortion or involuntary sterilization.

I do not know anybody who would disagree with that. But apparently he believes that his amendment is necessary to prevent funds from being used for coercive abortion or involuntary sterilization. Let me state what is in the bill, because it is the same as current law. It already prohibits funds for abortions of any kind, whether coercive or otherwise. No funds in this bill can be used for abortion. So the amendment is unnecessary for that purpose.

His amendment prohibits funds for involuntary sterilization. Well, none of us is going to permit the use of Federal funds for involuntary sterilization. I urge him to read the bill. We already prohibit that. So the amendment is unnecessary for that purpose.

Actually, if he is on the floor, I would urge him to declare victory and withdraw his amendment. Long before he was in the Senate, we were already prohibiting the things he wants to prohibit.

His amendment also prohibits funds for the U.N. Population Fund for a program in China. Well, again, our bill already does that. We already prohibit explicitly any funds being used in China by the U.N. Population Fund.

His amendment says we should put funds for the U.N. Population Fund in a separate account and not commingle them with other sums. We already do that. Again, there is no need for it.

His amendment prohibits funds to the U.N. Population Fund unless it does not fund abortion. Well, the bill already says that. For the RECORD, the U.N. Population Fund has always had a policy of not supporting abortion. In fact, there is not a shred of evidence that it ever did. It supports the same voluntary family planning and health programs the United States Agency for International Development does, but it does it in about 97 more countries than the United States Agency for International Development does.

The amendment by the Senator from Mississippi would deduct, dollar for dollar, from the U.N. Population Fund for a program it spends in China. The bill already does that. So for all practical purposes, the amendment of the junior Senator from Mississippi does nothing that the bill already does not do, with one exception.

His amendment would also strike the six limited purposes that are specified in the bill for which funds are made available to the U.N. Population Fund. For example, he would strike the funds that are provided ''to promote the abandonment of female genital mutilation and child marriage.'' Why would we want to cut programs to help encourage an end to child marriage? Is there anybody in the Senate in favor of child marriage? Is there anyone in the Senate in favor of female genital mutilation? I find it amazing I have to even come to the floor to talk about this. Yet his amendment would remove the funds we provide to try to stop child marriage and female genital mutilation. Why should we vote for something like that?

Why should we prohibit funding to reduce the incidence of child marriage in countries where girls as young as 9 years old are forced to marry men they have never met, sometimes five times their age, who then abuse them?

The bill also provides funds to prevent and treat obstetric fistula. For those who are not familiar with this, it is a terrible, debilitating condition that can destroy the life of any woman who suffers from it. But it can be treated with surgery.

I ask unanimous consent that a February 24 article in the New York Times on obstetric fistula be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. Why we would want to prohibit funds to save the lives of women who otherwise could die or be painfully debilitated for the rest of their lives, I cannot understand. None of us would hesitate for a moment to provide funds to help someone in our family who might be in this condition. I see the Senator from Mississippi on the floor. His amendment prohibits funds to the U.N. Population Fund for that.

The bill provides funds to reestablish maternal health care in areas where medical facilities and services have been destroyed or limited by natural disasters, armed conflict or other factors, such as in Pakistan after the earthquake that destroyed whole villages. Why would we not want to support maternal health care? Any one of us, be it our sisters and daughters, our wives, we would want them to access to these medical services. Or in Congo, where armed conflict has destroyed what limited health services existed and where thousands of women and girls have been raped, some barely old enough to walk. This bill provides funds for programs to help them. The amendment of the Senator from Mississippi would prohibit funding for the U.N. Population Fund for that.

Funds are provided to promote access to clean water, sanitation, food and health care for poor women and girls. His amendment would prohibit that. I have traveled to different parts of the world. I have seen the differences in the lives of women and young girls that are made with these programs. The Senator prohibits that.

The U.S. Agency for International Development has these types of programs in 53 countries, but the U.N. Population Fund works in about 150 countries. If you live in the Republic of the Congo or the Central African Republic, two of the poorest countries in Africa, and you are a 16-year-old girl with obstetric fistula, you are out of luck because USAID does not have programs there. That is why we fund the U.N. program. If you have a 7-year-old daughter who has been raped there, we don't have a program to help her. But we give funds to the U.N. to help her. The amendment of the Senator from Mississippi would stop that.

If you live in Niger or Mauritania, where genital mutilation is common, or in Sri Lanka where child marriage is common, we don't have funds there, but we give funds to the U.N. to help.

The Senator's amendment creates a problem where there is none. It denies funding to address the basic needs of poor women and girls who are subjected to practices that would be crimes in this country.

Our law already prohibits funds for abortion of any kind, whether coercive or voluntary. We already prohibit funds for involuntary sterilization. We prohibit funds for the U.N. Population Fund's program in China. We have already done all these things. But we do provide funds to help girls who are being forced into marriages at the age of 9. We do support care for women who suffer from these debilitating conditions. We do have funds for maternal care, clean water, and voluntary family planning. But if the amendment of the junior Senator from Mississippi is agreed to, we would prohibit those funds in many parts of the world.

I yield the floor and reserve the remainder of my time.

EXHIBIT 1

[From the New York Times, Feb. 24, 2009]

AFTER A DEVASTATING BIRTH INJURY, HOPE

(By Denise Grady)

DODOMA, TANZANIA.—Lying side by side on a narrow bed, talking and giggling and poking each other with skinny elbows, they looked like any pair of teenage girls trading jokes and secrets.

But the bed was in a crowded hospital ward, and between the moments of laughter, Sarah Jonas, 18, and Mwanaidi Swalehe, 17, had an inescapable air of sadness. Pregnant at 16, both had given birth in 2007 after labor that lasted for days. Their babies had died, and the prolonged labor had inflicted a dreadful injury on the mothers: an internal wound called a fistula, which left them incontinent and soaked in urine.

Last month at the regional hospital in Dodoma, they awaited expert surgeons who

would try to repair the damage. For each, two previous, painful operations by other doctors had failed.

''It will be great if the doctors succeed,'' Ms. Jonas said softly in Swahili, through an interpreter.

Along with about 20 other girls and women ranging in age from teens to 50s, Ms. Jonas and Ms. Swalehe had taken long bus rides from their villages to this hot, dusty city for operations paid for by a charitable group, Amref, the African Medical and Research Foundation.

The foundation had brought in two surgeons who would operate and teach doctors and nurses from different parts of Tanzania how to repair fistulas and care for patients afterward.

''This is a vulnerable population,'' said one of the experts, Dr. Gileard Masenga, from the Kilimanjaro Christian Medical Center in Moshi, Tanzania. ''These women are suffering.''

The mission—to do 20 operations in four days—illustrates the challenges of providing medical care in one of the world's poorest countries, with a shortage of doctors and nurses, sweltering heat, limited equipment, unreliable electricity, a scant blood supply and two patients at a time in one operating room—patients with an array of injuries, from easily fixable to dauntingly complex.

The women filled most of Ward 2, a long, one-story building with a cement floor and two rows of closely spaced beds against opposite walls. All had suffered from obstructed labor, meaning that their babies were too big or in the wrong position to pass through the birth canal. If prolonged, obstructed labor often kills the baby, which may then soften enough to fit through the pelvis, so that the mother delivers a corpse.

Obstructed labor can kill the mother, too, or crush her bladder, uterus and vagina between her pelvic bones and the baby's skull. The injured tissue dies, leaving a fistula: a hole that lets urine stream out constantly through the vagina. In some cases, the rectum is damaged and stool leaks out. Some women also have nerve damage in the legs.

One of the most striking things about the women in Ward 2 was how small they were. Many stood barely five feet tall, with slight frames and narrow hips, which may have contributed to their problems. Girls not fully grown, or women stunted by *malnutrition*, often have small pelvises that make them prone to obstructed labor.

The women wore kangas, bolts of cloth wrapped into skirts, in bright prints that stood out against the ward's drab, chipping paint. Under the skirts, some had kangas bunched between their legs to absorb urine.

Not even a curtain separated the beds. An occasional hot breeze blew in through the screened windows. Flies buzzed, and a cat with one kitten loitered in the doorway. Outside, kangas that had been washed by patients or their families were draped over bushes and clotheslines and patches of grass, drying in the sun.

Speaking to doctors and nurses in a classroom at the hospital, Dr. Jeffrey P. Wilkinson, an expert on fistula repair from Duke University, noted that women with fistulas frequently became outcasts because of the odor. Since July, Dr. Wilkinson has been working at the Kilimanjaro Christian Medical Center, which is collaborating with Duke on a women's health project.

''I've met countless fistula patients who have been thrown off the bus,'' he said. ''Or their family tells them to leave, or builds a separate hut.''

For the women in Ward 2, the visiting doctors held out the best hope of regaining a normal life.

Fistulas are a scourge of the poor, affecting two million women and girls, mostly in sub-Saharan Africa and Asia—those who cannot get a *Caesarean section* or other medical help in time. Long neglected, fistulas have gained increasing attention in recent years, and nonprofit groups, *hospitals* and governments have created programs, like the one in Dodoma, to provide the surgery.

Cure rates of 90 percent or more are widely cited, but, Dr. Wilkinson said, ''That's not a realistic number.''

It may be true that the holes are closed in 90 percent of patients, but even so, women with extensive damage and scarring do not always regain the nerve and muscle control needed to stay dry, Dr. Wilkinson said.

Ideally, fistulas should be prevented, but prevention—which requires education, more hospitals, doctors and *midwives,* and better transportation—lags far behind treatment. Worldwide, there are still 100,000 new cases a year, and most experts think it will take decades to eliminate fistulas in Africa, even though they were wiped out in developed countries a century ago. Their continuing presence is a sign that medical care for pregnant women is desperately inadequate.

''Fistula is the thing to follow,'' Dr. Wilkinson said. ''If you find patients with fistula, you'll also find that mothers and babies are dying right and left.''

The day before her surgery, Ms. Jonas sat on her bed, anxiously eyeing the other women as they were wheeled back from the operating room. Some vomited from the anesthesia, and she found it a distressing sight.

Ms. Jonas said that when she was 16, she became intimate with a 19-year-old boyfriend, without realizing that sex could make her pregnant. It quickly did. Her labor went on for three days. By the time a Caesarean was performed, it was too late. Her son survived for only an hour, and she developed a fistula, as well as nerve damage in one leg that left her with an awkward gait.

Her boyfriend denied paternity and married someone else, and some friends abandoned her because she was wet and smelled. She was living in a rural village in a two-room mud hut with her parents, two sisters and a brother. She had one year of education and could not read or write, but said that she hoped to go to school again someday.

The operating room in Dodoma had just enough room for two operating tables, separated by a green cloth screen. Two at a time, the patients, wearing bedsheets they had draped as gracefully as their kangas, walked in. Some were so short that they needed a set of portable steps to climb up onto the table.

The women had an anesthetic injected into their spines to numb them below the waist, and then their legs were lifted into stirrups. Awake, they lay in silence while the doctors worked, Dr. Masenga at one table and Dr. Wilkinson at the other, each surrounded by other doctors who had come to learn.

An air-conditioner put out more noise than air. Flies circled, sometimes lighting on the patients. A mouse scurried alongside the wall. There were none of the beeping monitors that dominate operating rooms in the United States. Periodically, a nurse would take a blood pressure reading.

Midway through the first operation the power failed, and the lights went out. Dr. Wilkinson put on a battery-powered headlamp and kept working, but Dr. Masenga had to depend on daylight. Their scrubs and gowns grew dark with sweat.

Most fistula surgery is performed through the vagina, and can take anywhere from 30 minutes to several hours. It involves more than simply sewing a hole shut: delicate dissection is needed to loosen nearby tissue so that there will not be too much tension on the stitches, and sometimes flaps of tissue must be cut and sculpted to patch or replace a missing or damaged area. It can take several weeks to tell how well the operation worked.

At the end of the week in Dodoma, the surgeons said that of the 20 operations, some were straightforward and easy, and a few seemed likely to fail. Three patients needed such complicated repairs that they were referred to the Kilimanjaro medical center.

At first, it seemed as if Ms. Jonas's operation had worked, while Ms. Swalehe's outlook was uncertain. Shortly after their surgeries, the two young women were violently ill. Ms. Swalehe wept from pain when the surgeons came in to check on her. But both women were smiling the next day, hoping for the best. (Ultimately, Ms. Jonas's surgery failed, and Ms. Swalehe's succeeded.)

One day after the last operation, the fistula surgeons moved on, already thinking about the countless new cases that awaited them.

The PRESIDING OFFICER. Who yields time?

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

The Senator from Mississippi.

Mr. WICKER. Madam President, if I could understand the order, do I understand that the time is equally divided between the proponents and opponents of the amendment and that we are to vote at approximately 10 after noon; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WICKER. If I may, let me begin the debate. I understand Senator BROWNBACK and others may be coming also. I had, frankly, understood the debate would begin later so I rushed over from a hearing.

The Senator from Vermont has questioned the necessity of this amendment. Actually, I will point out to my colleagues that what the Wicker amendment does is restore the Kemp-Kasten provision that has been a part of the foreign policy of this Nation for almost a quarter century. It has worked well under Republican and Democratic administrations. I submit it would be wrong to change that policy at this point.

What does Kemp-Kasten say? Kemp-Kasten says Federal funds, American taxpayer dollars, should not go to fund coercive abortion practices or involuntary sterilization practices. It prohibits the appropriation of American dollars to organizations involved in such activities. But it has always made provision that the President of the United States has the right to investigate and certify whether these organizations have been engaged in practices involving coercive family planning activities.

Should my amendment pass, President Obama would have the same authority President Reagan, President Bush 1, President Bush 2, and President Clinton had to make this certification. In other words, the Wicker amendment keeps the Federal policy as it has been, and the underlying bill would amount to a dramatic shift in foreign policy.

Why do we need the amendment to begin with? I quote from a letter, dated June 26, 2008, from John D. Negroponte,

the Deputy Secretary of State, to Representative ILEANA ROS-LEHTINEN on this question, wherein he writes:

As reflected in the law and as a matter of longstanding policy, the United States opposes coercive abortion and involuntary sterilization.

Let me interject at this point. Certainly, that should still be the policy of the United States. That should always be the policy of this Federal Government, that we oppose coercive abortion and involuntary sterilization.

The letter goes on:

I have determined that by providing financial and technical resources through its sixth cycle China Country Program to the National Population and Family Planning Commission and related entities, UNFPA provides support for and participates in management of the Chinese government's program of coercive abortion and involuntary sterilization. If that is true, this Senate, this Congress has no business taking hard-earned tax dollars from taxpayers and sending them to UNFPA, if it, indeed, is true that they participate in the management of this coercive Chinese program.

If it is not true, the President will be able to make a determination. But if he investigates the question and finds that such coercion is still being practiced in China and if American dollars, through UNFPA, are being used to assist the program, then I would hope he would truthfully make the determination and, once again, it would not be a matter of the U.S. taxpayer funding such awful practices.

Now, let me read, then, from the Analysis of Determination that Kemp-Kasten Amendment Precludes Funding to UNFPA, which was attached to Secretary Negroponte's letter.

The analysis says:

China's birth limitation program retains harshly coercive elements in law and practice, including coercive abortion and involuntary sterilization.

That is what this debate is about. Do we want tax dollars of American workers to go for coercive abortion and involuntary sterilization?

The analysis goes on to say:

These measures include the implementation of birth limitation regulations, the provision of obligatory contraception services, and the use of incentives and penalties to induce compliance.

Further quoting:

[I]t is the provinces that establish detailed birth limitation policies by regulation, enforce their compliance and punish noncompliance.

Quoting from the second page of this analysis:

China's birth limitation program relies on harshly coercive measures, such as so-called ''social maintenance'' fees . . . the threat of job loss or demotion, loss of access to education—

If Chinese citizens do not comply with these harsh measures—

extreme social pressure, and economic incentives.

In families that already have two children, one parent is often pressured to undergo sterilization.

On the third page:

Since fiscal year 2002, the Administration has reviewed annually UNFPA's program in China and determined that the U.S. cannot fund UNFPA in light of its support or participation in the management of China's program of coercive abortion or involuntary sterilization.

Let's be careful. I would say to my colleagues, let's be careful with American tax dollars. Let's keep the provision that allows the President of the United States to make this determination. If there is evidence to prove that American tax dollars would be used by the United Nations to fund these coercive practices, then, for God's sake, let's not allow the U.S. taxpayers to be a party to these abhorrent and coercive practices.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise to speak in favor of the Wicker amendment. I am very appreciative Senator WICKER has brought up this amendment. This is an issue we have debated for some time, the Kemp-Kasten language, although it has been in since 1985. Our colleagues have put it in there. One of the prime authors of that language, then-Congressman Kemp, is struggling with illnesses himself right now, and I certainly wish him and his family well. They have been in my prayers.

I want to put a personal feel and touch on this issue. This is a story about a young couple in China.

Yang Zhongchen was a small-town businessman, and he wined and dined three Government officials for permission to become a father. It is a story for which I am paraphrasing some pieces and others I am taking directly out of an AP story that was filed in 2007, to give you a texture of what we are talking about.

Here is a young, small-town businessman. He goes to Government officials, and he says: Look, I want to be a dad. I want to be a father. He wines and dines the local officials. ''But,'' as the AP writer writes, ''the Peking duck and liquor weren't enough. One night, a couple of weeks before [his wife's] date for giving birth, Yang's wife was dragged from her bed in a north China town and taken to a clinic, where, she says, her baby was killed by injection while still inside her.''

Quoting from her:

''Several people held me down, they ripped my clothes aside and the doctor pushed a large syringe into my stomach,'' says Jin Yani, a shy, petite woman with a long ponytail. ''It was very painful. . . . It was all very rough.''

Some 30 years after China decreed a general limit of one child per family, resentment still brews over the state's regular and sometimes brutal intrusion into intimate family matters. Not only are many second pregnancies aborted, but even to have one's first child requires a license.

Seven years after the dead baby was pulled from her body with forceps, Jin remains traumatized and, the couple and a doctor say, unable to bear children. Yang and Jin have made the rounds of government offices pleading for restitution—[all] to no avail.

This is a 2007 Associated Press story which I ask unanimous consent be printed at the end of my statement.

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

(See exhibit 1.)

Mr. BROWNBACK. Madam President, there is no reason to change this Kemp-Kasten language we have had since 1985. There is every reason to keep it, to provide this Presidential discretion. I have held hearings in the Senate where we have had people come in who have gone undercover in investigating forced abortions and sterilizations in China who have come back with traumatic and dramatic stories about this continuing to take place. It should not continue to take place, and it certainly should not happen with any sort of support—tacit, implicit, or actual, or financial—from the U.S. Government.

Clearly, the U.S. citizenry would be completely opposed to doing anything like this, and in tough budgetary times, this certainly does not help our economy grow. It is a policy people broadly oppose of any sort of support for forced abortions or sterilizations. It is something for which there would probably be 90 percent agreement in this country that we should not fund or support forced sterilizations or abortions anywhere—probably 95 percent. Maybe it is 98 percent.

So this policy that has stood since 1985 has broad bipartisan support. Why would we change it at this point in time, with the financial difficulties we have, the broad bipartisan support that it is not the right way to go, and the continued evidence that this continues to be the case today in places such as China and other countries around the world?

I do not see the reason why we would want to go a different way. It does not make any sense to me we would want to go a different way. I think this is not a good foreign policy for the United States to be engaged in. I do not think it is a policy the American taxpayers support.

I think if we would actually do some thorough digging throughout China—where many of these decisions are made and the actions are actually happening at the provincial level—we would find a lot more of this going on than we would care to know about because a number of these quota numbers are given to local officials who do not have much oversight on a national basis, and so they act on their own accord, and then a lot of bad things happen. We would not want to be anywhere near any of that. The American people do not want us anywhere near any of that.

For those reasons, I would urge my colleagues to look at this. This is a time-honored policy that has served us well. Support Senator WICKER's language that reinstates Kemp-Kasten, language that has stood us well in the test of time, and let's not go down a

different road that is going to be harmful to a lot of people and is disagreed to by the American public.

I yield the floor.

EXHIBIT 1

[From the Associated Press, Aug. 30, 2007]

CHINESE VICTIMS OF FORCED LATE-TERM ABORTION FIGHT BACK

(By Alexa Olesen)

QIAN'AN, CHINA.—Yang Zhongchen, a small-town businessman, wined and dined three government officials for permission to become a father.

But the Peking duck and liquor weren't enough. One night, a couple of weeks before her date for giving birth, Yang's wife was dragged from her bed in a north China town and taken to a clinic, where, she says, her baby was killed by injection while still inside her.

''Several people held me down, they ripped my clothes aside and the doctor pushed a large syringe into my stomach,'' says Jin Yani, a shy, petite woman with a long ponytail. ''It was very painful. . . . It was all very rough.''

Some 30 years after China decreed a general limit of one child per family, resentment still brews over the state's regular and sometimes brutal intrusion into intimate family matters. Not only are many second pregnancies aborted, but even to have one's first child requires a license.

Seven years after the dead baby was pulled from her body with forceps, Jin remains traumatized and, the couple and a doctor say, unable to bear children. Yang and Jin have made the rounds of government offices pleading for restitution—to no avail.

This year, they took the unusual step of suing the family planning agency. The judges ruled against them, saying Yang and Jin conceived out of wedlock. Local family planning officials said Jin consented to the abortion. The couple's appeal to a higher court is pending.

The one-child policy applies to most families in this nation of 1.3 billion people, and communist officials, often under pressure to meet birth quotas set by the government, can be coldly intolerant of violators.

But in the new China, economically powerful and more open to outside influences, ordinary citizens such as Yang and Jin increasingly are speaking out. Aiding them are social campaigners and lawyers who have documented cases of forced abortions in the seventh, eighth or ninth month.

Chen Guangcheng, a self-taught lawyer, prepared a lawsuit cataloguing 20 cases of forced abortions and sterilizations in rural parts of Shandong province in 2005, allegedly carried out because local officials had failed to reach population control targets.

Chen, who is blind, is serving a prison sentence of three years and four months which his supporters say was meted out in retaliation for his activism.

Many countries ban abortion after 12 or sometimes 24 weeks of pregnancy unless the mother's life is at risk. While China outlaws forced abortions, its laws do not expressly prohibit or even define late-term termination.

A FAMILY UNPLANNED

Jin, an 18-year-old high school dropout from a broken home, met 30-year-old Yang, a building materials supplier, in September 1998. They moved in together. A year and a half later, in January or February 2000, they discovered Jin was pregnant but couldn't get married right away because she had not reached 20, the marriage age.

After her birthday in April, Jin bought porcelain cups for the wedding and posed for studio photos. On May 5, they were married.

Now all that was missing was the piece of paper allowing them to have a child. So about a month before Jin's due date, her husband Yang set out to curry favor with Di Wenjun, head of the neighborhood family planning office in Anshan, the couple's home town about 190 miles east of Beijing.

He faced a fine of $660 to $1,330 for not having gotten a family planning permit in advance, so he treated Di to the Peking duck lunch on Aug. 15, 2000, hoping to escape with a lower fine since this was his first child.

The next day he paid for another meal with Di and the village's Communist Party secretary and accountant.

He said the mood was cordial and that the officials toasted him for finding a young wife and starting a family.

''They told me 'We'll talk to our superiors. We'll do our best. Wait for our news.' So I was put at ease,'' Yang said.

But three weeks later, on Sept. 7, when Yang was away opening a new building supplies store, Jin was taken from her mother-in-law's home and forced into having the abortion.

Why had the officials failed to make good on their assurances? One of Yang's two lawyers, Wang Chen, says he believes it was because no bribe was paid.

''Dinner is not enough,'' Wang said. ''Nothing gets done without a bribe. This is the situation in China. Yang was too naive.''

Di, who has since been promoted to head of family planning for all of Anshan township, could not be reached. Officials who answered his office phone refused to take a message and gave a cell phone number for him that was out of service.

LATE-TERM PROCEDURES DECLINE

Zhai Zhenwu, a sociology professor at the People's University Institute of Demographic Studies in Beijing, said that while forced, late-term abortions do still occur sporadically, they have fallen sharply.

In the late '80s and early '90s, he said, some family planning officials ''were really radical and would do very inappropriate things like take your house, levy huge fines, force you into procedures.''

Things have improved since a propaganda campaign in 1993 to make enforcement more humane and the enactment of the family planning law in 2001, he said. Controls have been relaxed, allowing couples in many rural areas to have two children under certain conditions.

Still, Radio Free Asia reported this year that dozens of women in Baise, a small city in the southern province of Guangxi, were forced to have abortions because local officials failed to meet their population targets.

In the province's Bobai county, thousands of farmers rioted in May after family planners levied huge fines against people with too many children. Those who didn't pay were told their homes would be demolished and their belongings seized.

Yang and Jin are suing the Family Planning Bureau in their county of Changli for $38,000 in medical expenses and $130,000 for psychological distress.

But it's not about the money, said Yang, a fast-talking chain-smoker. No longer able to afford to run his business, he now works as a day laborer in Qian'an, an iron mining town east of Beijing.

''What I want is my child and I want the court to acknowledge our suffering,'' he said.

A family planning official in Changli justified Jin's abortion on the grounds she lacked a birth permit. The woman, who would only give her surname, Fu, said no one in the clinic was punished for performing the procedure.

CONTRADICTORY EVIDENCE

The National Population and Family Planning Commission, the agency overseeing the one-child policy, says it is looking into Jin and Yang's case. Meanwhile, the evidence appears contradictory.

Jin's medical records include a doctor's certificate from 2001, the year after the abortion, confirming she could not have children. Doctors in Changli county say they examined her in 2001 and 2002 and found nothing wrong with her.

The court ruling says Jin agreed to have the operation. Jin says the signature on the consent form is not hers but that of Di, the official her husband courted.

Sun Maohang, another of the Yangs' lawyers, doubts the court will rule for the couple lest it encourage further lawsuits. But he hopes the case will stir debate and lead to clearer guidelines on abortion.

As she waits for the next round in court, Jin says she is too weak to work and has been celibate for years because sex is too painful.

Her husband prods her to tell her story, but during an interview she sits silent for a long time and finally says she doesn't want to talk about the past because it's too sad.

Then she quietly insists the lawsuit is something she has to do for Yang Ying, the baby girl she carried but never got to see or hold.

Mr. BROWNBACK. 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. WICKER. 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. WICKER. Madam President, may I inquire of the Chair as to how the remainder of time will be divided?

The PRESIDING OFFICER. The Senator from Mississippi has 2½ minutes, and the Senator from Vermont has 10 minutes.

Mr. WICKER. I thank the Chair.

I would inquire of the Senator from Vermont if he has further speakers?

Mr. LEAHY. Madam President, responding on the time of the Senator from Mississippi, I believe there may be some, and we are trying to ascertain that right now. I know I am going to speak some more.

Mr. WICKER. Reclaiming my time, I await their remarks, and I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Madam President, how much time is left on both sides?

The PRESIDING OFFICER. There remains 1 minute 45 seconds for the Senator from Mississippi, and 10 minutes for the Senator from Vermont.

Mr. LEAHY. Madam President, it is hard to respond to all the things that have been misstated about the amendment before us.

For one thing, the bill before us does not change the Kemp-Kasten amendment. You can find it on page 763 of the bill. It is in the bill. In fact, let me read what it says:

Provided further, That none of the funds made available in this Act nor any unobligated balances from prior appropriations Acts may be made available to any organization or program which, as determined by the

President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.

So there is no need to pass the amendment of the Senator from Mississippi to put that language in—I suppose we could just print it twice—it is already in there.

Mr. WICKER. Madam President, I wonder if the Senator from Vermont will yield on that point?

Mr. LEAHY. Madam President, I will yield on the time of the Senator from Mississippi.

Mr. WICKER. Well, I do not ask for that, Madam President. Now, I asked if the Senator will yield on his time. I yielded to him on my time just a moment ago.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. Madam President, I have heard it said several times that we should not spend U.S. taxpayer dollars on coercive abortion. I agree with the Senator from Mississippi. We should not. I have taken that position. I have been chairman or ranking member of the Foreign Operations Subcommittee several times. I have always taken that position. We should not, we don't, we never have. It is prohibited in the bill—Republicans and Democrats have always agreed about that. I don't know how many times we have to say it.

I am reminded of Senator Mark Hatfield, a revered member of the Republican Party and a former chairman of the Appropriations Committee. I know of no stronger pro-life opponent of abortion, but there is also no stronger pro-life proponent of family planning. He knows that if there are voluntary family planning services, you are most apt to avoid unwanted pregnancies and thus avoid abortion.

Now, we have heard Senators say: Well, we don't want to use taxpayer money for coerced abortions. You can't. There is no money in here with which it can be done. We specifically prohibit that.

But let me repeat for my colleagues what this amendment does do. The Wicker amendment removes funds we have in here for UNFPA to promote the abandonment of female genital mutilation and child marriage. The funds can be used in countries where we don't have USAID programs, to help prevent child marriage. The Senator from Mississippi would remove those funds. I have listened to some of the harrowing stories: 7, 8 or 9 year-old girls forced into marriage. We ought to all unite to try to stop that, but the Senator from Mississippi takes out the funds that can be used to try to stop that.

Obstetric fistula—anybody who is familiar with that knows how terrible it is, a debilitating condition that can destroy the life of any woman who suffers from it, but it can be cured by surgery. If any member of our family was faced with that, of course they would have the surgery to fix it. The funds are not there, not available in many countries. But there are funds in the bill so UNFPA can help women with that terrible condition. The amendment of the Senator from Mississippi takes that money out. I can't support something like that.

We have funds in the bill to reestablish maternal health care in areas where medical facilities and services have been destroyed or limited by natural disasters. We put in funds to rebuild those health services, but the amendment of the Senator from Mississippi takes that money out.

We are talking about countries where the average person doesn't earn even $100 a year. We ought to think about it, as the wealthiest, most powerful Nation on Earth, where there is a certain God-given moral duty to help people less privileged, but the amendment of the Senator from Mississippi takes that money out.

Are we concerned with coercion and forced abortion in China, as the Senator from Mississippi and the Senator from Kansas said? Of course. I have no doubt that they find that morally repugnant. I totally agree with the Senator from Mississippi. I totally agree with him that forced abortions are wrong. I totally agree with the Senator from Kansas about that. That is why, when Senator GREGG and I brought this bill to the Appropriations Committee, we prohibited any funds going to China. We prohibit any funds for abortion. We prohibit those things. It is not correct to suggest otherwise.

I don't know what kind of political points are made by bringing up this kind of an amendment, but explain those political points to the mother of a 5-year-old who has been raped in the Congo. Explain those political points to a mother, herself a child, who is giving birth and now has the problem of obstetric fistula, and we can't do anything to help her. Explain it to those families in war-ravaged countries where the U.S. does not have programs. Explain to them when they ask: Why can't you help us—a wealthy nation like America—why can't you help us? And the answer is because we are making a political point.

I don't accept that. I oppose this amendment with every fiber of my body.

How much time is remaining?

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Vermont has 1 minute remaining.

Mr. LEAHY. How much time on the other side?

The PRESIDING OFFICER. There is 1 minute 45 seconds remaining.

The Senator from Mississippi is recognized.

Mr. WICKER. Madam President, I am prepared to close, and I assume the Senator from Vermont will do so also.

The Senator from Vermont says the money in this bill will go to sanitization, to protect against child marriage, to protect against female genital mutilation, to promote maternal health care. No one objects to that. If the President of the United States, under the Wicker amendment and under the 25-year-old Kemp-Kasten provision, can certify that such organizations do not promote coercion in the name of family planning, then the money will go to these worthy causes. The question is, Why does the Senator from Vermont and the people who agree with him on this issue not trust the President of their own political party to make a determination?

Now, the Senator says that the Kemp-Kasten language is still in the bill. I would submit that, in fact, is not true. The bill purports to retain Kemp-Kasten, but it goes on to say that funds will be directed to the United Nations Population Fund ''notwithstanding any other provision of law.'' I say to my friend from Vermont, that is the change in the law that guts Kemp-Kasten, that changes 23 years to 25 years of Federal policy and allows U.S. taxpayer dollars to be spent for coercive sterilization, for forced abortion, and that is the issue. Yes, Kemp-Kasten is purported to be in the bill, and then it is gutted in the next paragraph.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Madam President, I believe women around the world should have access to safe health care that will help them plan their families and stay free of diseases.

These are basic rights. That is why I rise in opposition to the amendment being offered by Senator WICKER to block funding to the United Nations Population Fund.

In the developing world, ''complications from pregnancy'' is still one of the leading causes of death for women.

More than half a million women die each year—one every minute—from preventable complications of pregnancy and childbirth.

Madam President, 201 million women can not get access to safe, modern contraception even w en they want it, and 6,800 new cases of HIV occur every day.

With its mission ''to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV/AIDS, and every girl and woman is treated with dignity and respect,'' the United Nations Population Fund is working every day to make things better.

For nearly 40 years, UNFPA has provided more than $6 billion in aid to about 150 countries for voluntary family planning and maternal and child health care.

They are helping more women survive childbirth.

They are providing contraceptives to help women plan their families and stay free of HIV/AIDS.

They are promoting access to basic services, including clean water, sanitation facilities, food, and health care for poor women and girls.

Yet Senator WICKER and other supporters of this amendment would deny

women around the world this basic care because they believe misinformation that has been spread by antichoice lobbyists who say this fund would pay for coerced abortions.

The reality is that our government already prohibits any money from being used to fund coerced abortions. And, no U.S. money goes to China.

This bill actually continues that policy.

So all Senator WICKER'S amendment would do is prevent women around the world from getting access to basic health care services—services that we take for granted here in the United States.

All of us would agree that we want to see fewer abortions in the world. I certainly do not condone funding coercive abortion practices in China or anywhere else.

And I cannot accept that we would deny women life-saving care because of a dishonest lobbying campaign.

Not only is contributing to UNFPA the right thing to do—it is in our best interest.

By helping to lift families out of poverty, and slow the spread of disease, we can reduce conflicts and bring stability and hope to some of the most troubled regions in the world.

I am proud that President Obama is pledging to refund UNFPA after the previous administration consistently canceled funding for the agency.

I urge my colleagues to vote down the Wicker amendment.

So let me simply say that I believe that women around the world should have access to safe health care that will help them plan their families and stay free of diseases. These are basic rights, and that is why I oppose the amendment that is being offered by Senator WICKER to block funding to the United Nations Population Fund.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNS) and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 39, nays 55, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—39

Alexander	Bayh	Bond
Barrasso	Bennett	Brownback
Bunning	Enzi	McCain
Burr	Graham	McConnell
Casey	Grassley	Murkowski
Chambliss	Gregg	Nelson (NE)
Coburn	Hatch	Risch
Cochran	Hutchison	Roberts
Corker	Inhofe	Shelby
Cornyn	Isakson	Thune
Crapo	Kyl	Vitter
DeMint	Lugar	Voinovich
Ensign	Martinez	Wicker

NAYS—55

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

NOT VOTING—5

Conrad	Kennedy	Sessions
Johanns	Landrieu	

The amendment (No. 607), as modified, was rejected.

Mr. LIEBERMAN. 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 majority leader.

Mr. REID. Madam President, at 1 o'clock today, Democrats and Republicans have been invited to the White House to work on health care. That is going to take 4 hours. There are Senators here who are going to be working. We have a number of Senators on our side who wish to speak on the five remaining amendments that have been offered. So we will continue to work on those.

What we are trying to work out with the minority staff is to have a series of votes starting at 5:30 this afternoon and then continue working through these amendments. I had a conversation with the Republican leader today, who suggested Senators SESSIONS and GRASSLEY had amendments. I have spoken with Senator GRASSLEY. Senator SESSIONS was not available. Senator GRASSLEY is trying to make a determination if he wants to offer the amendment. I had a conversation with him. So that is where we are.

The PRESIDING OFFICER. The minority leader.

Mr. MCCONNELL. Madam President, if I might add, if we could vote on all amendments that are now pending at 5:30 p.m., I think that would give us a better chance to figure out the way forward.

Mr. REID. Madam President, I say to my friend, if I didn't say that, that is what I wanted to say. I have had a number of people on my side—for example, I just spoke with Chairman KERRY. He is going to come and speak on the Kyl amendment. He will finish lunch and do that. Anyone who has speeches they want to give on these five amendments must come before 5:30 p.m. because we are going to enter into that agreement as soon as we can, which will be very quickly. We will have all those votes at 5:30 p.m. and decide anything else we have to do. We understand that. A number of people contacted me about amendments on my side and on the Republican side.

Mr. MCCONNELL. Madam President, let me add, I think at that point, we will be able to determine what additional amendments Members on my side wish to offer and figure out where we go from there.

The PRESIDING OFFICER. The Senator from Illinois.

(The remarks of Mr. BURRIS are printed in today's RECORD under ''Morning Business.'')

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

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

The legislative 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. BEGICH). Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I return to the floor to talk about this bill before us which includes 9,000 earmarks and a 1,844-page statement of managers that accompanies this 1,122 page bill. When the Congress establishes its funding priorities, it should do so decisively without cause for subjective interpretation or reference to material outside the bill passed by Congress and signed by the President. These funding priorities should have the binding force of law, subject only to the President's veto power.

Yet here we are with a statement of managers that totals 1,844 pages, including 775 pages identifying over 9,000 Members' earmark requests that are expected to be funded, although most of them are not contained in the bill text. Because they are conveniently not listed in the bill text, Members who question the merits of specific earmarks are unable to offer an amendment to specifically strike them.

They are wasteful. They should not be funded. I ask unanimous consent that the list be printed in the RECORD.

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

$1.7 million for pig odor research in Iowa; $2 million for the promotion of astronomy in Hawaii; $6.6 million for termite research in New Orleans; $2.1 million for the Center for Grape Genetics in New York; $650,000 for beaver management in North Carolina and Mississippi; $1 million for mormon cricket control in Utah; $332,000 for the design and construction of a school sidewalk in Franklin, Texas; $870,000 for wolf breeding facilities in North Carolina and Washington; $300,000 for the Montana World Trade Center; $1.7M ''for a honey bee factory'' in Weslaco, TX; $951,500 for Sustainable Las Vegas; $143,000 for Nevada Humanities to develop and expand an

online encyclopedia; $475,000 to build a parking garage in Provo City, Utah; $200,000 for a tattoo removal violence outreach program in the LA area; $238,000 for the Polynesian Voyaging Society in Honolulu, Hawaii; $100,000 for the regional robotics training center in Union, SC; $1,427,250 for genetic improvements of switchgrass; $167,000 for the Autry National Center for the American West in Los Angeles, CA; $143,000 to teach art energy; $100,000 for the Central Nebraska World Trade Center; $951,500 for the Oregon Solar Highway; $819,000 for catfish genetics research in Alabama; $190,000 for the Buffalo Bill Historical Center in Cody, WY; $209,000 to improve blueberry production and efficiency in GA; and $400,000 for copper wire theft prevention efforts.

$250,000 to enhance research on Ice Seal populations; $238,000 for the Alaska PTA; $150,000 for a rodeo museum in South Dakota; $47,500 to remodel and expand a playground in Ottawa, IL; $285,000 for the Discovery Center of Idaho in Boise, ID; $632,000 for the Hungry Horse Project; $380,000 for a recreation and fairground area in Kotzebue, AK; $118,750 for a building to house an aircraft display in Rantoul, IL; $380,000 to revitalize downtown Aliceville, AL; $380,000 for lighthouses in Maine; $190,000 to build a Living Science Museum in New Orleans, LA; $7,100,000 for the conservation and recovery of endangered Hawaiian sea turtle populations; $900,000 for fish management; $150,000 for lobster research; $381,000 for Jazz at Lincoln Center, New York; $1.9 million for the Pleasure Beach Water Taxi Service Project, CT; $238,000 for Pittsburgh Symphony Orchestra for curriculum development; $95,000 for Hawaii Public Radio; $95,000 for the state of New Mexico to find a dental school location; $143,000 for the Dayton Society of Natural History in Dayton, OH; $190,000 for the Guam Public Library; $143,000 for the Historic Jazz Foundation in Kansas City, MO; $3,806,000 for a Sun Grant Initiative in SD; and $950,000 for a Convention Center in Myrtle Beach, SC.

The Army Corps of Engineers has the distinction of having the largest number of individual earmarks imposed among all of the federal agencies funding in this legislation, with an amazing 1,849 individually identified earmarked projects as identified by the Appropriations Committee. Examples include:

$670,000 for Abandoned Mine Restoration in California; $59,000 for Dismal Swamp and Dismal Swamp Canal in Virginia; $2 million for Chesapeake Bay Oyster Recovery in Maryland and Virginia; $3 million for Joseph G. Minish Waterfront in New Jersey; $18 million for Middle Rio Grande Restoration in New Mexico; $10 million for North Dakota Environmental Infrastructure; $5.56 million for Northern Wisconsin Environmental Assistance; $546,000 for Surfside-Sunset-Newport Beach in California; $3.8 million for Mississippi River Levees; and $41.180 million for Yazoo Basin in Mississippi (this is a total for all of the Yazoo Basin projects listed under MRT—Construction).

We're giving billions of dollars to 1,849 projects—some which are authorized—but with no clear understanding of what our nation's water infrastructure priorities actually are or should be. We witnessed how lives literally depend on these projects and yet we're just throwing money at them without the benefit of any realistic or transparent set of criteria. It is long overdue for Congress to take a hard look at how our Army Corps dollars are being spent and whether or not they're actually going to the most necessary projects.

While the Corps gets the distinction for the largest number of earmarks, every agency is chock full of earmarks:

Division A—Agriculture, Rural Development, Food and Drug Administration, and Related Agencies (52 pages of earmarks)

Total: 506 earmarks.
Agriculture Research Service, 94 earmarks.
Animal and Plant Health Inspection Service, 46 earmarks.
Cooperative State Research and Extension Service, 265 earmarks.
FDA, 8 earmarks.
Earmarks in General Provisions, 6 earmarks.
Natural Resource Conservation Service, 86 earmarks.
Rural Business Cooperative Service, 1 earmark.

Division C—Energy and Water Development and Related Agencies Appropriations (164 pages of earmarks)

Total: 2,402 earmarks.
Corps of Engineers, 1,849 earmarks.
Bureau of Reclamation, 186 earmarks.
Dept of Energy, 367 earmarks.

Division D—Financial Services and General Government (16 pages of earmarks)

Total: 277 earmarks.
Small Business Administration, 245 earmarks.
District of Columbia, 13 earmarks.
General Services Administration, 14 earmarks.
National Archives Records Administration, 3 earmarks.
Office of National Drug Control Policy, 2 earmarks.

Division E—Department of Interior, Environment, and Related Agencies (47 pages of earmarks)

Total: 531 earmarks.
Bureau of Land Management, 13 earmarks.
Fish and Wildlife Service, 40 earmarks.
National Park Service, 111 earmarks.
USGS, 12 earmarks.
Minerals Management Service, 1 earmark.
Bureau of Indian Affairs, 6 earmarks.
Environmental Protection Agency, 288 earmarks.
US Forest Service, 60 earmarks.

Division F—Departments of Labor, Health and Human Services, and Education, and Related Agencies (211 pages of earmarks)

Total: 2125 earmarks.
Department of Education:
Elementary and Secondary Education Act, 357 earmarks.
Higher Education, 331 earmarks.
Rehabilitation Services and Disability Research, 12 earmarks.
Total: 700 earmarks.
Department of Health and Human Services:
Administration for Children and Families, 95 earmarks.
Administration on Aging, 26 earmarks.
Centers for Disease Control and Prevention, 83 earmarks.
Mine Safety and Health Administration, 1 earmark.
Centers for Medicare and Medicaid Services, 18 earmarks.
Health Resources and Services Administration, 924 earmarks.
HHS Office of the Secretary, 10 earmarks.
Substance Abuse and Mental Health Services Admin, 66 earmarks.
Total: 1223 earmarks.
Department of Labor:
Employment and Training Administration, 141 earmarks.
General provisions:
Museums & Libraries, 61 earmarks.

Division G—Legislative Branch Appropriations—1 page of earmarks (division G)

Total: 3 earmarks.
Architect of the Capitol, 1 earmark.
Library of Congress, 2 earmarks.

Division I—Transportation, Housing and Urban Development, and Related Agencies—114 pages of earmarks

Total: 1,858 earmarks.
Transportation:
Total: 1,321 earmarks.
Airport Improvement Program, 78 earmarks.
Alternatives Analysis, 26 earmarks.
Appalachian Highway Development System, 1 earmark ($9.5 million).
Bus and Bus Facilities, 302 earmarks.
Capital Investment Grants, 64 earmarks.
Delta Regional Transportation Development Program, 9 earmarks.
Denali Commission, 1 earmark ($5.7 million).
FAA Facilities and Equipment, 9 earmarks.
Federal Lands Highways, 68 earmarks.
Ferry Boats and Terminal Facilities, 30 earmarks.
Grade Crossings on Designated High Speed Rail Corridors, 8 earmarks.
Interstate Maintenance Discretionary, 93 earmarks.
Maritime Administration, 1 earmark.
FAA Operations, 2 earmarks.
NHTSA Operations and Research, 1 earmark.
Rail Line Relocations and Improvement Program, 23 earmarks.
FTA Research, 7 earmarks.
FRA Research and Development, 4 earmarks.
FAA Research Engineering and Development, 3 earmarks.
Surface Transportation Priorities, 194 earmarks.
Terminal Air Traffic Facilities, 18 earmarks.
Transportation, Community, and System Preservation, 343 earmarks.
FTA Priority Consideration, 20 earmarks.
Technical Corrections, 16 earmarks.
Housing and Urban Development:
Total: 537 earmarks.

Mr. McCAIN. Mr. President, examples of earmarks on this list include $870,000 for wolf-breeding facilities in North Carolina and Washington—not anyplace else but North Carolina and Washington State; $1,427,250 for genetic improvements of switchgrass; $100,000 for the central Nebraska World Trade Center; $819,000 for catfish genetics research in Alabama; $250,000 to enhance research on ice seal populations; $47,500 to remodel and expand a playground in Ottawa, IL; $285,000 for the Discovery Center of Idaho in Boise; $632,000 for the Hungry Horse Project; $380,000 for a recreation and fairground area in Alaska; $190,000 to build a living science museum in New Orleans, LA; $7,100,000 for the conservation and recovery of endangered Hawaiian sea turtle populations; $900,000 for fish management; $381,000 for jazz at Lincoln Center, New York; $238,000 for the Pittsburgh Symphony Orchestra for curriculum development; $95,000 for Hawaii Public Radio; $143,000 for the Dayton Society of Natural History in Dayton, OH; $193,000 for the Guam Public Library; $143,000 for the Historic Jazz Foundation in Kansas City, MO; and $950,000 for a convention center in Myrtle Beach, SC.

The list goes on and on.

The fact is, this has been stated by members of the administration, including, incredibly, the President's Budget

Director as ''last year's business.'' This is this year's business. This is funding that will be provided this year. This is 1,122 pages of a bill accompanied by 1,844 pages of porkbarrel earmark projects. It is not last year's business; it is this year's business. If it is last year's business, then if it is passed by the Senate and the House, send it down to Crawford, TX, and have it signed by last year's President. It won't be. It will be signed by this year's President, when it should be vetoed by this year's President.

I wish to remind my colleagues, again, that over the course of the last campaign I talked about earmarks. I have been fighting against them for years, and I was severely critical of Republicans who were in charge and frittered away our responsibilities as fiscal conservatives and paid a very heavy price for it. The then candidate and now President of the United States also stated repeatedly his opposition to earmarks, and he had stopped asking for earmarks, even though his first 2 years he had many millions of dollars in earmarks.

The President should veto this bill and send it back to Congress and tell them to clean it up.

Last week, President Obama commented on the fiscal 2010 budget blueprint after the Democratic-controlled Congress passed a $1.2 trillion stimulus bill. He said he had inherited a $1 trillion budget deficit from the prior administration. Again, I say, the Republican Party lost its way in recent years because we gave in to higher Government spending and porkbarrel spending and it bred corruption. We have former Members of Congress residing in Federal prison. As a result, the Republican Party paid a price for it at the polls.

That said, I think we have to be honest about the bill that is before us. It is a massive bill, here for our consideration because the House Democratic leadership—specifically, the Speaker and House Appropriations Committee chairman—made a calculated decision last year. They were faced with a threat from President Bush to veto each of these combined appropriations bills that exceeded his budget request. As a result, they decided to put the Federal Government under a continuing resolution and wait for the outcome of the election in hopes that a new administration would be more willing to go along with the pork-laden projects that have been inserted into every aspect of this swollen, wasteful, egregious example of out-of-control spending. Their wish came true. Elections have consequences and this bill is one of them.

As I said earlier, a mere 6 months ago, Candidate Obama vowed he would not support earmarking business as usual when he said during the debate in Oxford, MS: ''We need earmark reform and when I am President, I will go line by line to make sure that we are not spending money unwisely.''

Let's start going line by line on this 1,122 pages. Let's start going line by line with this 1,844 pages. It is loaded with billions of dollars of unnecessary and wasteful spending. Sadly, based on recent comments by some of his top advisers, including the Chief of Staff and the Director of OMB, it doesn't sound as if he is willing to put his veto pen to use to back up his vow.

The majority party has presented us and the new President with an outrageous example of a massive spending bill of more than $410 billion that, I repeat, includes over 9,000 wasteful earmarks. This bill is one of the first examples, among what will be many, of whether this Congress and this new President are serious about fiscal responsibility. I am not encouraged by this bill, to say the least.

If we can't reform earmarking, the best thing to do is to provide the President with a line-item veto authority. Yesterday, Senator FEINGOLD and I, along with Congressman PAUL RYAN, introduced legislation to grant the President specific authority to rescind or cancel congressional earmarks, including earmark spending, tax breaks, and tariff benefits. Granting the President the authority to propose rescissions which then must be approved by the Congress could go a long way toward restoring credibility to a system ravaged by congressional waste and special interest pork.

Yesterday, there were comments made by some of the leaders of Congress who basically said that if the President tries to eliminate wasteful and porkbarrel spending, that they can't do it. We hear the majority leader of the Senate who said:

> Since we have been a country we have had the obligation as a Congress to direct spending . . .

Defending a new spending bill that is bursting with congressional earmarks.

> We cannot let spending be done by a bunch of nameless, faceless bureaucrats buried in this town someplace.

I am asking that we authorize these programs the way this Congress did business for many, many, many, many years—many years. We authorized programs. Then we appropriated. That is why we have the authorization committees we have today. Unfortunately, bills such as this completely bypass the authorizing committees and are put in quite often without any consideration, without any authorization, and are directly related to the influence of the Member of Congress. Somebody pays for all this. Somebody pays for all of it, and it is our kids and our grandkids. That is what is going on. The President of the United States should veto it.

I agree with the Senator from Indiana, EVAN BAYH, who had an op-ed piece in the Wall Street Journal saying:

> The Senate should reject this bill. If we do not, President Obama should veto it.

I understand that Senator EVAN BAYH's op-ed in the Wall Street Journal of March 4 was printed in the RECORD yesterday.

So what has happened here? What has happened here, as I have watched over the years, is the system got more and more out of control. Yes, we have made a little progress. Now it is easier to identify who put the earmark in and who the lobbying group was, but if there is any testimonial to the fact that we have made no progress in the effort to reform, it was the vote yesterday on an amendment offered by Senator TOM COBURN that said we would eliminate 13 earmarks, worth about $9 million, which were put in by a lobbying organization that is now shut down and under FBI investigation. Remarkable. Remarkable. We couldn't even take out porkbarrel projects that were inserted through the influence of a lobbying organization that has been raided and shut down by the Federal Bureau of Investigation. Remarkable. Remarkable.

So it is a fight worth having, my friends. I would imagine the Senate will vote and probably this legislation will pass, but it is a very bad signal to send to the American people, and it is a very bad precedent for this administration to begin its first 100 days with the President of the United States signing a bill that has 1,844 pages of pork on the one hand and 1,122 pages of pork on the other.

One of my colleagues from the other side of the aisle came to the floor yesterday and said Republicans were guilty as well as Democrats. I agree. I agree. I have always said there are three kinds of Members of Congress: The Democratic members, Republican members, and appropriators.

A number of my colleagues on this side of the aisle have voted consistently against eliminating these porkbarrel earmarks. So my prediction is, the American people will not stand for this much longer. The American people are beginning to figure out we are mortgaging their children's and their grandchildren's future. The American people are fed up with this kind of a system that breeds corruption. The American people, I don't think, will stand for it, and I think sooner rather than later, you are going to see a rejection of this kind of practice, which does such damage to our credibility, to our ability to serve, and the ability of us to take care of future generations of Americans, as well as this one.

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. UDALL of New Mexico. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from New Mexico.

(The remarks of Mr. UDALL of New Mexico are printed in today's RECORD under ''Morning Business.'')

Mr. UDALL of New Mexico. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico.) Without objection, it is so ordered.

AMENDMENT NO. 635, AS MODIFIED

Mr. THUNE. Mr. President, I have made no secret of the fact that the appropriations bill we have in front of us today is one that I think is way too large relative to what we should be doing in light of the fact that 2 weeks ago we passed a $1 trillion stimulus bill which will fund many of the same programs that are funded under this appropriations bill.

This appropriations bill creates an increase of 8.3 percent in funding over last year's appropriated level, which is the largest increased appropriation, year over year, that we have seen since the Carter administration. In fact, an 8.3-percent increase represents more than twice the rate of inflation.

Most Americans and families today are trying to survive and live at a time when they are dealing with diminishing revenue coming into their households and certainly are not getting an increase that is the same as the rate of inflation. We have an appropriations bill in front of us today that is more than twice the rate of inflation. So I would daresay the Federal Government is certainly not leading by example when it comes to tightening our belts. I think when American families are struggling to make ends meet and tightening their belts, it is important that we also do the same thing, and this appropriations bill is anything but that. The 8.3-percent increase, as I said, is more than twice the rate of inflation and represents the largest year-over-year increase in appropriations since the Carter administration.

Having said that, I expect at the end of the day it is probably going to pass in the Senate. What we have tried to do as we have debated it is make improvements in it and address different priorities all of us bring to this debate.

I have one in particular that I think needs to be adopted, an amendment that needs to be adopted. It is filed, it is pending at the desk, and hopefully we will have a vote on it later today. What it does is reduce discretionary spending throughout the bill by $400 million, which equals the fiscal year 2009 authorized amount from PEPFAR.

Now, PEPFAR was an emergency—well, the PEPFAR itself was the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Reauthorization Act, which passed last year. But the Emergency Fund for Indian Safety and Health was established as part of that legislation. It was an authorization. And of the $50 billion that was authorized in the so-called PEPFAR bill, $2 billion of that was set aside to address what are very urgent needs on America's Indian reservations, the argument being that there are needs that are great abroad, other places around the world, but we have some very urgent and pressing needs right here at home. So the $2 billion authorization was a 5-year authorization, which would represent $400 million each year, and what my amendment would do is simply fund at $400 million that first-year level of authorization that was created by the PEPFAR legislation we passed last fall.

In order to do that, because there wasn't any funding for the emergency fund for Indian safety and health in the underlying bill, we have to find the money somewhere else. What my amendment does, very simply, is reduce by one-tenth of 1 percent each program funded in the bill. So bear in mind, you have an 8.3-percent increase over last year's appropriated level in the base bill. With my amendment, what you would do is reduce the 8.3-percent increase each of these programs would receive in this bill to 8.2 percent and take that one-tenth of 1 percent and distribute it into this emergency fund for Indian safety and health, which was created as part of the PEPFAR legislation that we passed last fall. It is done in a very straightforward way. It distributes money where it is needed most.

Keep in mind it doesn't do anything to the significant funding that was included for many of these same programs that received a portion of the stimulus bill funding we passed a couple of weeks ago.

Why is this important to people in Indian Country? There are a number of reasons because what that authorization did is, it allowed money, money that would come through appropriated funds later after it was authorized, to be used for three purposes: One is law enforcement, public safety; one is Indian Health Service and health care on reservations; the third one was water development. We separated those out in the bill and allocated a certain amount of funding to each of those particular categories.

The reason that is so important is because in many places, particularly on Indian reservations, these very basic needs many of us take for granted are not being met. Nationwide, 1 percent of the U.S. population doesn't have access to safe and adequate drinking water and sanitation needs. On Indian reservations, if you can believe this—I said 1 percent is the average across America. On the Nation's Indian reservations that number climbs to 11 percent, and in some parts of Indian Country, the worst parts in terms of not having access to some of these necessities that most people expect—water and sanitation services—that number climbs to 35 percent. Lack of reliable safe drinking water leads to high incidences of disease and infection. The Indian Health Service estimates for each $1 it spends on safe drinking water and sewage systems, it receives a twentyfold return in the form of health benefits.

The Indian Health Service estimates in order to provide all Native Americans with safe drinking water and sewage systems, they would need—this is the backlog—over $2.3 billion. What we are talking about represents a small amount of what the need is that exists out there, but that being said, we could go a long way, by enacting this amendment, toward meeting that need.

With respect to health care, nationally Native Americans are three times as likely to die from diabetes as compared to the rest of the population. An individual who is served by the Indian Health Service is 50 percent more likely to commit suicide than the general population. An individual who is served by the Indian Health Service is 6.5 times more likely to suffer an alcohol-related death than the general population.

On the Oglala Sioux Reservation in my State of South Dakota, the average life expectancy for males is 56 years old. I want you to compare that with some other countries around the world. In Iraq, the average life expectancy for a male is 58. In Haiti, it is 59 years. In Ghana, the average life expectancy for a male is 60 years old—all higher than right here in America. On the Oglala Sioux Reservation in my home State of South Dakota, the average life expectancy for males is 56.

In South Dakota, between 2000 and 2005, Native American infants were more than twice as likely to die as nonnative infants. In South Dakota, a recent survey found that 13 percent of Native Americans suffer from diabetes. This is twice the rate of the general population, where only about 6 percent suffer from the same disease.

With respect to public safety, one out of every three Native American women will be raped in their lifetimes. According to a recent Department of Interior report, tribal jails are so grossly insufficient when it comes to cell space that only half of the offenders who should be incarcerated are being put in jail. That same report found that constructing or rehabilitating only those detention centers that are the most in need would cost $8.4 billion. Again, it is way more than what we are talking about here. But, certainly, what we could do today, in the form of this amendment, would be to put a down-payment on and begin to address what is a very serious need of adequate space for people who have committed crimes.

The South Dakota attorney general released a study at the end of last year on tribal criminal justice statistics. That study found that homicide rates on South Dakota reservations are almost 10 times higher than those found in the rest of South Dakota. Forcible rapes on South Dakota reservations

are seven times higher than those found in the rest of South Dakota. These are all things that statistically point to the very serious public safety needs that exist on America's Indian reservations today and point to the importance of us adopting the amendment I will put before the Senate and have a vote on later today.

These critical, unmet needs have consequences in the day-to-day operations for tribal courts and law enforcement. I talked about public safety, how that translates. You see all the statistics and data. That is stunning enough. But then you talk about how that actually impacts a lot of our reservations. I will give a couple examples.

At the Rosebud Sioux Tribal Court, a tribe that is a supporter of the amendment, on June 19, 2008, the tribal prosecutor scheduled to attend court proceedings that day did not appear at court. Alarmed, the tribal judge sent a court employee to the police department to ensure the prosecutor was not hurt in an accident. Once it was clear the prosecutor was not injured but instead did not show, all cases scheduled that day had to be dismissed because no replacement prosecutor was available. Cases that were dismissed that day included sexual assault, domestic violence, child abuse, and DUIs.

At Standing Rock Reservation, another example, another reservation that borders or crosses the line in South Dakota and North Dakota—in early 2008, the Standing Rock Sioux Reservation had six police officers to patrol a reservation that is geographically the size of Connecticut.

This meant during any given shift there was only one officer on duty to cover that entire area. One day the only dispatcher on the reservation was out sick. This left only one police officer to act both as a first responder and also as the dispatcher. Not only did this directly impact the officer's ability to patrol and respond to emergencies, it also prevented him from appearing in tribal court to testify at a criminal trial.

Later in the year I was able to work with my Senate colleagues in the Bureau of Indian Affairs to bring additional police officers to the Standing Rock Sioux Reservation through Operation Dakota Peacekeeper. That operation, which was a success, was only possible because of the Bureau of Indian Affairs being able to dramatically increase the number of law enforcement officials on the reservation during what we referred to as the surge. This dramatic increase in officers was only possible because the Bureau had been given additional public safety and justice funds in 2008, something I would like to continue with my amendment.

The way these dollars would be used, if my amendment is accepted, also is spelled out in the amendment. It is actually spelled out in the statute, the authorization bill. But the $400 million would be distributed as follows: $200 million will go to congressionally approved water settlements; $150 million will go to public safety and justice; $74 million for detention facility construction, rehabilitation, and placement through the Department of Justice; $62 million for the Bureau of Indian Affairs public safety and justice account which funds tribal police and tribal courts; $6 million for investigations and prosecution of crimes in Indian Country by the FBI and the U.S. attorneys; $6 million would go to the Department of Justice Office of Justice Program for Indian and Alaska Native Programs; $2 million for cross-deputization or other cooperative agreements between State, local, and tribal governments; $50 million to health care which would be divided as the Director of Indian Health Services determines between contract health services, construction and rehabilitation of Indian health facilities, and domestic and community sanitation facilities serving Indian tribes.

Passage of the original amendment to PEPFAR, which occurred last year, showed a commitment by the Senate on a bipartisan basis to address these domestic priorities that are faced by Native Americans in Indian Country. That was a bill that had, and the amendment I offered to that bill had, bipartisan cosponsorship. There were a number of people on both sides of the aisle who supported it. Vice President BIDEN was a supporter. Secretary of State Clinton was a cosponsor of the amendment. A number of colleagues have supported the effort we made to demonstrate a commitment to addressing these very serious needs, which I have alluded to that exist today in Indian Country.

What my amendment to the Omnibus appropriations bill before us does is ensures the underlying bill, the bill that we authorized, actually gets funded, and the dollars we committed are actually appropriated for the purpose of addressing these very serious needs.

I ask that when this comes to a vote, amendment No. 635, my colleagues support it in the same sort of bipartisan way we were able to support the underlying authorization that was approved last year. There is no greater need. The statistics in Indian Country, both in South Dakota and other reservations in other States, are dire. We, as the Senate, have a responsibility to address those needs, particularly at a time when we are already funding or going to pass a bill which increases spending in this appropriations bill by as much as it does.

One-tenth of 1 percent is all we are saying would be necessary to provide the $400 million that is necessary to fund this amendment and the important priorities it would serve.

I hope my colleagues will be able to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I understand Senator THUNE has modified his amendment to correct an earlier drafting error.

The original amendment proposed a $400 million across-the-board cut against the programs funded in the interior division of the bill, as an offset to increase funding for various Indian health and safety programs in the interior division by $400 million.

As it stands, the modified amendment proposes that the $400 million across-the-board cut now applies to the entire omnibus appropriations bill, not just the interior subcommittee's division.

Nevertheless, I still oppose the Senator's amendment.

This amendment now makes cuts to all programs in the omnibus.

This means there will be cuts in job training, law enforcement, cancer research, highway funding, food inspection, energy research, and on, and on, and on.

I know that no single cut will be that great, but if we are going to go down this road, where will it end?

Who brings the next amendment, claiming that it only cuts 0.1 percent?

How many more of these will we have to accept before we say we have cut enough out of law enforcement or enough out of health care?

Mr. President, just to make the record clear, the interior division of this bill contains $2.376 billion for the Bureau of Indian Affairs and $3.581 billion for the Indian health service.

Many of the programs run by those agencies and by the tribes themselves deal directly with health and safety issues.

We cannot start chipping away in this fashion and have any hope of ever finishing this bill.

Furthermore, the amendment, as modified, causes the interior bill to exceed its 302(b) allocation for budget authority. This makes it very troublesome.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, if I might respond to the remarks of the distinguished chairman, and I understand what I am doing here may create some technicality with regard to the budget rules, but we do this all the time, and we routinely waive the budget. The only reason it does is because it does take that one-tenth of 1 percent from across the entire nine appropriations bills as opposed to taking it out of one particular appropriations bill. What that does is attempts to distribute that reduction across the board so no one area is hurt in a significant way relative to the others.

But, again, I would simply point out—and I appreciate what the chairman said about these other areas in the budget, these programs being cut—bear in mind, this is an 8.3-percent increase, year over year, over last year's appropriated level in all these accounts. There is not any account in this appropriations bill that is receiving a cut. They are all receiving an increase.

The question is, Will it be an 8.3-percent increase or an 8.2-percent increase? What I am simply saying is,

you make it an 8.2-percent increase and use that one-tenth of 1 percent to fund a program this Congress, this Senate voted to authorize last year, specifically, for Indian health care, for water development, and for public safety on our reservations. Of course, there is funding in the underlying bill for some of these things, but none of which is adequate to address the need, which is precisely why so many of the reservations in my State have the high incidents of crime, the data they have in terms of the many areas I mentioned. When it comes to prosecutions, when it comes to detention facilities, when it comes to law enforcement personnel and officers, we are deficient in the responsibility we have.

So, again, it is not a question of whether all the programs that are funded in the bill are going to get an increase. They are all going to get an increase, a substantial increase. Under my amendment, it is simply an 8.2-percent increase as opposed to an 8.3-percent increase.

It seems to me, at least, the least we can do to honor the commitment we made by passing the emergency fund for Indian safety and health we passed last year is to provide funding for it.

So I appreciate the chairman's observations. I would simply ask my colleagues to look beyond whatever technicality may be raised with regard to where the one-tenth of 1 percent is coming from. It is coming from all nine appropriations bills across the board as opposed to from one particular area or account. But that, to me, seems to be the fair way in which to do this in a way that distributes that one-tenth of 1 percent reduction evenly. So I hope my colleagues will support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 635, AS MODIFIED

Mrs. FEINSTEIN. Mr. President, I come to the floor to, first of all, oppose the Thune amendment, and then to speak in opposition to the Murkowski amendment.

I rise as chairman of the Interior Appropriations Subcommittee. In its current form, the Interior portion of the omnibus is funded at $27 billion. This section includes a substantial increase for the Bureau of Indian Affairs and the Indian Health Service. For fiscal year 2009, the bill provides $5.957 billion. This is an increase of $320 million over the fiscal year 2008 bill. It is a 5.7-percent increase. That is a great deal of money.

The Thune measure—well, let me make one other point first. In addition, the Recovery Act, which we enacted last month, contained $1 billion for these two agencies. So taken together, the omnibus bill and the recovery act will provide $6.957 billion. That is an increase over the 2008 level of $1.320 billion, or 23 percent. Now, that is what the underlying bill and the recovery act, the stimulus bill, does—a 23-percent increase. That is a great deal of money.

Senator THUNE has proposed an across-the-board cut of 0.1 percent to the entire omnibus to pay for an increase of $400 million for these two agencies in addition. That means every account in the entire omnibus bill must take a cut.

Now, if the Thune amendment were successful, it would increase my bill, the Interior bill, by $372 million, which would put us over our allocation, which would make germane a point of order against our bill. I think that is wrong. I think when we do a substantial increase, I do not understand the need for this. I do not understand why a 23-percent increase, to the tune of $6.957 billion—that is a huge increase, probably one of the greatest increases in any part of this omnibus, and that is the underlying omnibus bill.

So I am concerned. I would urge a ''no'' vote on the Thune amendment.

Mr. President, I would like to raise a point of order against the amendment under section 302 of the Congressional Budget Act. The pending amendment would increase spending in the Interior Subcommittee by $400 million, primarily by cutting spending in the jurisdiction of the eight other subcommittees funded in this act. The amendment, therefore, would result in spending exceeding the budget allocation of the Interior Subcommittee.

I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the Interior Subcommittee's 302(b) allocation under the fiscal year 2009 concurrent resolution on the budget.

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

Mr. THUNE. Mr. President, I move to waive the point of order the Senator raised under the Budget Act.

The PRESIDING OFFICER. The motion to waive has been entered.

Mr. THUNE. Mr. President, I ask unanimous consent that when the Senator concludes her remarks on the other amendment, I have a couple minutes to respond.

The PRESIDING OFFICER. Is there objection to recognizing the Senator from South Dakota after the Senator from California yields?

Without objection, it is so ordered.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much.

AMENDMENT NO. 599

Mr. President, I would now like to speak against amendment No. 599, offered by Senator MURKOWSKI, which would limit the Endangered Species Act protections for the polar bear and other fragile species.

The Interior portion of the omnibus bill as currently written allows the Obama administration to quickly undo two last-minute rules imposed by the Bush administration.

The first Bush administration rule, issued in December 2008, denies the protections of the Endangered Species Act to the polar bear, despite its threatened status. The omnibus bill language would allow the Obama administration to immediately lift this ruling. This is an important first step toward fully protecting the polar bear under the Endangered Species Act.

As I said, the amendment would undo the Obama administration's ability to quickly move to change two last-minute rules imposed by the Bush administration.

The first Bush administration rule, issued in December 2008, denies the protections of the Endangered Species Act to the polar bear, despite its threatened status.

The omnibus bill language would allow the Obama administration to immediately lift this ruling. This is an important first step toward fully protecting the polar bear under the Endangered Species Act.

The second Bush regulation, also issued in December of 2008, excludes independent wildlife experts from the decisionmaking process of the Endangered Species Act. This is major. I think it is wrongheaded because it would leave the decisionmaking up to the Department that handled whatever the project was without any input from scientists or biologists on the subject. So whichever Federal agency has proposed a project is given the full jurisdiction to determine whether there is an impact to an endangered or threatened species, and independent scientists are excluded from the consultation process.

The omnibus bill, as currently written, allows the Obama administration to quickly undo the Bush rule and return independent wildlife experts to this consultation process.

The amendment offered by Senator MURKOWSKI would further prolong these two Bush administration rules and require a public comment period of 60 days before the Bush rules can be lifted. I cannot support that.

In my view, right now the polar bear is not sufficiently protected. Here is why. Under the rule issued by the Bush administration, the polar bear is only protected under the Marine Mammal Protection Act. This Federal statute only protects polar bears from direct harm. It does not address the problem of the arctic habitat of the bears, which is literally melting away.

I read books. I have watched PBS nature shows, which have shadowed polar bears, which have shown the deteriorating ice pack.

Let me quote something Secretary Dirk Kempthorne, the former Secretary of the Interior, said in May of last year. Here is what he said. This is a Republican Secretary of the Interior:

> Because polar bears are vulnerable to this loss of [sea ice] habitat, they are, in my judgment, likely to become endangered in the foreseeable future.

So we know the polar bear is being jeopardized by the deterioration of ice. Now, some people, perhaps, do not believe the ice is really deteriorating.

But if you look here, this is the Arctic Sea ice loss. This whole thing, as shown on this chart—both the ochre color, the yellowish color, and the white—is the way it was in 2005. In 2005, this was the Arctic. In 2007, the Arctic ice mask is 39 percent below the long-term average from 1979 to 2000, and you can clearly see its deterioration in a 2-year period.

So what is happening in the Arctic is actually very dramatic. It is actually destroying polar bear habitat, and absent that habitat, the polar bear cannot feed himself or herself. The polar bear starves. The nature show on PBS actually tracked a female polar bear. It showed her starving. It showed her having two cubs. It showed one of the cubs dying of starvation. It showed her struggling to find food floating out on individual pieces of ice.

In my view, there is no question that Secretary Kempthorne was correct, that the polar bear will very shortly meet the criteria of the Endangered Species Act and, therefore, I strongly believe if that is, in fact, the case, we should have the proper opportunity to assess it and move in that direction.

So I am fully supportive of what President Obama has done to move rapidly to set up the situation for that kind of consideration. The statute that is in the underlying bill would ensure that melting habitat of the Arctic is taken into consideration. So the omnibus bill will give the Obama administration strengthened authority to quickly undo the Bush rule on polar bears and open the door to the process of applying the Endangered Species Act to the threatened polar bear.

Anyone who looks at the beauty of these animals recognizes their significance not only to nature but to man and woman as well. This is an extraordinary animal. It deserves to be protected. So I am very proud we have language in the bill that is supportive of what the President of the United States is attempting to do. So I thank the Chair, and I yield the floor.

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

Mr. THUNE. Mr. President, if I might briefly respond to the Senator from California regarding my amendment that deals with Indian health, public safety, and water development.

I think it is important to remind everybody, first of all, that this bill we have in front of us and the appropriations bills that have been passed so far—three of them passed last year—nine of them are bundled into this bill—this bill was written behind closed doors. There wasn't any participation by Members, at least that I know of, on our side when it came to putting this together and offering amendments at the committee level. The only opportunity we have to offer amendments is when a bill comes to the floor of the Senate.

Now, it shouldn't come as any surprise to anybody here in the Chamber or anybody who is tuning in to what is going on here that that is what we do. We offer amendments. We determine priorities. We move money around within appropriations bills. To suggest for a minute that we shouldn't be offering amendments to move money from one part of this bill to another part of the bill, the fact is that nine appropriations bills have been bundled together and we are being asked to vote on $410 billion in spending at one time, and then we are being told we can't come down here and offer amendments. That is what we do. We have 100 Senators. All of them come to this Chamber with different priorities. I came down here and said I wanted to offer an amendment that took a one-tenth of 1 percent haircut across all nine appropriations bills, evenly distributed, to take $400 million and put it into a program that Congress authorized last fall but has not funded that would address the needs of Indian health care, public safety, and water development—critical needs on Indian reservations.

I urge any of my colleagues who haven't visited a reservation to come to South Dakota and see what I am talking about. I mentioned it earlier. The average life expectancy for males on the Oglala Sioux Reservation in my home State of South Dakota is 56 years. It is 58 in Iraq, 59 in Haiti, and 60 in Ghana, all higher than right here in America. Between 2000 and 2005, Native American infants were more than twice as likely to die as non-native infants. I already mentioned the public safety statistics and the crime data that exist on our reservations because we don't have adequate law enforcement personnel, we don't have cops, we don't have prosecutors, we don't have jails, we don't have all the things that are necessary to keep our people safe on our reservations in South Dakota.

Here may be a budget technicality, a point of order that can be raised against my amendment which will require that we have to have 60 votes for my amendment, but all that means is instead of getting 51, we need 60. I can't imagine that we would not have an opportunity—nine appropriations bills being bundled together, brought to the floor of the Senate, $410 billion in spending—to come down here and offer amendments that move money around. That is what Senators do. That is what we do in the Senate.

I hope my colleagues will look past the point of order that is going to be raised and say: One-tenth of 1 percent in a bill that is being increased by 8.3 percent year over year; go for this important priority on Indian reservations across our country.

I hope my colleagues will vote for this amendment or vote to waive the point of order.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like the opportunity to simply say to the Senator from South Dakota that it is not correct there was no Republican input into this bill. This bill was put together last year. Senator Allard was the ranking member. Senator Allard and his staff participated in the committee deliberation of this bill. There is no question about it. I think we have to remember this is not a 2010 appropriations bill; it is a 2009 appropriations bill.

I wish to state that the reason we have a 23-percent increase in the bill for Indian services and Indian health care is that we recognize there is a need. This is a substantial addition. So my objection to the amendment should not be construed that I do not want to support Indian health services or Indian health care. The amendment causes a point of order against the bill. We exceed our allocation. It forces every one of the nine bills to take a cut and then adds to my bill an additional $372 million which forces us up over the limit.

This is a bill that has been discussed. It has been discussed with the Republican side. We had agreement on it last year. I believe the commitment should be kept and the bill should be passed. I believe there is an ample increase both for Indian health care and Indian services. So I wanted the opportunity to respond to the Senator from South Dakota in that regard.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, in a moment I am going to ask unanimous consent that the pending amendment be set aside so I can offer an amendment dealing with the DC scholarship program for low-income children. I wish to talk about it first and give the other side fair warning, because I understand that the other side is going to object, which is very unfortunate.

We have had a wonderful program that recognized DC public schools are failing children of the District of Columbia. Most of those children are low income, minority children. A few years ago, under a Republican Congress and President Bush, we put together a program that initiated a little experiment. In DC schools, the dropout rates are high, kids aren't learning to read at the appropriate levels, they aren't learning math at the appropriate levels; across the board the crime levels are too high in the schools. Since the vast majority of the schools in the District of Columbia are failing the kids, Congress decided to experiment here and see if something works. So we selected 1,700 kids and we gave their parents a $7,500 scholarship to be able to go to the school of their choosing in the area. The response by the parents was overwhelming. A lot more people wanted to sign up for this program than there were scholarships available, but we at least allowed 1,700 children to participate for the last five years, this being the sixth year now.

In this underlying bill, there is language that effectively kills this program, because it says that unless the

bill is reauthorized and the DC City Council approves the program, no funding shall be allowed to go toward this DC scholarship fund.

Now, we know Head Start and the Higher Education Act both continued, even though they weren't reauthorized, for many years until we were able to come together to reauthorize. That is not uncommon in this building because it is difficult to get legislation reauthorized. So we continued funding Head Start. We continued funding Higher Education. But the No. 1 issue for the National Education Association is to kill the DC scholarship program for poor children. I ask: What are they afraid of? Well, as was stated today in the Chicago Tribune, they are not afraid of this program because it is failing; they are afraid of this program because it is actually working. Let's ask a commonsense question: If this program weren't working, would the children who have received this scholarship continue in this program? The obvious answer is of course they wouldn't. They would go back into their other schools.

We had a press conference earlier today with some of the parents and teachers who are involved in this program. Three wonderful young men came together with us today. We had Fransoir, Richard, and Ronald. Two of them had written statements, and then there was little Richard who got up and spoke off the cuff. All three of them were incredibly articulate. They were talking about how important this scholarship program was to them and how they didn't want to go back to the other schools because in the schools they are in today, they are actually learning.

So do we put the interests of the National Education Association first, or do we put the interests of our children first? It isn't just these 1,700 kids whose future is at stake. We are trying to look for programs in education, reforms that actually work, because the No. 1 priority for our children should be about their education into the future. If they are going to compete in the 21st century, they have to have a good education. It is the new civil right of our day. It is not a civil right to stick them in failing schools that are unsafe, that are gang ridden, that are drug ridden, that have teachers who are not teaching our children in a constructive manner. It is not a civil right to say to them: I know other people have more money than you. They can go to a good school and can learn, but we are going to trap you in this poor performing school simply because you don't have enough money. Civil rights is supposed to be about giving people opportunities, not based on income, not based on race, not based on religion, but simply because they are Americans who can actually have a chance.

So this program is going to show, I believe, as the studies come out on it, that these kids did better because they had an opportunity. I think this is what the National Education Association is afraid of. They are afraid this program is going to work and it will then be tried in other areas. What are we afraid of? Are we afraid we are actually going to improve education in the United States through an innovative program?

Even yesterday, the Secretary of Education under President Obama made this comment about the DC scholarship program. He said:

> I don't think it makes sense to take kids out of a school where they're happy and safe and satisfied and learning. I think those kids need to stay in their school.

He was talking about those 1,700 kids who are in the DC schools under this scholarship program today. Two of those children actually go to school with President Obama's children. Unfortunately, the majority party in Congress has written into this bill that we are going to take those kids out of these schools. We are going to effectively eliminate the scholarship that allows them to stay in their schools. One young man, Ronald, who was here today is a junior in high school. Ronald is also the Deputy Youth Mayor for Washington DC and has made education his number one priority. Next year Ronald will be a senior. They are going to take him out of a school he has attended the last 5 or 6 years and make him go to a different high school for his senior year. At this other high school, it's likely over half the kids aren't learning at the grade level they should be learning at and where about half of them drop out of that school. Instead, Ronald should remain at the school that gave him a future, hope, and opportunity. I wish all Americans could have heard him speaking today, and then I would like to see the other side of the aisle vote against this amendment and vote against allowing this amendment to even come to a vote.

It is very unfortunate that the other side is not allowing us to do but just a few amendments, amendments that they deem worthy to be voted on. That is not the way the Senate has worked the last several weeks. It has actually been working. As the minority, we realize we have fewer votes on this side. We understand that. We understand we are going to lose most of these votes. Occasionally, as last week, we did win one, but most of the time we are losing these votes. That is the way this body is at least supposed to work, you debate amendments and you have votes on the amendments.

Unfortunately, with regards to the bill before us, that is not the case. Normally, we vote on appropriations bills one at a time and somewhere around 15 amendments per bill are offered and voted on. We have eight or nine bills combined together and, so far, I think we have had six or seven amendments voted on. We will have a few more voted on tonight. That seems to be the total that the majority wants us to vote on. By the way, the Democrats have come to an agreement that they are going to defeat them, whether they are meritorious or not, because they set a false deadline of tomorrow to finish the bill. They said tomorrow the funding runs out for our Government. In reality, all you have to do is pass a continuing resolution that will fund the Government for another week. We could do it on a voice vote, and then the House can do it on a voice vote. Then we can come back next week and debate amendments and have votes on them.

This is one of the amendments that needs to be voted on. If you want to throw 1,700 kids out of good schools and put them into nonperforming schools, I want you recorded on this vote. Some have said this isn't just going to poor children. The limit is 185 percent of poverty and below. That is the limit of the income to qualify for this scholarship program. The average income for families qualifying for this scholarship is $23,000 a year.

The National Education Association said this is a threat to public education. Oh, really? First of all, $7,500 is what we give as a scholarship. The average spent per student in Washington, DC, public schools is around $15,000. So we are spending half that. We didn't give them the full $15,000, just half that. This was in addition to the Washington, DC, School District money. But the benefit is, every child you take out of Washington, DC schools, allows money to be spent on other students.

I have a couple stories to tell you about. Sherine Robinson, the parent of an opportunity scholarship recipient, believes parents should not have to worry about violence in their schools. That is one of the reasons some of the parents are taking their children out. It is not just the educational opportunities, it is the violence they may have to experience while they are in school. She believes the parents should not have to fight for their kids to learn. She believes all parents should have a choice and ''the DC Opportunity Scholarship Program gives us a chance to find the best school possible.'' Those are the words of a parent. She now feels her child is in a safe school and is doing well. Why do we want to deprive her of that opportunity?

Obviously, I believe strongly in this scholarship program. I believe this program is working. I believe we can prove it is working statically and spread this program across the country. Let's put our children first; let's not put special interests before our children and their education. That is what this argument comes down to.

Let's use common sense and put compassion back into this bill. Let's allow amendments so we can take care of our kids and educate them in the way they deserve to be educated.

I ask unanimous consent that the pending amendment be set aside and that I be allowed to call up the Ensign amendment No. 615, which provides an

opportunity scholarship for 1,700 poor children in the District of Columbia.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. Madam President, on behalf of the leadership, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ENSIGN. Madam President, this is most unfortunate. It is what I thought would happen. There was a rumor going around today that this would happen. I plead with the other side to give these 1,700 children a chance to learn, a chance to continue in the program that is working for them. I would love to expand the program, but I know that is not doable in this Congress. But let's at least keep these 1,700 schoolchildren in school with the ability to learn, in safe schools that are actually giving them hope and opportunity for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

AMENDMENT NO. 599

Ms. MURKOWSKI. Madam President, I rise to speak this afternoon in favor of an amendment I laid down yesterday, No. 599. I wish to respond to some comments that have been made on the floor by several colleagues.

The amendment I have introduced would modify section 429 of the Omnibus appropriations bill that allows the Secretary of the Interior and the Secretary of Commerce to withdraw the final rule relating to the ''Interagency Cooperation under the Endangered Species Act,'' and the final rule that relates to the ''Endangered and Threatened Wildlife and Plants: Special Rule for the Polar Bear.'' This is a special rule for the polar bear.

These provisions allow the Secretaries of Commerce and Interior, or both, to withdraw the two Endangered Species Act rules inserted under section 7 of the ESA within 60 days of adoption of the omnibus bill and then reissue the ESA rule without having to go through any notice or any public comment period, and without being subject to any judicial review as to whether their actions were responsible.

Neither of the ESA rules that are part of this amendment were promulgated in the dark of night. Nothing happened in the back room. The existing rules were the result of a public process that fully complied with all applicable laws. In fact, one of the rules is under judicial review now, as the Administrative Procedures Act allowed.

The polar bear 4(d) interim final rule was certainly not a ''midnight rule.'' Look at the process it went through. It was announced and made available as a final special rule on May 15 of 2008, concurrent with the announcement of the decision to list the polar bear as threatened under the ESA. That announcement then triggered or opened a 60-day public comment period to all interested parties to submit comments that might contribute to the development of a final rule. Then those comments come in throughout that period. After the comments are received, the U.S. Fish and Wildlife Service made several appropriate revisions to the final rule.

Nothing in this special rule changed the recovery planning provisions and the consultation requirements that exist under section 7 of the ESA. The 4(d) rules that are contained are not exclusions, and they are not exemptions. Under the ESA itself, section 4(d) says that for threatened species, the Secretary may promulgate such regulations as he deems necessary or advisable. So what happened was Secretary Kempthorne used this very strict authority to develop a rule that states if an activity is permissible under the stricter standards of the Marine Mammal Protection Act, it is also permissible under the Endangered Species Act with respect to the polar bear.

I wish to repeat a comment the Senator from California made yesterday. It is one I absolutely agreed with. I agree we must follow the process; we must follow the law. The problem is, the House rider circumvents the public process because it completely eliminates the law. Section 429 doesn't require public notice and doesn't allow public comment or judicial review, as is required by the law.

What my amendment does is maintain the public process. It not only requires that any withdrawal or repromulgation of either of these two rules follows the Administrative Procedures Act, with at least a 60-day comment period to allow for that adequate public comment. This is the same amount of time the public had to comment on the polar bear 4(d) interim final rule last year.

Without this amendment, this provision allows the Secretaries to make dramatic changes in rules and regulations, without having to comply with multiple, longstanding Federal laws that require public notice and comment by the American public and knowledgeable scientists. These challenges have the potential for far-reaching and truly unintended consequences in our country.

The House rider we are dealing with in this omnibus bill shortchanges the public process. It is certainly not my amendment that shortchanges anything or tries to go outside the process. What we are providing in this amendment is ensuring we follow that public process.

I ask Members of this body to vote in favor of my amendment to maintain this public process. That is what this amendment does. We owe it to ourselves to keep the integrity of the process intact. It is a dangerous precedent for this body to set. I ask Members to look very carefully at this amendment and truly attempt to understand the full implications if we are not successful in removing this rider from the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, I ask unanimous consent that at 5:30 p.m. the Senate proceed to vote in relation to the following amendments in the order listed; that prior to each vote, except as noted below, there be 2 minutes of debate equally divided and controlled in the usual form; that no amendments be in order to any of the amendments in this agreement; that after the first vote in the sequence, the remaining votes be limited to 10 minutes each; that prior to the vote in relation to the Kyl amendment No. 634, there be 10 minutes of debate, with 5 minutes each for Senators KYL and LAUTENBERG; Murkowski, No. 599; Inhofe, No. 613; Thune, No. 635, as modified; Kyl, No. 634; and Crapo, No. 638.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I will speak briefly about one of the amendments pending, but first I wish to express my support for the fiscal year 2009 Omnibus Appropriations Act. With all the debate here, we sometimes lose sight of the fact that this is a product of months of bipartisan negotiation and hard work. I serve on the Appropriations Committee and I watch the various subcommittees come together and meet. We had both the Republican leader and the Democratic leader of the committees join together and pass most of the bills that make up the omnibus. It is bipartisan. They passed almost unanimously.

Now, we find we are getting into debate on amendments and it is somewhat troubling.

We completed a budget process begun more than a year ago to fund the Federal Government and also to fund hundreds of critical programs in the Federal Government.

It is unfortunate we are now halfway through the fiscal year. I wish it could have been completed through regular order. But enacting this legislation means funding increases for programs that serve as a lifeline to many Americans.

I appreciate what Chairman INOUYE has done, what President pro tempore BYRD has done, and what ranking member THAD COCHRAN has done. These are people with whom I have served for decades on the Appropriations Committee. They put together a piece of legislation that is going to take our country forward by investing in health care, law enforcement, the environment, and public schools.

Some have argued that because we passed the American Recovery and Reinvestment Act that this legislation is not needed. That is not correct. The economic recovery plan was crafted specifically to create and save millions of jobs through investments, infrastructure, education funding, and so forth. But the recovery plan was not intended to replace the regular order of

the Federal budget. This is a comprehensive bill, not a targeted piece of legislation.

I have listened to the debate on this legislation throughout the week and heard the arguments that this bill is too expensive, it is unnecessary and we would save money by level funding the government for the rest of the year. Those making these arguments seem to ignore the fact that flat funding the government would mean no additional assistance through child nutrition programs for hungry children whose families struggle to put food on their tables. It would mean less funding is available to help rebuild our crumbling bridges and roads, fewer funds for ensuring Americans have clean and safe water to drink and reductions in critical health prevention programs. In short, not passing this bill would mean turning a blind eye to the millions of Americans who need their Government to extend a helping hand to pull them up off the ground.

Some members of this body have argued that because we passed the American Recovery and Reinvestment Act this legislation is not needed. That could not be further from the truth. The economic recovery plan was crafted specifically to create or save millions of jobs through significant investments in infrastructure, education funding, and public safety net programs. I voted for this plan and have confidence that it is a necessary step to protect and strengthen our economy and invest in America's future. But the recovery plan was not intended to replace the regular order for the Federal Budget.

While the recovery plan includes numerous important priorities, it was structured to be timely and targeted, not a comprehensive bill to fund the entire Government. Using the rationale of some on the other side of the aisle and passing a yearlong continuing resolution would mean we are less able to ensure our security both at home and abroad. Not passing this legislation means the FBI will not be able to hire new agents, intelligence analysts, and others who protect us from crime and terrorism. It would mean the FDA will not be able to protect us from unsafe food and medicine. Finally, it would mean fewer funds for critical activities such as nuclear nonproliferation, military assistance and peacekeeping operations and security operations for our embassies abroad.

Again, I thank my colleagues on the Appropriations Committee for their hard work in crafting this bill. It is not an easy job to weigh the thousands of competing priorities of our country and produce a comprehensive bill that addresses these needs. I applaud Chairman INOUYE for his work and offer my strong support for this legislation.

Madam President, the fiscal year 2009 Omnibus appropriations bill contains $36.6 billion in discretionary budget authority for the Department of State and Foreign Operations, which is the same amount approved by the Appropriations Committee in July 2008.

This represents a $1.6 billion decrease from former President Bush's budget request of $38.2 billion. I repeat—this bill is $1.6 billion below what former President Bush recommended in his budget.

It is a $3.8 billion increase from the Fiscal Year 2008 enacted level, not counting supplemental funds, and $968 million above the Fiscal Year 2008 level including Fiscal Year 2008 supplemental and Fiscal Year 2009 bridge funds.

The State and Foreign Operations portion of this omnibus bill does not contain any congressional earmarks. It does, as is customary and appropriate, specify funding levels for authorized programs, certain countries, and international organizations such as the United Nations and the World Bank.

I thank Chairman INOUYE, President pro tempore BYRD, and Ranking Member COCHRAN for their support throughout this protracted process. And I thank Senator GREGG, who, as ranking member of the State and Foreign Operations Subcommittee, worked with me to produce this bipartisan legislation that was reported by the Appropriations Committee with only one dissenting vote.

It is imperative that we enact this bill. The alternative of a full year continuing resolution would be devastating to the operations of the State Department and our embassies, consulates, and missions around the world, and to programs that support a myriad of United States foreign policy interests and that protect the security of the American people. Many Senators on both sides of the aisle were encouraged that Senator Clinton was nominated for and confirmed to be Secretary of State. If we want her to succeed we must provide the tools to do so. This bill supports her highest priority of rebuilding the civilian capabilities of our Government.

The bill provides $7.8 billion for Department of State operations, a decrease of $274 million below former President's Bush's request and $1.2 billion above the Fiscal Year 2008 enacted level, not including supplemental funds. Counting emergency funds provided in Fiscal Year 2008 for personnel, operations and security costs in Iraq and Afghanistan, the bill provides a 5.6 percent increase.

These increases are attributed to a major investment in personnel, primarily to replace worldwide positions that were redirected to Iraq and invest particularly in countries of growing importance in South Asia. The bill supports the request of 500 additional positions, much of which will help posts left depleted, some by 25 percent, due to positions shifting to Iraq during the last 5 years. In addition, the bill recommends $75 million for a new initiative to train and deploy personnel in post-conflict stabilization. These critical investments would be lost if we do not pass this bill.

The bill provides $1.7 billion for construction of new secure embassies and to provide security upgrades to existing facilities, which is $178 million below former President Bush's request. He had proposed a 41-percent increase which we did not have the funds to support. But an increase of $99.5 million, or 13 percent, above the Fiscal Year 2008 enacted level is provided considering the significant threats our embassies faced last year alone, from Yemen to Belgrade. Even this lesser increase for embassy construction and security upgrades would be lost under a year-long continuing resolution.

Specifically, the bill provides $4.24 billion for Diplomatic and Consular Programs, which funds State Department personnel. This is an increase of $464 million, or 12 percent, above the Fiscal Year 2008 enacted level and $42 million above the President's request. This funds a major investment in personnel to increase language training and expand the number of personnel in regions of growing importance. Senators on both sides of the aisle have strongly endorsed this investment, but it would not be funded under a continuing resolution.

In fact, under a continuing resolution, the State Department would not have the resources to fund the staff currently serving at 267 posts overseas, due to exchange rate losses and the increased cost of security overseas. That means the United States would have even less representation than we do now, which none of us here would find acceptable.

The bill provides $1.1 billion for Worldwide Security Protection for noncapital security upgrades, an increase of $355 million above the Fiscal Year 2008 enacted level and $46 million below the request. This account funds all the Diplomatic Security agents at every post worldwide, armored vehicles, and training—all investments which, again, have bipartisan support. The increases would fund additional personnel for protection at high-threat embassies and oversight of security contractors in Iraq, Afghanistan and Israel-West Bank. This would not be possible under a continuing resolution.

Senators of both parties have expressed strong support for expanding international exchange programs, particularly in predominantly Muslim countries. The bill provides $538 million for education and cultural exchanges, which is $15.5 million above the President's request and an increase of $36.6 million above the Fiscal Year 2008 enacted level. Those additional funds would be lost under a continuing resolution at the moment when the United States has the greatest opportunity to reintroduce our country, our people, and our values to the rest of the world.

The same is true of public diplomacy. The bill provides $394.8 million for the State Department's public diplomacy activities, including outreach, media, and programs in embassies to develop

relationships with people in host countries. This is $33.9 million above the fiscal year 2008 level, which would not be available under a continuing resolution.

The bill provides $1.7 billion for construction of new secure embassies and maintenance of existing facilities, a $280 million increase above the fiscal year 2008 enacted level and $83 million below the President's request. Of this amount, $801 million is for embassy maintenance, $40 million less than the request and $46 million above the fiscal year 2008 enacted level.

The bill provides $770 million for planning, design, and construction of new embassies and office buildings worldwide, $178 million below the request and $99 million above the fiscal year 2008 enacted level. Any Senator who has traveled abroad has seen the need to replace insecure and old embassies. There is already a long waiting list, and it would be even longer under a continuing resolution.

Former President Bush's budget underfunded the U.S. assessed contribution to UN peacekeeping in fiscal year 2009 by assuming a reduction in every mission except Sudan. That was pie in the sky. The cost of most of these missions is increasing, not decreasing. The bill provides $1.5 billion for UN peacekeeping, an increase of $295 million above the fiscal year 2008 enacted level and $20 million above the President's request. However, compared to the total amount enacted in fiscal year 2008, the bill is $173 million below the operating level in fiscal year 2008 including supplemental funds. These are costs we are obligated to pay by treaty. They support the troops of other nations in Darfur, the Congo, Lebanon, Haiti, and a dozen other countries.

The bill provides $1.5 billion for contributions to international organizations, the same as the President's request and $186 million above the fiscal year 2008 enacted level. The account funds the U.S. assessed dues to 47 international organizations, including NATO, IAEA, OECD, the UN, and others for which, as a member of the organization, the United States is obligated by treaty to contribute. We either pay now or we pay later.

The bill provides $709.5 million for the Broadcasting Board of Governors, an increase of $39.5 million above the fiscal year 2008 enacted level and $10 million above former President Bush's budget request. This includes funding for languages which the former administration proposed to eliminate in fiscal year 2009, such as Russian, Georgian, Kazak, Uzbek, Tibetan and the Balkans, where freedom of speech remains restricted and broadcasting programs are still necessary to provide unbiased news.

For USAID, the bill provides $808.6 million for operating expenses, $41.4 million above former President Bush's request and $179 million above the fiscal year 2008 enacted level. This continues efforts begun last year to address the serious staff shortage at USAID, but under a continuing resolution USAID's staff problems would continue to worsen. It would not be able to hire additional staff for Afghanistan and Pakistan, or for other posts where there is not sufficient oversight of contracting and procurement. It is a crisis situation that I and Senator GREGG are determined to fix.

For bilateral economic assistance, the bill provides a total of $17.1 billion, $1.3 billion below former President Bush's request and $623.3 million above the fiscal year 2008 level. We received requests from most Senators—Democrats and Republicans—for funding from within this account, totaling far more than we could afford. A continuing resolution would make it impossible to fund many, if not most, of those requests.

A good example is global health. The bill provides $7.1 billion for global health and child survival, an increase of $757 million above the request and $737 million above the fiscal year 2008 enacted level. A continuing resolution would be devastating for these life-saving programs.

A total of $495 million is provided for child survival and maternal health, an increase of $125 million above former President Bush's request and $49 million above the fiscal year 2008 enacted level. These funds are for programs that directly decrease child and maternal mortality from preventable diseases, such as malaria, polio and pneumonia. Under a continuing resolution, USAID would not be able to expand its malaria control programs to other countries in Africa with a high incidence of malaria, which kills a million people, mostly African children, every year.

The bill provides $300 million for safe water programs, including increasing access to safe drinking water and sanitation, which is a key factor in improving public health.

Former President Bush proposed a steep cut in funding for family planning and reproductive health programs, even though they are the most effective means of reducing unwanted pregnancies and abortions. The bill, instead, provides a total of $545 million from all accounts for family planning and reproductive health including $50 million for the UN Population Fund, which is $82 million above the fiscal year 2008 level. A continuing resolution would eliminate those additional funds, and the number of unintended pregnancies and abortions would increase.

The bill provides a total of $5.5 billion for programs to combat HIV/AIDS, $388 million above former President Bush's request and $459 million above the fiscal year 2008 level. Of this amount, $600 million is provided for the Global Fund to Fight HIV/AIDS, which is $400 million above the request. Additionally within the total, $350 million is provided for USAID programs to combat HIV/AIDS, which is $8 million above the request.

These additional funds, which pay for life-sustaining antiretroviral drugs, prevention and care programs, would be lost under a continuing resolution, to the detriment of 1 million people who would receive lifesaving treatment this year. With this funding 2 million additional HIV infections would be prevented this year. Instead of 10 million lives we are saving today, we have the opportunity to save 12 million people. We have the opportunity with this bill to save 1 million more orphans or vulnerable children who are either infected with HIV or have been orphaned because a parent died from HIV/AIDS. Why would we not make this investment this year?

The development assistance account funds energy and environment programs, microcredit programs, private enterprise, rule of law, trade capacity, and many other activities that Senators on both sides of the aisle support. The bill provides $1.8 billion for development assistance which is $161 million above former President Bush's request and $176 million above the fiscal year 2008 enacted level.

The bill provides $350 million for international disaster assistance, $52 million above the request and $30 million above the fiscal year 2008 enacted level, excluding supplemental funds. These funds enable the United States to put its best face forward when disaster strikes, as it did with the tsunami, the earthquake in Pakistan, floods in Central America, and famine in Africa.

The bill provides $875 million for the Millennium Challenge Corporation. This is $1.3 billion below the request and $669 million below the fiscal year 2008 enacted level. This reflects the view of the House and Senate that the Congress supports the MCC but wants to see a slowdown in new compacts, while $7 billion in previously appropriated funds are disbursed, and while the new administration decides how it wants to fund the MCC in the future. The agreement provides sufficient funds to continue current operations and to commence two new compacts of $350 million each.

For the Peace Corps, the bill provides $340 million, which is $9 million above the fiscal year 2008 level. Those additional funds would be lost under a continuing resolution.

The bill provides $875 million for international narcotics control and law enforcement, which is $327 million below the request and $321 million above the fiscal year 2008 enacted level. Those additional funds for programs in Latin America, Pakistan, Afghanistan, and many other countries would be lost under a continuing resolution.

There is a total of $405 million for continued support of the Merida Initiative, including $300 million for Mexico and $105 million for the countries of Central America. The fiscal year 2008 supplemental included $400 million and $65 million, respectively. We are all increasingly alarmed by the spread of

drug-related violence and criminal gangs in Mexico, but under a continuing resolution there would be nothing for the Merida Initiative.

Migration and refugee assistance is funded at $931 million, which is $167 million above former President Bush's request and $108 million above the fiscal year 2008 enacted level. That $108 million would be lost under a continuing resolution. This amount is already $557 million below what was provided in fiscal year 2008 including supplemental and fiscal year 2009 bridge funds. These funds are used for basic care and protection of refugees and internally displaced persons, whose numbers are not expected to decrease this year.

The bill provides $4.9 billion for military assistance and peacekeeping operations, $173 million below former President Bush's request but $212.6 million above the fiscal year 2008 enacted level. The bill assumes $170 million provided in the fiscal year 2008 supplemental as fiscal year 2009 bridge funds for military assistance to Israel, making the total amount for Israel equal to the President's request, $2.55 billion. The additional $212.6 million for other important bilateral relationships would be lost under a continuing resolution.

For contributions to the multilateral development institutions, which we owe by treaty, the bill provides $1.8 billion. That is $503 million below the former President's request and $251 million above the fiscal year 2008 enacted level. A continuing resolution would put us another $251 million in arrears, in addition to the arrears we already owe.

The bill provides the amounts requested by the former president for the Export-Import Bank, an increase of $26.5 million above fiscal year 2008. By not passing this bill, these additional resources would not be available to make U.S. businesses competitive in the global marketplace. At this time of economic downturn at home we should be doing everything we can to support U.S. trade.

These are the highlights of the fiscal year 2009 State and Foreign Operations portion of the omnibus bill before us. It contains funding to meet critical operational costs and programmatic needs which support U.S. interests and protect U.S. security around the world.

A handful of our friends in the minority have criticized this omnibus because it contains earmarks. Apparently they would prefer that unnamed, unelected bureaucrats make all the decisions about the use of taxpayer dollars. In fact, the total amount of this bill that Members of Congress—Democrats and Republicans—have earmarked for schools, fire and police departments, roads, bridges, hospitals, scientific research, universities and other organizations and programs in their states and districts which would not otherwise receive funding is less than 1 percent. That is what the aggrieved speeches are about. A whopping 1 percent.

Some here complain that this omnibus—all but a small fraction of which would fund the budget requests of former President Bush—is more than we can afford. Those are the same Senators who, year after year, rubberstamped billions and billions of borrowed dollars to fund an unnecessary war and reconstruction programs in Iraq that were fraught with waste and abuse.

Some say that the intervention of the Economic Recovery and Reinvestment Act is the reason they oppose this omnibus bill. Regarding the Department of State and foreign operations, 99.6 percent of the omnibus has no correlation whatsoever to what was funded by the Recovery Act. This portion of the omnibus funds all of the United States' activities overseas. All of the key new investments I have described will not occur if this bill is not passed.

The funding for State and foreign operations in this omnibus bill amounts to about 1 percent of the total budget of this country. However one views the Economic Recovery Act, it would be the height of irresponsibility to oppose this bill. The damage that a continuing resolution would cause to the functions of our embassies, consulates and missions, and to the foreign service officers who serve the American people around the world, would be devastating. The damage to programs would be measured in lives.

We have seen the image of our country battered beyond recognition. The values our country was founded on were ignored, ridiculed, and diminished. Democrats and Republicans alike recognize that the United States needs to reinvigorate its engagement in the world, particularly through rebuilding alliances and using diplomacy more effectively. This bill puts our money where our mouths are. The alternative is to retract and to invite others to fill the vacuum. That might save money in the short term, but it will cost us dearly in the future.

AMENDMENT NO. 613

Madam President, I will speak briefly in opposition to an amendment offered by Senator INHOFE. Before I do, I might note that I have served here for 35 years. Seeing the distinguished Presiding Officer, when I first came to the Senate, there were two Senators from Minnesota—Senator Hubert Humphrey, Senator Walter Mondale. Senator Humphrey had been Vice President of the United States; Senator Mondale was to become Vice President of the United States. I was helped immeasurably by the mentoring and the friendship of those two Senators.

The distinguished Presiding Officer and I had the opportunity to be present when the distinguished former Senator from Minnesota, Mr. Mondale, or Ambassador Mondale or Vice President Mondale—he had all those titles—was given one of the highest awards that the Japanese Government could give.

I mention this only because I still serve with the whole delegation from Minnesota, which is now presiding over the Senate.

The PRESIDING OFFICER. That would be correct.

Mr. LEAHY. Madam President, to go back to the subject at hand, I do wish to speak briefly in opposition to an amendment offered by Senator INHOFE. It is amendment No. 613. According to the unanimous consent agreement entered into by my dear friend, the senior Senator from Mississippi, we are going to vote on that amendment later today.

His amendment prohibits any United States funding to the United Nations if the United Nations imposes a tax on any United States person. It's like: My gosh, how did we ever overlook this situation? But this amendment is a textbook case of legislating when there is absolutely no rhyme or reason and shooting ourselves in the foot at the same time.

It is not a response to anything that has happened in the entire history of the United Nations. It is something that apparently the author of the amendment imagines maybe, some time, somehow, somewhere this could happen.

The United Nations has never levied a tax on anyone. It is not a taxing organization. This provision was originally put in many years ago when anti-United Nations sentiment was high. It was a feel-good, chest-thumping response to a totally imagined, non-existent problem.

I call it the Godzilla amendment. Let's pass a law that says if Godzilla comes tromping down the National Mall, he is prohibited from coming within 100 yards of the Nation's Capitol Building.

The fact is, of course, there is no Godzilla and there never will be. The U.N. has no taxing authority. It does not impose taxes. There has never been a U.N. tax on Americans. There is no realistic possibility that there ever will be.

This would be like saying if the United Nations ever passes a law to rename the United States of America, we will cut off funding. It is not going to happen.

Every year each appropriations subcommittee receives requests from Senators for what they want included in the bill. Both the ranking Republican member and the Democratic chairman look at all these requests. No Senator requested the language proposed by the Senator from Oklahoma. The Bush administration never requested this language. Both I and Senator GREGG saw absolutely no reason to continue to include it. It has no practical effect.

The Senator from Oklahoma has had since last July, over half a year, to ask for its inclusion if he wanted. He never did. President Bush, Vice President Cheney, Secretary of State Rice—none of them saw any reason for it.

This sort of falls into the ''we need to prohibit black helicopters from coming in the middle of the night from the

United Nations.'' It is fantasy. But if we did adopt it, what an embarrassment for this country, the only country in the world to adopt such an amendment.

At a time when we are trying to reestablish the reputation and leadership of the United States, why would we put Congress on record threatening the United Nations not to do something that it is never going to do? We are not some two-bit country that wants to stand up and wave a flag and show how tough it is. We are not the mouse that roared. We are the United States of America. And doing something like this, the rest of the world is going to look at us and say: Why are you doing such silly things?

The Senator's amendment would cut off funding for U.N. peacekeeping, for the operations of the U.N. Security Council, for UNICEF, for all the things we are asking the United Nations to do in Iraq, Afghanistan, Darfur, the Middle East, and around the world. That is what the amendment says. It is an anachronism. It has no basis in fact.

Does anyone think that even if they wanted to the other members of the U.N. Security Council could do that over a United States veto? It's impossible.

We already pay our assessed dues to the United Nations. Is that a tax? We have to pay it. It comes out of the Federal budget, and the Federal budget is taxpayer money. Should we stop paying that?

Let's stop treating the United Nations as the enemy. Let's start showing maturity and leadership. The amendment was an unnecessary piece of legislation years ago when it was first offered by Senator Jesse Helms, and it is no less so today.

No President, even if the U.N. had the ability to, which it does not—even if it tried, whoever was President would simply instruct our Representative to the United Nations: Veto it.

It is a solution looking for a problem.

I yield the floor.

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

AMENDMENT NO. 635

Mr. DORGAN. Madam President, I rise briefly to oppose the amendment offered by my colleague, Senator THUNE from South Dakota. I supported and worked with Senator THUNE and Senator KYL on Indian law enforcement issues and health care issues with respect to a very sizable authorization bill that was passed last year. It was actually an amendment to another bill. It was enacted into law. We now have an authorization for an Emergency Fund for Indian Safety and Health that is very important, and it needs to get funded.

I had not been aware of this amendment proposed by Senator THUNE. I don't know with whom Senator THUNE talked about it. He did not visit with me.

In any event, his amendment would provide funding for a range of Indian issues, which I think are very important issues, with an across-the-board reduction in other areas. His original amendment was drafted in a way that would have cut $90 million out of current Indian programs to pay for this Emergency Fund. He has since modified that amendment so that it is now an across-the-board cut on a much broader array of programs.

He makes the point that it is not a significant cut. I do not disagree with that. It is, however, a cut in Indian health care programs, a cut in Indian housing programs, a cut in programs that are so desperately in need of funding. I would be anxious to work with my colleague. I think those of us who have worked so hard together, including Senator THUNE and others, need to collaborate on these issues and determine how we can come up with some additional funding for the authorization we worked together to complete last Congress.

As I indicated, I was surprised by this amendment, as I am sure the Senator from California, Mrs. FEINSTEIN, was as well. We have so many problems. For example, contract health care on Indian reservations. You know the word on reservations: Don't get sick after June because they are out of contract health care funds and you are not going to get admitted to a hospital.

We have people with bone-on-bone health conditions, and bad knees so painful they cannot walk. But, it is not considered life or limb, which means they will not get funding for it.

In the past, I held up on the floor of the Senate a photograph of a woman who showed up lying on a gurney at a hospital having a heart attack with an 8-by-10 piece of paper Scotch taped to her leg that said to the hospital: If you admit this person, understand you may not be paid for it because we are out of contract health care funds.

We are so desperately short of funds in these areas, I don't think we ought to be cutting an account like that, even for something of great merit such as adding law enforcement funding to this Emergency Fund.

I support law enforcement funding initiatives. We need to find funding for them. We have reservations where the level of violence is 5 times, 10 times, 12 times the rate of violent crimes in the rest of the country. I have held hearings on it in Washington and on an Indian reservation. I fully believe we need to fund these initiatives. But should we do that by taking funding out of contract health care funds? I don't think so. Contract health care where people cannot show up at the hospital door after June, when they have run out of funds, in very serious trouble with something taped to their leg that says: By the way, you ought not admit this person because you are not going to get paid.

Full scale health care rationing is going on. Forty percent of the health care needs of American Indians are not getting met. Little kids are dying and elders are dying. We are desperately short of money in these accounts. To cut any of these health care accounts in any amount, in my judgment, is wrong.

I am sorry I am not able to support that amendment. It is the wrong amendment. I am anxious to work with my colleague from South Dakota. My colleague has a record of working with us on the Indian Affairs Committee, and he has a record of working on Indian reservations on important issues. I am anxious to work with him and my other colleagues, including Senator BARRASSO from Wyoming, who take a big interest in this issue.

I hope as we move forward that we will be able to provide the funding for the crisis that exists in health care, housing, and education on Indian reservations in this country. At the same time, we need to provide the funding for adequate law enforcement, which we have signed treaties to do and which we have a trust responsibility to do, but which we have systematically over a long period of time failed to do.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 634

Mr. KERRY. Madam President, I wish to talk about the amendment of the Senator from Arizona, Senator KYL, amendment No. 634, which is a well-intentioned amendment fundamentally but I think a misdirected amendment. The purpose of the amendment is to prohibit the expenditure of amounts of money made available under this act in a contract with any company that has a business presence in Iran's energy sector.

Effectively, what Senator KYL is seeking to do on this appropriations bill—on the fly, without hearings within the appropriate committees of jurisdiction, and without any appropriate input by the administration—a new administration, 1 month into office, and an administration that already has announced it has a new policy with respect to Iran—is to walk in here and apply a unilateral sanction by the United States.

Now, all of us share a very deep and real concern about the course Iran is on. We have just concluded 3 days of hearings in the Foreign Relations Committee on this very subject in order to get a better understanding of exactly what is happening in Iran, exactly what the possibilities may be, how we might avoid making the mistakes that were made in the last administration by rushing to judgment, and how we can proceed in a deliberative, thoughtful way. To simply attach to this appropriations bill this amendment in this way would be to contradict every single one of those legitimate interests of trying to approach a policy with regard to Iran in a thoughtful way.

First, let us make it very clear. We all know the effect of adopting this amendment, because of the procedural situation we are in, is very simple. It

keeps us from enacting this bill before the current continuing resolution expires. And given what we have heard from the House of Representatives, that means a vote for this amendment is effectively a vote against the Omnibus appropriations bill and it is a vote for a year-long continuing resolution at last year's funding levels. Given the state of our economy, given all of the initiatives contained in bills we should have passed last year and that we are only now getting to, it would be irresponsible in the context of the current economic situation of this country to deny some of these funds to flow and to put people back to work and to help create the future jobs for this country that we need.

On another level—and this is important—this amendment, if it passed, would actually have a very negative impact on the very office the Treasury Department—the Office of Terrorism and Financial Intelligence—would require to enforce the amendment. Why is that? Because in this omnibus bill that we want to pass is over $5 million, or about 10 percent over last year's budget, to help them be able to do the very job this amendment seeks to have them do. So the result of passing the amendment would be to take away the needed resources from the very people at the Treasury Department who right now are trying to track down and root out the Iranian banking and financial transactions that contribute directly to Iran's nuclear missile programs.

I think for the first reason alone you should not vote for this amendment, but the second reason not to vote for it is that it doesn't make sense to take money away from the people who are already doing the job we want them to do. That doesn't make sense. But more broadly—and I hope colleagues will think about this—this is not the time for this kind of an amendment.

We had a secret briefing yesterday afternoon with all of the DNI and CIA and other folks who are doing a lot of hard work with respect to Iran, and we spent a number of hours analyzing this. We are trying to come up with a multilateral approach that reaches out to the Europeans, to the Russians, to the Chinese and others, and we are trying to put together an Iran policy that makes sense. Developing a more effective Iran strategy is one of President Obama's top priorities, and getting it right is challenging. That is why the administration is undertaking the comprehensive review of its policy options even as it works to get its team in place. It doesn't make sense to come careening in here in the course of an afternoon, without hearings, without melding it into that larger strategy, to think about putting in place something that not only works against your interests but actually may wind up making it more difficult for our allies to be able to work with us, and without understanding how it fits into a broader strategy.

The President is right to open the door to direct engagement with Iran. And a lot of us are hoping—all of us hope, I think—that a more productive relationship is going to emerge, whereby we can explore areas of mutual interest. Believe it or not—a lot of people don't realize it at first blush—when you begin to look at the region and understand the dynamics of what is happening in Afghanistan and Pakistan and even Iraq, the fact is that Iran has the potential to be a constructive partner with respect to a number of different mutual interests. They do not like the Taliban, they have an interest in not having drugs come from Afghanistan across the border, they have other interests with respect to the stability of Afghanistan and other parts of that world.

The fact is they helped us—a lot of people don't realize this—recently, in 2001 and 2002, when the Senate made almost a unanimous decision that we needed to respond to the 9/11 attacks by dealing with Afghanistan and a safe haven. Iran was enormously helpful to us in that effort. And in fact much of what we were able to accomplish with the northern alliance, with the placement of our personnel on the ground, and other things through other components of that relationship wound up being very constructive in helping us to achieve what we did. So there are possibilities of a different relationship.

Nobody is believing that mere talking is going to produce them, but you don't know until you talk what the possibilities are. And you certainly, if you ultimately are going to wind up going down a much tougher road, want to build your bona fides with other countries to show that you have made every effort to be able to find out whether there are alternatives. So I have long advocated that we take a different approach with respect to Iran, and I think this kind of measure gets flat bang immediately plunked down right in the way of being able to take those kinds of additional new initiatives.

The challenge for the Obama administration now is going to be to choose a series of red lines with respect to Iran's potential nuclear program. And to do that, everybody has learned we need to build coalitions with the Europeans, the Russians, the Chinese, and nations within the Middle East in order to be able to pull the full weight of the international community against Iran, should they defy common sense and the requirements of the nonproliferation treaty and the United Nations and the IAEA. So I think for diplomacy to proceed, we don't want to engage in unthought out, ad hoc efforts such as this particular amendment, which can get in the way of our ability to put together a strong multilateral coalition.

Here is another reality. This amendment would wind up actually making it more difficult to achieve that coalition, because it would indirectly sanction companies in some of the very countries we hope to enlist. That is going to be made more difficult if this amendment were to pass. So again, it is unwise to target unilateral sanctions at allies and other influential countries we need in order to help appropriately build a coalition to deal with Iran.

I mentioned earlier that the Foreign Relations Committee has been doing 3 days of hearings on this very topic. Today, we heard from two of the most distinguished and thoughtful individuals in America with respect to national security issues. They have both served as national security advisers to Presidents of the United States—Democratic and Republican. I am talking about Dr. Zbigniew Brzezinski and GEN Brent Scowcroft. Both of them made perfectly clear that this kind of approach—the kind of approach in this amendment—is counterproductive to our overall strategy of bringing tough pressure to bear on Iran in order to change its direction.

So I say to my colleagues, going it alone on Iran may make you feel good, but it ain't smart, it is not playing to our strengths, and it is not permitting the current President of the United States, as Commander in Chief and as the initiator of our foreign policy, to be able to take the initiatives he wants. What is more, it is not even clear how the Treasury Department's Office of Foreign Asset Control would even be able to implement this amendment, and we haven't had any hearings to determine how they would implement this amendment.

This amendment would bar any funds provided by the bill for any new Federal contract with any company that has a ''business practice'' in Iran's energy sector. Well, nobody here even knows fully what the definition of a business practice is. Does that mean CIA? What does that mean in terms of anybody's understanding of what in fact is going to be banned? Moreover, the Office of Foreign Asset Control doesn't even catalogue those kinds of companies right now. So all of a sudden you pass the money and you are going to ask them to start tracking, no matter how small that company. It is going to distract them, frankly, from the serious work they are doing now to root out and shut down Iran's nuclear missile-related procurement transactions around the world. That is more important than diverting to this subeffort.

The bottom line is our challenges with Iran are plain too serious to be making foreign policy on the fly in an amendment to an appropriations bill without hearing and without even adequately understanding fully the terms within it. The committees of jurisdiction have not debated this approach. They haven't had any votes on this approach. There may well be a time and place for this kind of a provision. Maybe this provision will fit into a series of escalating sanctions which we have already been talking about within the Foreign Relations Committee. But we ought to do that not in this ad hoc way but in a thoughtful and disciplined

way, and I think we will have a much stronger policy if we do that.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MENENDEZ. Mr. President, what brings me to the floor is the Kyl amendment that is presently before us. I have listened to some of my colleagues say how this is the wrong amendment at the wrong time. I would simply say that, in fact, this is. I happen to agree. I happen to agree that it is at the wrong time.

I might very well agree with Senator KYL on the underpinnings of the amendment. I think we need to do what we must in order to ensure that Iran does not achieve the possibility of a nuclear weapon, and whatever we need to do in pursuing a two-track parallel as we engage them, at the same time have them understand that if engagement is not going to achieve them stopping obtaining a nuclear weapon, that there are consequences. But this is the wrong way to do foreign policy—in an omnibus bill—just as it is the wrong way to do foreign policy on the Cuba provisions in this bill.

I am compelled to come to the floor because I will oppose the Kyl amendment particularly because I think it is wrong to include it in an omnibus bill without going through the process—the Senate Foreign Relations Committee and others—to consider in fact whether this is the best policy, to have an open and free debate about it, to be able to vote on it either way after such rigorous debate. But we are being asked to vote for an omnibus bill that has provisions that change a significant foreign policy as it relates to the United States and Cuba. So there is a duality.

Finally, I have been reading a lot from our friends in the blogosphere and others, who talk about this issue on Cuba, and the press. What is incredible to me is that they still cannot cite one human rights activist in Cuba, one democracy activist in Cuba, they do not have the name of one prisoner of conscience inside of Cuba. They lose track. They talk about policy, but if it were any other part of the world—if we were talking about Burma, if we were talking about what happens in the Sudan—if we were talking about any other part of the world, we would see the same attention being given to the human rights activists, the democracy activists, the political prisoners inside of Cuba who languish each and every day, and their crime is simply to try to create a civil society with the benefits of the freedoms we enjoy here in the United States—to be able to come to a body like this and be able to debate; to be able to choose our elected representatives; to worship at the altar at which we choose to worship; to be able to enjoy the benefits of the sweat of our labor, whether by brawn or by brain. But there is silence.

I am a little tired that we keep reading about those who will spend hours listening to Castro's soliloquies but not spend 1 minute with human rights activists, with political dissidents, with independent journalists. There was a time when we used to help human rights activists and democracy activists in the world; when we put an international spotlight on people such as Lech Walesa in Poland; when we did it with Vaclav Havel in the Czech Republic; when we did it with Aleksandr Solzhenitsyn in the former Soviet Union. By creating that spotlight on those individuals, we gave them the opportunity not to be harassed on a daily basis, as Cuba's democracy activists are, in jail and in prison and sentenced, sometimes for a quarter of a century for some minor act that, in fact, we would enjoy here as one of our fundamental freedoms, such as wearing a simple white bracelet that says ''cambio''—change. Change in the last election in the United States would get you elected President.

Say ''change'' in Cuba, it sends you to jail. Yet there is silence. There is silence. It is deafening. It is deafening. So I will vote against the Kyl amendment because I think it is the wrong process in an omnibus bill. But, by the same token, you cannot have it one way and say it is wrong to have major foreign policy changes in an omnibus bill and then be silent about the other.

It is wrong to say our policies should be changed but not have one word about democracy, human rights, political prisoners. It is amazing to me that people do not know who Oscar Elias Biscetis is, an Afro-Cuban doctor who ultimately was sent to jail for 25 years simply because he refused to perform the abortions the regime called upon him to do. He protested it and he was sent to jail for 25 years; or Marta Beatrice Roque, who, in fact, languishes with health issues, and every time she goes out, most recently to visit a U.S. diplomat, gets beaten along the way; or Antunes, who is on a hunger strike trying to create limited openings in a civil society and protesting the beating and incarceration of another human rights activist.

I hope people will get to know their names, such as they did Vaclav Havel and Lech Walesa and Aleksandr Solzhenitsyn and others in the world whose voices we hear from our colleagues who come here and talk about them. I am proud of them for doing that. They need to start speaking out about the voices of those who languish in Castro's jails and stop losing the romanticism of the regime and start talking about those human rights activists, democracy activists, those who are suffering simply to create an opening in civil society within their country. Then there will be some balance. Then there would be some equity. Then we would have an opportunity to move on broader in the context of policy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 599

Mrs. BOXER. Mr. President, we have a series of votes. I believe the first one will be the Murkowski amendment. I rise to speak against it. I think if you vote for the Murkowski amendment, what you are endorsing is a process that is something that should not be encouraged, which is a President in the waning hours doing a midnight regulation to overturn a law.

Let me repeat that. What Senator MURKOWSKI is doing is she is removing language in this bill that reversed two midnight regulations the Bush administration put into place, without proper hearing, without going through the comment period the way they should, ignoring the public, ignoring the science, and, in essence, doing a backdoor repeal of the Endangered Species Act.

Now, that is not right. It happens to be that one of these dealt with the polar bear, which, as you probably know, was listed as a threatened species by the Bush administration. But then people looked at the Endangered Species Act and said: My goodness, we do not know what can happen if we now declare that the polar bear is not only threatened but endangered. We better take away the protection of the Endangered Species Act from the polar bear.

Whether you care about the survival of the polar bear, as do I, or whether you do not, it seems to me what the Murkowski amendment does is to say that we approve of the President of any party, acting in a capricious way, overturning a law that was passed by Republicans and Democrats.

She not only deals with the polar bear, but she also deals with another very important rule that says, before there is a major development, Federal agencies have to check with the Fish and Wildlife Service to make sure we are not destroying God's creation.

I do not understand the thinking behind it. We have laws in place to protect endangered species. If we do not like the Endangered Species Act, if we have decided we do not care about polar bears or we do not care about bald eagles or we do not care about any of this, we want to do away with it, let LISA MURKOWSKI and any of my colleagues come and move to overturn and

overrule and abolish the Endangered Species Act.

But let's not send a signal tonight that Presidents of either party can, at the waning hours of their Presidency—and I do not care if it is a Democrat or Republican—can willy-nilly, with the stroke of a pen, decide to do away with the protections of an act that was a landmark environmental law.

If you do not like the law, come here, tell me why, let's talk. Maybe we can fix parts of it, maybe we cannot. Maybe we can rework parts of it, maybe we cannot. But let's not allow Presidents to simply do away with these laws when they may prove to be inconvenient.

I hope we will vote against the Murkowski amendment, whether we want to protect the polar bear or we do not, whether we care about the bald eagle or we do not. That is up to us to decide. But let's not say tonight in this vote that we approve of an Executive doing away with the protections of Federal law with the stroke of a pen without a hearing, without the comments, without the scientists, without working with Members of Congress on both sides of the aisle.

I hope we will have a strong vote against the Murkowski amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. I am sorry to take back the time so quickly, but I want to place in the RECORD a number of editorials from around the country that have come out against the Murkowski amendment. One is from the Miami Herald entitled ''Who needs those pesky scientists?'' Another is entitled ''Endangered Process, Proposed rule changes to the Endangered Species Act could do lasting harm in the natural world.'' ''Unnecessary ESA Rewrite,'' that is from the Bangor Daily News. ''Gutting the law'' is from St. Louis Today. ''Endangered law: Bush rule change ignores science—again.'' That is from the Salt Lake Tribune. Here is one from the Seattle Post-Intelligencer: ''Endangered species: A 9-second rewrite.'' ''A complete sham, Public comments given curt review in rush to dilute the Endangered Species Act.'' That is from the Las Vegas Sun. ''Shredder is overheating in Bush's final months.'' That is from the Virginian Pilot. These editorials were written when George Bush issued the executive orders.

Senator MURKOWSKI's amendment would say: Fine, let it stand. The underlying bill reverses these midnight regulations and goes back to the status quo ante and back to the regular order.

I ask unanimous consent the editorials be printed in the RECORD.

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

[From the Miami Herald, Aug. 13, 2008]

WHO NEEDS THOSE PESKY SCIENTISTS?

The Bush administration continued its assault on the Endangered Species Act this week with a last-minute proposal that would speed up approval of construction projects that could cause harm to endangered plants and animals. Maybe it comes out of desperation, but whatever the motivation for the change, the administration misses the mark and should reconsider. If it doesn't and the change is approved, whoever is in the White House next year should immediately rescind the new rule.

COMPLETE PROJECTS FIRST

Interior Secretary Dirk Kempthorne said the change is necessary to keep the Act from being used as a ''back door'' means of regulating greenhouse gases that are believed to cause global warming. The change would allow federal agencies that are responsible for building highways, bridges, dams and other projects to decide if their projects create a risk to endangered species. This would drastically limit the requirement for mandatory, independent reviews by the Fish and Wildlife Service and other agencies that employ scientists and experts to conduct the studies. It would be like letting the proverbial fox guard the henhouse. Those agencies' first priority is to get projects completed, not protect at-risk species.

If the problem truly were about the time involved in the review process, the solution would be to streamline the process—not change the reviewer. But the administration has used this gambit before. In 2003, it adopted rules to let agencies approve new pesticides without hearing from government scientists about the impact on endangered species. The rule was overturned in court.

The administration's antipathy to the idea that human activities contribute to global warming has been well documented. In announcing the proposed change, Secretary Kempthorne said, ''It is not possible to draw a link between greenhouse gas emissions and distant observations of the impacts on species.''

PUBLIC'S INPUT

If approved, the administration would accomplish with a change in the rules what it has not been able to achieve in Congress. The House passed a bill in 2005 that would have made similar changes to the Endangered Species Act, but the measure failed in the Senate. The proposed change is subject to a 30-day public comment period after which it can be finalized by the Interior Department.

Thus, it is possible that the change could take effect before the next president is sworn into office, and could be in place for months before a decision on rescinding is made. The Bush administration showed its animus toward scientific data by rejecting stem-cell research that could help people with chronic diseases. Now it eschews research that protects the bald eagle, grizzly bear and Florida panther.

[From the Washington Post, Aug. 19, 2008]

ENDANGERED PROCESS

In May, the Bush administration reluctantly listed the polar bear as ''threatened'' under the Endangered Species Act. The facts left it with little choice: the bear's Arctic Sea ice habitat is melting because of global warming. But the administration wasn't happy, because the Endangered Species Act was never intended to be an instrument for coping with climate change. Our sympathy was limited, since President Bush spent his entire time in office resisting the adoption of laws that would have been better suited to combating greenhouse gas emissions. But we agreed that the Endangered Species Act was the wrong tool for the problem.

Now, however, in what is ostensibly an attempt to deal with this polar bear mismatch, Interior Secretary Dirk Kempthorne has proposed a rules change that would undermine the law's fundamental work. Mr. Kempthorne suggests far-reaching changes to the consultation process between the Fish and Wildlife Service or the National Marine Fisheries Service and other agencies. The changes would render the process meaningless and put all protected species at risk. Currently, an agency building a highway has to consult with the Fish and Wildlife Service to determine whether the project is ''likely to adversely affect'' a listed species. If a determination is made that such harm is likely, the service conducts a more rigorous review of the project and issues a detailed opinion on its effects. It is in this give-and-take between the various agencies and services that modifications are made that allow projects to go forward while minimizing the harm to animals and to trees and other plants.

Under Mr. Kempthorne's plan, agencies would be able to decide for themselves whether a project is likely to harm a species, and not just polar bears. If an agency decided to consult on the possible impact, the Fish and Wildlife Service would have 60 days (with the possibility of a 60-day extension) to issue an opinion. If it didn't meet that deadline, the other agency could end the consultation and proceed. The Fish and Wildlife Service already can't meet the deadlines established in the Endangered Species Act and is practically being run by judges and lawyers because of litigation stemming from blown deadlines. So we don't hold out much hope that Mr. Kempthorne's new deadlines would be met, either. The impact could be devastating.

The department contends that other government agencies have had years of experience with the law and know as much as the Fish and Wildlife Service and the National Marine Fisheries Service about how to protect listed species. This is doubtful. The services are there for a reason—to safeguard threatened and endangered species and to act as a check against the ambitions of agencies that want to complete projects. The rigor that the current consultation process fosters would be lost.

A 30-day comment period on the new rules has begun. So, here's our comment: Reissue the proposed regulations with a specific, targeted policy on how greenhouse gas emissions should be taken into account on federal projects under the Endangered Species Act. Gutting the consultation process, with all the unintended consequences of such an action, could be avoided.

[From the Bangor Daily News, Aug. 21, 2008]

UNNECESSARY ESA REWRITE

The Endangered Species Act has rightly been criticized for being slow and cumbersome. Eliminating a key provision of the act—which requires agencies that promote development, such as the Department of Transportation and the Bureau of Reclamation, to consult with agencies charged with protecting wildlife is not the solution.

The Bush administration, through the Departments of Commerce and Interior, proposed such a change last week under the guises of ''narrow'' updates to the act. Far from narrow, this is a fundamental shift of responsibility. ''The fox guarding the henhouse,'' was the favorite cliched description from environmental groups. Cliche or not, they are right.

The Office of Surface Mining has more interest in allowing ore to be mined than in protecting animals. The Army Corps of Engineers is more concerned with seeing dredging projects completed than ensuring fish habitat isn't destroyed. That's why consultation with the U.S. Fish and Wildlife Service, for projects on land, and the National Marine Fisheries Service, for marine projects, has long been required for work on federal land, paid for with federal funds or requiring federal permits.

Proposed new rules, published last Monday, would eliminate all formal consultation, instead allowing the federal agencies to decide whether proposed projects pose a threat to species protected by the ESA. Informal consultations would still be allowed if the federal agencies overseeing the projects wanted advice or review by the wildlife or fisheries service.

A major shortcoming of this proposal is that it aims to correct a problem that is more perception than reality.

Between 1987 and 1996, the U.S. Fish and Wildlife Service reviewed approximately 186,000 projects for possible impact on listed species. In only 5046 cases—less than 3 percent—were the projects deemed to adversely affect those species, requiring formal consultation. Of these, 607 concluded that a listed species would be jeopardized, but most could go forward if modified. During this time, only 100—0.0005 percent of the total reviewed by the service—were blocked due to endangered species concerns.

In Maine, between 1990 and 2005, the service reviewed more than 1,100 projects. In only eight was a formal consultation warranted. In each of these cases, the service found that the work could be done without harming the species in question, most often bald eagles, and the projects were allowed to proceed.

In another major overreach, the proposed rules eliminate climate change as a consideration when reviewing projects and their potential to harm threatened and endangered species. This follows last year's Supreme Court ruling that the Environmental Protection Agency had the authority to regulate the emission of carbon dioxide and other greenhouse gases from cars. The agency had argued that carbon dioxide was not a pollutant so the federal government could not regulate it.

Just as the EPA has refused to follow the court's ruling, now the wildlife and fisheries services are saying greenhouse gas emissions are beyond their reach. The proposed rule basically says that because the consequences of global warming are difficult to quantify and pinpoint, they shouldn't be considered at all. By this rationale, no agency in the U.S. is responsible for reducing America's contribution to a growing global problem.

These changes will likely go into effect unless Congress stops them, or a court does later. Congress must step in now.

[From St. Louis Today, Aug. 19, 2008]

GUTTING THE LAW

Let's face it, the Endangered Species Act can create quite a burden. If your goal is to build dams or open federal land to mining, logging and oil drilling, all those threatened animals and plants just get in the way.

Congress gets in the way, too, stubbornly insisting that the Endangered Species Act be obeyed. In part, that means that independent experts have to review any project proposed for federal lands for its impact on endangered species.

So now comes the Bush administration with a parting gift to its many friends in the timber, development and extraction industries: An end-run around Congress.

In what Interior Secretary Dirk Kempthorne described last week as a ''narrow regulatory change,'' the administration has proposed changing that picky requirement that independent botanists and biologists get involved in reviewing new projects.

Instead, the projects will be reviewed by the very people proposing them: Federal agencies like the U.S. Army Corps of Engineers or the Office of Surface Mining, whose expertise lies elsewhere.

In May, White House Chief of Staff Joshua Bolten wrote a memo to federal agencies outlining what he called a ''principled approach to regulation as we sprint to the finish'' of Mr. Bush's final term. Except under ''extraordinary circumstances,'' any new regulations had to be proposed—issued in draft form by publication in the Federal Register—by June 1.

Apparently, new rules gutting an important protection in the Endangered Species Act qualify as an ''extraordinary circumstance.'' But Mr. Kempthorne said the new rules he proposed last week are very limited in scope.

His new rules will ''provide clarity and certainty'' to the Endangered Species Act. In fact, the law's purpose and process already are clear. The administration's changes would weaken it significantly.

This is hardly the first time the administration, having failed to convince Congress to change environmental laws it dislikes, has tried to recast the law by issuing new regulations.

It took that route in 2005 to weaken parts of the Clean Air Act. With a chilling Orwellian flourish, the administration dubbed its new plan the ''Clear Skies Initiative.'' In 2006, federal courts struck down a similar effort that would have given the Environmental Protection Agency authority to approve pesticides without input from Fish and Wildlife Service scientists.

The Endangered Species Act has helped rescue the bald eagle, other animals and plants from the brink of extinction over the past three decades. This latest assault is certain to face the same legal challenges that derailed the pesticide regulations. It should suffer the same fate, too.

Regulations written in haste by an administration headed for the exits—no matter which administration makes them—make lovely parting gifts for special interests. But they make for terrible government.

[From the Salt Lake Tribune, Aug. 12, 2008]

ENDANGERED LAW: BUSH RULE CHANGE IGNORES SCIENCE—AGAIN

It should come as no surprise.

The Bush administration has single-mindedly worked for years to undo this country's landmark environmental conservation measures. So a rule change to emasculate the 35-year-old Endangered Species Act probably was to be expected. After all, efforts by conservative members of Congress have been thwarted for years by thoughtful senators and representatives with more concern for the environment than for developers, private contractors and the oil industry.

As his presidency grinds to a close, Bush and his appointees are working overtime on roadblocks to prevent the United States from taking any steps to reduce the use of fossil fuels that might shrink Big Oil's bottom line. The changes they're proposing would block regulation of the greenhouse-gas emissions that are endangering plant and animal species by eliminating science as a consideration.

Under the new rules, for example, the Bureau of Reclamation could decide for itself whether a new dam posed a threat to fish, and the Transportation Department alone could determine whether a major highway threatened wildlife habitat. No longer would those agencies have to consult with scientists at the Fish and Wildlife Service or the National Marine Fisheries Service who have expertise in this complex area of biology.

Bush has never let science get in the way of cronyism. On the critical issues of global warming, in particular, Bush's cohorts have soft-pedaled, ignored or simply edited out scientists' conclusions.

When the polar bear became the first species threatened by the effects of human-caused climate change, Interior Secretary Dirk Kempthorne took the unprecedented step of declaring the bear threatened, but also forbidding any requirements to reduce greenhouse-gas emissions, the primary cause of climate change, in order to protect the animal.

Besides eliminating all basic scientific recommendations, the rule change would extend the polar bear ruling to all species, barring federal agencies from even considering how CO_2 emissions and their contribution to global warming impact species and habitat.

These execrable rule changes threaten the ESA, but they don't have to make it extinct. If the changes are approved by the agencies before Bush leaves office, a new president and Congress should act immediately to reverse them.

[From the Seattle Post-Intelligencer]

ENDANGERED SPECIES: A 9-SECOND REWRITE

It's a time of maximum danger for the environment. The clock is winding down on the Bush administration, leaving little time to fulfill its long-cherished dreams of weakening endangered species protections.

Not known for worrying about manipulating the rules, facts or common sense, the administration appears ready to go to absurd lengths to rush through damaging changes. Consider how the Department of the Interior is hurrying to cement into federal policy the administration's highhanded disdain for scientific advice, with a proposed rule that would exclude greenhouse gases and the advice of federal biologists from decisions about whether dams, power plants and other federal projects could harm endangered species. According to an Associated Press report, agency officials will review—so to speak—the 200,000 comments on the policy at a pace of one every nine seconds.

Somewhat similarly, the National Marine Fisheries Service is working on a rule to expedite all environmental reviews of fisheries decisions. After scheduling only three public hearings around the country, the agency then cut short a July hearing in Seattle, the only West Coast opportunity to comment. U.S. Rep. Jim McDermott last month requested an extension of the comment period.

The National Resources Defense Council questions whether Interior's policy will even meet legal requirements. It's particularly disappointing to see blatant politicization in Interior, where we have admired Secretary Dirk Kempthorne and thought of him as someone who could serve well in a McCain administration.

Kempthorne's aim apparently is to finish work early enough so the devastation of environmental protections can't be undone by the next administration without a years long formal review. There is an alternative that doesn't require waiting for a new administration. If Congress returns to work for an economic fix, it also should put an immediate stop to this nonsense.

[From the Las Vegas Sun, Oct. 23, 2008]

A COMPLETE SHAM

The Bush administration is making a mockery of a long-standing practice in the

federal government—to set aside substantial time for reviewing public comments about major rule changes.

Since midsummer the Interior Department has been rushing to implement a high priority of President Bush's regarding the Endangered Species Act. The White House is seeking rule changes that would significantly dilute the act's effectiveness.

The administration tried to get the rule changes through Congress in 2005, but failed. Now it wants to make the changes administratively, which it claims it has the power to do once public comments have been received and reviewed.

A 60-day comment period expired last week. Online responses and letters numbered at least 200,000 (not counting 100,000 form letters).

Normally, it would take months to review that many comments. But the Associated Press reported that a team of 15 was ordered to have the reviews completed this week. They were given 32 hours, from Tuesday through Friday.

An analysis by the House Natural Resources Committee, led by Rep. Nick Rahall, D–W.Va., concluded that each member of the team would have to review seven comments each minute. Many of the comments are long and technical, including one submitted by a University of California law professor that numbers 70 pages.

The rule changes would give federal agencies the power to decide for themselves whether any project they were planning to build, fund or authorize, including highways, dams and mines, would harm endangered species. Since the Endangered Species Act was passed in 1973, such projects have undergone independent review by government scientists.

The new rules would also prohibit federal agencies from assessing whether emissions from a project would intensify global warming, thus harming endangered species or their habitats.

Obviously, the administration is so hellbent on getting these developer-friendly changes made that it is turning the comment review process into a total sham. If the rules indeed get changed, the next president should immediately work to reverse them—this time after giving appropriate thought to public comments.

———

[From the Virginian-Pilot, Aug. 18, 2008]

SHREDDER IS OVERHEATING IN BUSH'S FINAL MONTHS

Generally speaking, it is a very bad idea to enlist hungry foxes to guard the chickens, since they rarely have the birds' best interests at heart. In the waning days of this White House, doing so is called ''streamlining,'' presumably because it gets food into the foxes faster.

The administration is hard at work in its last months gutting decades of environmental and wildlife regulation. That the moves defy both the legislative and judicial branches of the government is just a bonus.

According to the draft regulations, obtained by the Associated Press, the White House intends to allow federal agencies to skip an independent review designed to determine whether a project threatens animals or wildlife. Instead, the agencies would do the assessments themselves.

The whole reason that agencies were required to submit to such tests was because they weren't able to see beyond their own narrow interests—in building a dam, in locating a military base, in expanding a highway—to the larger public interest in protecting species.

The regulations, which don't require congressional approval, would amount to the biggest changes in endangered species law in decades.

The new rules would also forbid the federal government from considering the greenhouse gas emissions of a project in determining the effects on threatened species. That's nothing more than a backdoor attempt to circumvent the administration's own conclusion that global warming is killing polar bears.

The Endangered Species Act isn't the only environmental regulation the administration seems determined to leave in tatters.

According to Pilot writer Catherine Kozak, the National Marine Fisheries Service has proposed replacing environmental impact analyses and shortening public comment periods when developing or changing rules for fisheries management. The goal is to shut citizens out, or at least to mute their voices.

''They're throwing out 40 years of case law,'' said Sera Harold Drevenak, South Atlantic representative with the Marine Fish Conservation Network. ''I don't see how it's making anything any simpler. To start over from scratch is ridiculous.''

Or sublime, depending on your perspective.

Nobody advocates unnecessary regulation that masks a political agenda. But the administration seems bent on doing away with environmental regulation simply because it doesn't like the result, or the interpretation by regulators, Congress or the courts.

For eight years now, there have been plenty of hints that the Bush administration had no qualms about entrusting foxes with keys to the White House, as when the vice president encouraged oil companies to craft the nation's energy policy, or when politicians were encouraged to use the Justice Department to settle scores.

The effect of the White House push on the environment is likely to be measured largely by the time opponents will waste fighting them.

The resulting uncertainty will also paralyze precisely the projects the revisions were designed to speed, because whoever is elected next to guard the nation's henhouse will almost certainly change the rules yet again.

Mr. LEVIN. Mr. President, Congress has a right to override a regulation, and in fact Congress should use this authority more often. Exercising the right of legislative review of regulations is a key responsibility of Congress. Should Congress deem a regulation deficient, members should exercise their legislative authority to change or override that rule. The Omnibus appropriations bill for fiscal year 2009 includes a provision in section 429 effectively doing that by giving the Secretary of the Interior the authority to withdraw or reissue two rules of the Bush administration related to the Endangered Species Act.

One rule, relating to Interagency Cooperation under the Endangered Species Act, weakens the requirement that Federal agencies consult with either the Fish and Wildlife Service or the National Marine Fisheries Service, the agencies that have expertise in matters related to endangered and threatened species. Giving Federal agencies the permission to bypass the consultation with these expert agencies harms the purpose of the Endangered Species Act.

The other rule includes a special provision that would prohibit the use of the Endangered Species Act from activities that occur outside of the current range of the species. I agree that it is better that greenhouse gas emissions should be controlled through a national economy-wide scheme rather than through the Endangered Species Act. However, the language isn't mandatory and I also understand that even if the Secretary of the Interior rescinds this rule, an interim final rule protecting the polar bear would still be in effect and would also include the reasonable limitations provided in section 4(d) of this rule.

Finally, we are in a unique procedural situation where the passage of any amendment will push us to a yearlong continuing resolution instead of appropriations. That outcome needs to be avoided.

Mrs. BOXER. 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. COCHRAN. 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. COCHRAN. I understood that under the order previously entered today, the Senate was to begin voting at 5:30 on amendments to the pending legislation.

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the Murkowski amendment No. 599.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNS) and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 42, nays 52, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—42

Alexander	Crapo	Martinez
Barrasso	DeMint	McCain
Begich	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Specter
Cochran	Isakson	Thune
Collins	Kyl	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Wicker

NAYS—52

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

NOT VOTING—5

Conrad	Kennedy	Sessions
Johanns	Landrieu	

The amendment (No. 599) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 613

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 613, offered by the Senator from Oklahoma, Mr. INHOFE.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, since 1996, we have had a provision in law that was put in and passed with a very strong majority and signed into law by President Clinton. It is a provision that states the United Nations is attempting to have a global funding, so we would not have anything to do with what they do with this funding. If they consider this, it would allow them to do something contrary to the—

The PRESIDING OFFICER. The Senator will suspend.

The Senate is not in order. Senators please take their conversations out of the Senate.

Mr. INHOFE. Mr. President, it might be easier to read the two sentences in the law that were there before:

None of the funds appropriated or otherwise made available under any title of this Act may be made available to make any assessed contribution or voluntary payment of the United States to the United Nations if the United Nations implements or imposes any taxation on any United States persons.

It has been there since 1996. It had broad support. Nobody knows why it was taken out, but in this law that language was taken out that has been there for 13 years. So I encourage us to support this amendment to put that language back.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, this is an unnecessary amendment. The Senator from Oklahoma asked an obvious question: Why is this language not in there? Nobody wanted it. No Republican asked for it. No Democrat asked for it. The Bush administration didn't ask for it. We constantly remove outdated, unnecessary language from these bills to clean them up.

The United Nations has no power to tax the United States or any person in the United States. It would be like saying we want to pass a law that says that if the U.N. were to launch several divisions of soldiers against us, we will cut off their funding. They can't do that any more than they can impose a tax against us. They are not a taxing organization.

So we deleted provisions like this that serve no purpose, and which no senator requested. It has no practical effect. The Bush administration didn't want it. No Republican asked for it. No Democrat asked for it. Let's focus on the real problems such as Darfur, the Middle East, and Afghanistan where we are asking United Nations peacekeepers and aid workers to risk their lives to support our goals.

I oppose this amendment.

Mr. INHOFE. Mr. President, I think I have 30 seconds left.

The PRESIDING OFFICER. There is no time remaining.

The question is on agreeing to the amendment.

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNS) and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 43, nays 51, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—43

Alexander	DeMint	McCain
Barrasso	Dorgan	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Feingold	Risch
Brownback	Graham	Roberts
Bunning	Grassley	Shelby
Burr	Gregg	Snowe
Chambliss	Hatch	Specter
Coburn	Hutchison	Thune
Cochran	Inhofe	Vitter
Collins	Isakson	Voinovich
Corker	Kyl	Wicker
Cornyn	Lugar	
Crapo	Martinez	

NAYS—51

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

NOT VOTING—5

Conrad	Kennedy	Sessions
Johanns	Landrieu	

The amendment (No. 613) was rejected.

Mr. DURBIN. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 635

The PRESIDING OFFICER. There is now 2 minutes of debate, equally divided, prior to a vote on the motion to waive the point of order relating to amendment No. 635, as modified, offered by Senator THUNE.

The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, lest there be any confusion, I filed this amendment on Monday and made it pending on Tuesday, and I spoke to it then. It is simple. Last July, the Senate, in the debate on the PEPFAR bill, voice voted an amendment to that bill that created a $2 billion, 5-year authorization for an emergency fund for Indian health and safety. All my amendment does is fund it, $400 million. It wasn't funded in the bill. I paid for it by taking a one-tenth of 1 percent across-the-board reduction in the entire bill to put the $400 million into this fund, which is necessary to fund this important program for Indian health and safety. That means the increase in the bill won't be 8.3 percent, it will be 8.2 percent. Contrary to what was stated, it increases Indian health care by $23 million. It was stated that it would reduce the health care account by a little over a million dollars. Congress authorized it last summer.

I hope my colleagues will vote to waive the budget.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I oppose the Thune amendment and ask this body to vote against it.

Last year's Interior appropriations bill provided $5.6 billion for Native American programs. This year, the regular appropriations bill and the recently enacted Recovery Act will provide $6.9 billion for Indian health. That is an increase of 23 percent over the 2008 level. The Thune amendment would increase the funding an additional 6 percent, or $400 million, paid for by an across-the-board cut in every account in this omnibus bill. That would cause the Interior bill to exceed its allocation; consequently, a point of order would rest against the entire Interior bill and it would be dead.

I urge a ''no'' vote.

Mr. THUNE. Mr. President, I ask for the yeas and nays.

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

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNS) and the Senator from Alabama (Mr. SESSIONS).

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

The yeas and nays resulted—yeas 26, nays 68, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—26

Barrasso	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Inhofe	Shelby
Coburn	Isakson	Thune
Cornyn	Johnson	Wicker
Crapo	Kyl	

NAYS—68

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Gillibrand	Nelson (NE)
Bayh	Gregg	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bingaman	Hutchison	Rockefeller
Boxer	Inouye	Sanders
Brown	Kaufman	Schumer
Bunning	Kerry	Shaheen
Burris	Klobuchar	Snowe
Byrd	Kohl	Specter
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Cochran	Lincoln	Vitter
Collins	Lugar	Voinovich
Corker	Martinez	Warner
DeMint	McCaskill	Webb
Dodd	Menendez	Whitehouse
Dorgan	Merkley	Wyden
Durbin	Mikulski	

NOT VOTING—5

Conrad	Kennedy	Sessions
Johanns	Landrieu	

The PRESIDING OFFICER. On this vote, the yeas are 26, the nays are 68. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The amendment falls.

Mr. COCHRAN. 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.

AMENDMENT NO. 634

The PRESIDING OFFICER. There will now be 10 minutes of debate equally divided prior to a vote in relation to amendment No. 634 offered by the Senator from Arizona, Mr. KYL.

The Senator from Arizona.

Mr. KYL. Mr. President, if my colleagues on the other side are willing, I am willing to cut this time in half.

My amendment is actually very simple. If my colleagues would give me a moment to explain, all this amendment says is that none of the money that is spent in this bill can go to companies that are helping Iran; that is to say, they are doing business with Iran in the export or import business.

In the campaign, the President noted that the kind of sanction we need to impose is on the companies, for example, that are providing refined gasoline to Iran. One of the first reports to the President by nonproliferation expert, David Albright, said:

> At a first step, the Obama administration should ask all of Iran's gasoline suppliers to stop their sales to Iran, followed by an initiative to seek agreement among supplier nations not to provide Iran gasoline.

The President has all of the authorities he needs to engage in this. The one thing that Congress can do that we have not done yet is with the power of the purse; that is, to make sure none of the money in the omnibus bill would go to any of the companies that are doing business with Iran.

One quick example of why it is necessary: Senator LIEBERMAN and I sent a letter to the Eximbank. Eximbank gets money. That money can go to companies. Once they got the letter, those companies stopped sending refined gas to Iran. I don't know if that is because of our letter. That is the kind of stuff we need to stop with this amendment.

I hope my colleagues agree we do not need to send this money to companies that do business with Iran.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to express my strenuous objection to the amendment that is being offered by the Senator from Arizona. The amendment has a purpose, no doubt, but it is particularly and solely political.

Let there be no doubt, we have to stop companies from doing business with Iran. Iran's nuclear technology program grows stronger every day, and it represents a serious threat to our country, to Israel, and to mankind. It is known that Iran also funds terrorist organizations, such as Hamas and Hezbollah. That is why we have to deal with this threat seriously whenever we can do so.

Over the last few years, I have offered three amendments to block American companies from helping Iran to develop its nuclear technology and promote terrorist actions. But when the chips were down, my Republican colleagues voted against three amendments.

My amendment would have closed the loophole in our laws that allows American-owned companies to use sham offshore subsidiaries to do business with Iran. Three times I brought amendments for a vote on the Senate floor to shut down this loophole. But each and every time, the Republican Members of the Senate voted against commonsense legislation. They voted to keep Iran open for business. They voted to allow American companies to help the regime in Tehran, as the Senator said, to produce oil, to produce revenues they sent to Iraq to help those guys kill our troops.

So I ask, why now are these Members so interested in stopping companies from doing business with Iran? We know why. Raw political showmanship. But we have to stop Iran's serious nuclear threat from continuing to try to wipe Israel off the map and to attack the United States and other democratic nations. Our national security is at stake, and we should have a serious debate on how to block Iran's nuclear program. That is why we have to object to Senator KYL's amendment.

There is another problem with his amendment. My legislation would have closed the ''business with terrorists'' loophole, and this amendment does not. I checked with the Congressional Research Service. CRS says this amendment will not have any effect on present sanctions. It will have little or no influence on the mad stream of threats and the ugly hatred that comes from Iran.

If the Senator wants us to work together to get a decent approach to get at this problem, I would be happy to work with him on it in the days ahead. But this amendment before us does nothing to stop their mad dash to build a nuclear threat to humankind. I hope we can work together to come up with a strong piece of legislation to end this practice once and for all.

The amendment simply is a gimmick to attack the omnibus bill, and I urge my colleagues to vote no on this amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has a little over a minute.

Mr. LAUTENBERG. I yield a minute to my friend from Connecticut, Senator DODD.

Mr. DODD. Mr. President, very briefly—and I say this because I happen to agree with, and I think most of our colleagues agree with, the intent of the Senator from Arizona—this has been a matter before the Banking Committee. In fact, in the last session of Congress, by a vote of 19 to 2, the Banking Committee—with Senator SHELBY as ranking member—approved Comprehensive Iran sanctions legislation, that went far beyond the scope of the amendment proposed by the Senator from Arizona. But when the legislation was sent to the Senate floor, it was blocked by the Senate minority. I thank my colleagues on the committee who supported it.

Right now, however, the administration is conducting a policy review on Iran at the very time we are gathering here to engage in this debate. I think before considering new legislation, it would be wise to have some hearings, after the administration completes its review and decide the appropriate course of action, in consultation with the appropriate federal agencies.

Clearly, sanctions dealing with Iran's energy sector, as Senator KYL pointed out, have great merit, as Congress has determined in years past. But I think there is a time and a place for deciding major changes in our sanctions policy—probably not this evening at 7 o'clock, at the end of a long debate on this omnibus bill, when so much is at stake. Such changes should not be added to this underlying bill. Speaker PELOSI has made clear she would pursue a year-long Continuing Resolution if this bill is changed in any way the day before funds for the government expire. If that happens, the amendment would essentially kill or potentially delay critical funding, including an additional $5 million slated for the Department of the Treasury's Terrorism and Financial Intelligence unit to enforce our sanctions against Iran.

I say respectfully, while there is no disagreement that something must be done to stop Iran's efforts to promote terrorism and proliferate weapons of mass destruction, we must do so in close coordination with the new Administration, much as we worked with the Bush administration in fashioning our sanctions bill last year. Let the Obama Administration's Iran review be completed. Once we have an opportunity to examine it, we may then consider a new approach to our Iran policy. At that time, I look forward to working with my colleagues, on both sides of the aisle to address these critical matters. I therefore, urge my colleagues to vote against this amendment.

Ms. MIKULSKI. Mr. President, I support the aim and intent of the Kyl amendment that prohibits any omnibus funding being spent on new contracts with companies that do business with Iran's energy sector. Iran's energy resources provide massive amounts of petro-dollars to this regime.

In 2008 alone, Iran made over $65 billion in profits from exporting oil. Make no mistake where these dollars are spent—these profits directly contribute to Iran's ability to arm, train, and fund Hezbollah, Hamas, and other terrorist groups that seek to do Israel, the United States, and our allies harm.

Although I support the intent of the Kyl amendment, I oppose it today because it is legislating in an appropriations bill and it would further delay the delivery of $2.48 billion in urgently needed security assistance to Israel which is contained in the bill.

Tough, targeted, and enforceable sanctions against Iran must be implemented. I look forward to working on a comprehensive Iran sanctions policy with the Obama administration this Congress.

The PRESIDING OFFICER. The time has expired.

Mr. KYL. Mr. President, actually, I am not proposing a new regime of sanctions or anything that needs to be studied. My amendment simply goes to this Omnibus appropriations bill and says what I think all of us intend, which is none of the money shall be spent or shall go to companies that are doing this kind of business with Iran, the kind of business that is already subject to sanctions. That is already the law.

All we are saying is, nothing in this bill can get money to those companies. It is the kind of thing we had to do with the Eximbank because as they, in their letter back to us said, we do not allow political considerations to determine whether we make a loan to a country. That is why they were able to make the loan to Iran and why we could do nothing to stop that. Once we wrote the letter, however, and pointed out this was a violation of our sanctions, then mysteriously, the effort of the company ceased.

All we want to make sure is that nothing in this bill, none of the money in this particular bill goes to those companies. So it is not a new sanctions regime or anything new that I think has to be studied.

With all due respect, this is not for political showmanship. Had this bill gone through a little different process, we could have worked this out. But under the circumstances, that wasn't possible. As a result, I thought it was important to make sure none of the money in this bill is spent on these companies.

Mr. KERRY. Does the Senator have time left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

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

Mr. KYL. I would be happy to yield.

The PRESIDING OFFICER. The Senator from Massachusetts.

The majority leader.

Mr. REID. Mr. President, I think there is time here, if there is more time needed for everybody on this amendment. If there is more time needed, why don't we extend the time for a little bit.

Mr. KYL. I am happy to yield to my colleague from Massachusetts for a question.

Mr. KERRY. I appreciate the Senator doing that.

I wish to point out a couple things to the audience. First of all, we have had 3 days of hearings in the Foreign Relations Committee on Iran. Today, GEN Brent Scowcroft and Dr. Zbigniew Brzezinski made it clear this is the not an advisable way to approach the current situation in Iran; that we need to think carefully about the overall record of the type of sanctions we develop or that will be interpreted, as a result, as taking an effort unilaterally by the Senate outside the administration's review process and outside its foreign policy.

Moreover, the Foreign Assets Control Office, which is responsible now for rooting out Iran's program, actually loses money under this amendment and would, therefore, not be able to do the job it is doing today with respect to it.

Thirdly, there is no definition here of what a business presence is. The fact is, the administration right now is working with a bunch of moderate Arab countries, as well as some of our allies in Europe, in order to put together a sanctions regime that has bite, if we need it. This, in fact, could prevent some of those countries from feeling good about joining in that effort or ultimately joining in it.

I would ask my colleague if he would be willing to come together with us. There isn't anybody in this body who doesn't understand the seriousness of what Iran is doing. We had classified briefings on it yesterday. But we owe the administration the opportunity to decide what it believes is the proper regime for sanctions, and so I ask my colleague if he would consider that it might be better, rather than even having a vote, to give us the opportunity to do that, and we will work together and see if we can't come up with a sensible, unified bipartisan approach to Iran.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Given the fact that I think my remaining 2 minutes have expired, I ask unanimous consent for an additional minute of time to respond to my colleague's question.

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

Mr. KYL. Mr. President, if I were proposing some new sanctions regime, that would be an entirely appropriate request, and of course I would accede to it. I am not asking for any new sanctions or any new law. All this amendment does is to say that the money in this appropriations bill doesn't go to a country that is doing these kinds of exports or imports to Iran. That is all. We have the power of the purse, and surely we can restrict our own expenditure of money to countries that are cooperating with us in dealing with Iran, rather than dealing with Iran.

I urge my colleagues to support this. It is a very limited amendment. It is not a new policy.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The majority leader.

Mr. REID. I ask unanimous consent that the Republican leader and I be allowed to offer a unanimous consent request.

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

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of the pending amendments, no further amendments be in order this evening; that the vote on the motion to invoke cloture occur at 8:15 p.m. tonight, and that the time until then be equally divided and controlled between the leaders or their designees; that if cloture is invoked, then all postcloture time be

considered yielded back, the bill be read a third time, and the Senate then proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. JOHANNS) and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 41, nays 53, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—41

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Shelby
Burr	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Collins	Kyl	Voinovich
Cornyn	Lieberman	Wicker
Crapo	Martinez	

NAYS—53

Akaka	Gillibrand	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kaufman	Rockefeller
Brown	Kerry	Sanders
Burris	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lincoln	Udall (NM)
Corker	Lugar	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Merkley	Wyden
Feinstein	Mikulski	

NOT VOTING—5

Conrad	Kennedy	Sessions
Johanns	Landrieu	

The amendment (No. 634) was rejected.

Mr. LAUTENBERG. 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.

AMENDMENT NO. 638, WITHDRAWN

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided, prior to a vote in relation to amendment No. 638, offered by the Senator from Idaho, Mr. CRAPO.

The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, this amendment would strike section 626 from the bill. This is a section that gives the Federal Trade Commission authority to expedite rulemaking over mortgage loans that are now overseen by not only the FTC but Federal banking and credit union regulators. This grant of increased authority to the FTC is not appropriate because we already have Federal regulators over both the banking and credit union industries. I think everyone agrees we do not want to see this extended regulatory authority changed. I have been working with our Banking Committee chairman, Senator DODD, and with Senator DORGAN and Senator INOUYE, to see if we can address this.

It is my understanding we have an agreement and Senator DODD will discuss that agreement and enter into a colloquy for the RECORD that will establish that we do not want to change the regulatory authority and the jurisdictional structures we now have for our Federal regulators over our depository institutions, and that we will, in a very expedited manner in the next available option for a legislative vehicle, make statutory changes to correct that. In the meantime we will make it clear the intent of this legislation is not to have the FTC engage in rulemaking that would seek to assert jurisdiction over any of the institutions over which it does not now have authority.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I seek time of my own time. My colleague is exactly right and I thank him immensely for his involvement. We thank Senator INOUYE as well as others who were part of this exchange, a colloquy which we will submit for the RECORD, which explains exactly what the Senator from Idaho has described. He has it exactly right. This is an expanded removal of jurisdiction from one area to another. There are a lot of very serious questions raised by it.

Our intent is at the earliest possible time we will have legislation to correct what is in this bill and change that. I thank him for his cooperation on this. I thank Senator INOUYE and the staff and other people who could have objected to this. Senator DORGAN and others have had some strong views on this and I am very grateful to him as well, understanding our concerns on this matter. We will have a chance to come back to it. I again thank my colleague who helped us craft this colloquy which allowed us to move beyond this particular point. There may be others who want to object to what we want to do, but we feel strongly about the language of the amendment that Senator CRAPO has crafted here and we will hopefully get to that quickly.

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

Mr. DORGAN. Mr. President, let me thank my colleague from Idaho and my colleague from Connecticut. The Federal Trade Commission does not have jurisdiction over FDIC-insured banks. There was no intention in any legislation drafted here to give them that jurisdiction and I think this colloquy clarifies that. If there is any lack of clarity going forward, I certainly want to work with my colleagues from Idaho and Connecticut to make certain there is no confusion at all about what this applies to. This does not apply to FDIC-insured banks.

Mr. DODD. Mr. President, I seek clarification from the Senator from North Dakota and the Chairman of the Appropriations Committee about the intent and effect of section 626 of Division D of the bill. Will the Senators confirm that section 626 was designed to enhance the FTC's ability to impose new standards only on those mortgage industry participants that are currently subject to the FTC's rulemaking jurisdiction?

Mr. DORGAN. Yes, that is correct. Section 626 is not intended to alter the allocation of responsibility for the Federal oversight of lenders under current law. The FTC is currently authorized, under the Federal Trade Commission Act, to issue regulations defining unfair and deceptive acts and practices by mortgage industry participants that are regulated at the Federal level by the FTC, such as nonbank mortgage brokers. Section 626 directs the FTC to initiate such a rulemaking within 90 days, using procedures widely used by all agencies under the Administrative Procedure Act, instead of more protracted procedures specified for FTC unfair and deceptive practices rulemaking under section 18 of the FTC Act. Section 626 is not intended to apply to institutions including banks, thrifts and credit unions that are outside the FTC's jurisdiction.

Mr. INOUYE. I concur with Senator DORGAN.

Mr. DODD. With respect to the provisions granting the states authority to take enforcement action, is it your intent the states limit their enforcement actions under the new mortgage standards promulgated by the FTC, or under TILA, only to those mortgage industry participants that are not currently supervised by the federal banking agencies or are not Federal credit unions?

Mr. DORGAN. Yes, the Senator from Connecticut is correct. Our intention was to permit state attorneys general to bring civil actions only against mortgage industry participants that are not supervised by the Federal banking agencies or are not Federal credit unions.

Mr. INOUYE. Yes, I concur with Senator DODD and Senator DORGAN.

Mr. DODD. I ask the Senators to work with me to add an amendment to the next appropriate legislative vehicle that clarifies the scope of this provision to reflect the gentlemen's intent and that provides appropriate participation by state attorneys general in enforcement of federal mortgage standards.

Mr. DORGAN. I agree, and commit to work with the Senator from Connecticut to clarify this provision as expeditiously as possible on the next appropriate vehicle.

Mr. INOUYE. I, too, will work with the Senator to clarify this provision.

Mr. CRAPO. Mr. President, I appreciate the fact that there is consensus that section 626 goes too far and that it is not the intention of the chairman of the Banking Committee and the chairman of the Appropriations Committee to provide the Federal Trade Commission authority in its rulemaking over mortgage loans overseen by the Federal banking and credit union regulators. However, if the intention is merely to expedite the FTC rulemaking process over nonbanks then the language should be clear on that account. Unfortunately, that is not the case.

It is important to remember that once this legislation is signed into law, the FTC is directed to initiate rulemaking within 90 days. Rather than agreeing to clarify this issue at a later point, it is my strong preference that the Senate would have deleted this section and agreed to working out compromise language at a later point. That is what my amendment would have accomplished by striking the section.

Per the colloquy of Senators DODD, INOUYE, and DORGAN, I will follow up with the FTC that it is the clear intent of the Senate that the provision does not expand the FTC's regulatory jurisdiction and that the required FTC rulemaking will not attempt to include insured depository institutions. I will also note that there is a bi-partisan agreement that the Senate will shortly take up legislation to clarify the scope of the legislation to that effect. Additionally, in light of the focus by the Federal Reserve Board on mortgage lending, the FTC should be required to consult with the Federal Reserve Board in developing their rule. I would encourage my colleagues to send similar letters to the FTC.

If the initial FTC proposed rule attempts to go beyond this scope, it is my understanding that there is agreement that the Senate would immediately take up legislation and stop that from occurring. It would be a terrible mistake to add another patchwork of conflicting authorities and interpretations of Federal laws for insured depository institutions as it relates to home loans and other types of consumer finance transactions. This type of regulatory uncertainty and complexity will only further complicate the resurrection of our mortgage market, harming consumers who are having a difficult enough time obtaining appropriate mortgage loans.

I intend to closely monitor how the FTC proceeds and work with my colleagues to craft a narrow legislative clarification. If we cannot shortly come to agreement on this front, then I will push for a vote to eliminate this authority in the next appropriate vehicle before the Senate.

With that clarification and explanation, the FTC rulemaking that will be able to proceed under this legislation will not seek to extend to the FDIC depository institutions and credit union regulated institutions, then I—and our agreement that we would on an expeditious basis statutorily seek to correct that and make that clear in the CONGRESSIONAL RECORD, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

RESTORING NOMINAL DRUG PRICES

Ms. STABENOW. I would like to engage in a colloquy with the chairman of the Committee on Finance, Senator MAX BAUCUS. Senator BAUCUS, I am very pleased to see that the fiscal year 2009 Omnibus appropriations bill corrects an unintended consequence of a provision in the Deficit Reduction Act of 2005, DRA. Section 6001(d) of the DRA, which is Public Law 109–171, caused family planning clinics that do not receive Federal funding and university-based clinics to sustain increases in the price of oral contraceptives as much as tenfold over the past 2 years. This is because drug manufacturers stopped offering discounts to these clinics in response to changes to the Medicaid drug rebate program made by the DRA. While discounts remained perfectly legal, drug companies were concerned about the impact of their Medicaid rebate liability for the continued offering of discounts to certain family planning and college- or university-based clinics. The price increases have put a terrible strain on our country's first line of defense against unintended pregnancies. We have the highest unintended pregnancy rate of any advanced industrial country.

With enactment of this critical legislation, these clinics will once again have access to nominally priced drugs, should private sector manufacturers choose to provide these discounts. This access should begin immediately upon enactment, and manufacturers should feel confident that they can extend discounts to family planning clinics such as Planned Parenthood and college and university clinics without it affecting the rebates they must provide under Federal law to State Medicaid programs.

Mr. BAUCUS. I thank the Senator. I share the Senator's views on this matter. It has taken too long to correct what all parties agree was an unintended outcome of the DRA. I had asked the previous administration to use the discretion provided in the DRA to designate additional health providers as entities to whom the sale of nominally priced drugs is appropriate. The Bush administration chose not to make these designations when it promulgated final regulations on July 17, 2007, and so Congress is acting now to correct this error. The Senate included this provision in last year's Iraq supplemental appropriations bill, but the administration objected to its inclusion so it did not become law.

It is my understanding that, once this provision is enacted into law, drug manufacturers will immediately be able to restore the nominal drug prices they provided to these types of clinics—family planning clinics and college and university health centers—for decades.

This provision simply restores the original policy in place since the enactment of the Medicaid rebate program in the Omnibus Reconciliation Act of 1990. Then, as now, no administrative action is necessary for manufacturers to commence offering deep discounts to the entities described in this provision.

Ms. STABENOW. I thank the Senator. I hope that the manufacturers will do this and that women will have access to affordable birth control and other critical health services.

TRANSPORTATION FUNDING

Mr. KOHL. Mr. President, I wish today to engage in a colloquy with my colleague, the Senator from Washington and the chairman of the Transportation Appropriations Subcommittee. As the chairman is aware, language was included in the explanatory statement accompanying the bill before us to help address an issue that has plagued the Milwaukee area for several years.

Due to a longstanding dispute between city and county officials, unobligated transportation dollars have lost value with each passing year. In an effort to spend down those funds on much needed transit projects, the report resolves this dispute by dividing the funding. I have spoken with Congressman OBEY, the chairman of the House Appropriations Committee, to confirm the intent of the language included in the explanatory statement. I would ask the Senator from Washington, is it your understanding that it is the expectation of both the House and Senate committees that 60 percent of the funding in question should be made available to the city of Milwaukee for a downtown fixed-rail corridor while 40 percent of the funding should be made available to the county of Milwaukee for energy efficient buses?

Mrs. MURRAY. To the Senator from Wisconsin I would say, yes, that is our expectation.

Mr. KOHL. I thank the chairman of the Transportation Appropriations Subcommittee for her help and for engaging in this colloquy.

Mrs. MURRAY. Mr. President, as chairman of the Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, I rise to clarify an error that we have found in the explanatory materials accompanying H.R. 1105, the Omnibus Appropriations Act. Included within the Transportation-Housing Division of the bill is an appropriation of $570,000 within the TCSP program for transportation improvement in the Antelope Valley in Lincoln, NE. The attribution table that accompanies the explanatory statement to the bill inadvertently omits the name of the Senate sponsor of that appropriation. Mr. President, the Senate sponsor of the project is my colleague, Senator BEN NELSON.

Mrs. BOXER. Mr. President, the fiscal year 2009 Omnibus appropriations bill would provide $5 million for design and real estate activities and pump supply elements for the Yazoo Basin, Yazoo Backwater Pumping Plant and for activities associated with the Theodore Roosevelt National Wildlife Refuge. I want to clarify that nothing in the language is intended to: (1) override or otherwise affect the final determination that was effective August 31, 2008, and published in the Federal Register on September 19, 2008, of the U.S. Environmental Protection Agency under section 404(c) of the Clean Water Act that prohibits the use of wetlands and other waters of the United States in Issaquena County, MS, as a disposal site for the discharge of dredged or fill material for the construction of the proposed Yazoo Backwater Area Pumps Project, (2) create or imply any exception with respect to the project to the requirements of the Clean Water Act, including any exceptions from the prohibitions and regulatory requirements of the Clean Water Act under section 404(r); or (3) affect the application of any other environmental laws with respect to the project.

As chairman of the committee with jurisdiction over the Clean Water Act and authorizations for the civil works program of the Corps of Engineers, I believe it is critical that our environmental laws be adhered to in the planning, construction, and operation and maintenance of all Corps of Engineers' projects.

Mr. ENZI. Mr. President, I wish briefly to discuss an amendment that I filed related to the royalty collection of coal and other leasable minerals. I want to be clear that I am in favor of having coal companies and other mining companies pay the royalties they are required to pay. I believe that they should pay them on time and I believe that they should face the consequences if they do not pay them on time.

The provision in the omnibus bill is arbitrary. It attempts to apply the penalty sections of the Federal Oil and Gas Royalty Management Act to coal leases. The provision comes out of nowhere and, to my knowledge, has not been studied by the Senate Energy Committee nor the House Natural Resources Committee. This is a policy change, not a funding matter, and therefore, it should be considered in the normal legislative process—not slipped into an omnibus appropriations bill.

I have put forth this amendment to take a more considerate approach. My amendment would strike this provision and replace it with a study by the Minerals Management Service, MMS, the Government's royalty collection agency. The MMS would examine the current royalty system and provide a report back to Congress within 180 days that includes any recommendations with ways that royalty collection process can be improved. Doing so would then give the Senate the appropriate amount of background to consider making these changes and would ensure that we do not make a change that has unintended consequences.

Again, I want to reiterate that I fully support companies making royalty payments on time and if they don't, I support them being punished. I do not, however, support the process by which the majority has stuck this legislative provision in an appropriations bill. Rather than shooting from the hip, the Senate should give it proper consideration.

Ms. MIKULSKI. Mr. President, as chairwoman of the Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies, I rise today to clarify for the Senate the sponsorship of three congressionally designated projects, recipient name of one congressionally directed project, and locations of three congressionally designated projects included in the Joint Explanatory Statement to accompany H.R. 1105, the fiscal year 2009 Omnibus Appropriations Act. Specifically:

Senator BILL NELSON should be listed as having requested funding for the Rape, Abuse and Incest National Network, RAINN, Washington, DC, for national anti-sexual assault programs funded through the Department of Justice;

Senator BEN NELSON should not be listed as having requested funding for the Rape, Abuse and Incest National Network, RAINN, Washington, DC, for national anti-sexual assault programs funded through the Department of Justice;

Senators BEN NELSON and CRAPO should not be listed as having requested funding for the National Police Athletic League, Jupiter, FL, for National Police Athletic League Programs funded through the Department of Justice;

''Union Springs YMCA'' should be listed as ''Union Springs Recreation Program'', Union Springs, AL, for youth mentoring and juvenile justice programs funded through the Department of Justice;

Location of the Citizenship Trust at American Village should be listed as Montevallo, AL, for youth mentoring and juvenile justice programs funded through the Department of Justice;

Location of the Scottsboro Police Department should be listed as Florence, AL, for the Scottsboro Police Department funded through the Department of Justice; and

Location of the Alabama 4–H Foundation should be listed as Columbiana, AL, for juvenile justice prevention programs funded through the Department of Justice.

Mr. LEAHY. Mr. President, as a longtime advocate of greater transparency in our government, I am pleased that the Omnibus appropriations bill includes several key provisions to strengthen the Freedom of Information Act—FOIA—and to protect Americans' privacy and civil liberties.

The Omnibus appropriations bill provides $1 million in funding to establish the new Office of Government Information Services—OGIS—in the National Archives and Records Administration. When Congress enacted the Leahy-Cornyn OPEN Government Act of 2007, which made the first major reforms to FOIA in more than a decade, a key component of that bill was the creation of the OGIS to mediate FOIA disputes, review agency compliance with FOIA, and house a newly created FOIA ombudsman. Establishing this new FOIA office within the National Archives is essential to reversing the troubling trend of lax FOIA compliance and excessive government secrecy during the past 8 years. The OGIS will also play a critical role in meeting the goals of President Obama's new directive on FOIA. I thank Senators CORNYN, INOUYE and COCHRAN for their support of funding for this critical new office. I also thank the many FOIA and open government groups, including OpenTheGovernment.org, the Sunshine in Government Initiative and the National Security Archive, who have advocated tirelessly for a fully operational OGIS.

The bill also includes much-needed funding to reconstitute the Privacy and Civil Liberties Oversight Board. When Congress enacted the Intelligence Reform and Terrorism Prevention Act in 2004, it implemented a 9/11 Commission recommendation to establish an independent board to help protect Americans' privacy and civil liberties. Since then, I have worked hard to make sure that the Privacy and Civil Liberties Oversight Board has the resources and personnel to fulfill this important mission.

During the last Congress, I worked with Senators LIEBERMAN and DURBIN to further strengthen this Board in the 9/11 reform bill. Unfortunately, the last administration left the Privacy and Civil Liberties Oversight Board with no members or staff. The Board is too important for us to let it fall by the wayside. The funding in the omnibus bill will help to reconstitute the Board so it can get back to work. Now that this initial funding is in place, I hope the President will promptly name qualified nominees so that the Board can carry out its important work.

Both of these provisions will help to make our government more open and accountable to the American people. That is something that Democrats, Republicans and Independents alike can—and should—celebrate. Again, I commend the bill's lead sponsors and the President for their demonstrated commitment to open and transparent government.

Ms. SNOWE. Mr. President, today I filed an amendment that would help millions of small businesses that receive valuable technical assistance and support through the Small Business

Administration's, SBA's, technical assistance and business development programs. The challenges facing America's small businesses are real. In today's economic climate, small businesses are fighting for survival. A December 2008 CNN survey found that 49 percent of small business owners expressed serious concerns about going out of business.

To that end, I humbly request my colleagues on both sides of the aisle to support the measure I am offering to provide essential resources to the Small Business Administration's crucial technical assistance and business development programs. This effort will help ensure that small businesses—our Nation's true job generators—will not be shortchanged at a time when the economy is struggling to grow and create jobs.

My amendment would direct that a small fraction, $16.8 million of the existing funding provided in the omnibus appropriations bill for the SBA, be used to increase funding levels for vital SBA programs, including Veterans Business Outreach Centers, VBOCs, Small Business Development Centers, SBDCs, Women Business Centers, WBCs, SCORE, the Historically Underutilized Business Zone, HUBZone, program, and the Agency's international trade programs. These programs are some of the most successful job creators within the Federal Government, but they were woefully underfunded under the previous administration. Now is the time to reverse that trend, by ensuring that SBA devotes sufficient resources to support small business technical assistance and business development.

The SBA's programs are proven job creators—just look at the statistics! In 2006, clients of the SBDC program generated a total of approximately $7.2 billion in sales and 73,377 new full time jobs as a result of the assistance received. The average cost of generating each job was a paltry $2,658. Moreover, based on SBDC client assessments, an additional $8.8 billion in sales and 93,449 jobs were saved due to SBDC counseling in that same year. My amendment would direct that $6.5 million in SBA funding be used to fund SBDC veterans and energy grants, in addition to the $110 million for core funding provided in the bill to support SBDCs nationwide.

Furthermore, the SCORE program has proven time and again to be one of the most cost-effective programs within the Federal Government. In fiscal year 2008 SCORE received $4.95 million from the Federal Government and provided 357,637 clients with free technical assistance. Entrepreneurs assisted by SCORE created 25,000 new jobs in 2006, and one in seven new clients created a job. SCORE also provides American taxpayers with a great buy, as it is operated by volunteers—all of which are retired business experts. In fact, in fiscal year 2008 these volunteers donated 1.3 million hours valued at $195 million when using a standard hourly consulting fee of $150. My amendment would direct that an additional $2 million be directed to the SCORE program for a total of $7 million.

Additionally, my amendment would direct an additional $1.1 million to SBA's Veterans Business Outreach Centers, a modest increase to account for additional responsibilities taken on from the Vets Corps Centers, which no longer receive Federal funding. An additional $3.35 million would be directed to the WBC program, one of SBA's most diverse, far-reaching entrepreneurial development efforts. In 2007, WBCs trained and counseled 148,123 clients who reported 8,751 new jobs and 3,304 new businesses.

My amendment also would direct additional funds to two programs, which I consider to be important business development programs, the SBA's International Trade programs and the HUBZone Program. With exports being one of the few bright spots in our economy last year, exporting by small firms has considerable room for growth. The amendment would direct that $8 million in SBA funds be used for these export assistance programs, an increase of $2 million over the current omnibus level. For the HUBZone program, which provides contracting preferences to small firms in economically disadvantaged areas, the amendment provides an additional $1.85 million for urban and rural development under this program.

To reiterate, under my amendment, the increased funding for these programs comes from amounts already provided in the omnibus appropriations bill for the SBA. No additional funding is required; it simply directs the SBA to allocate adequate resources to these programs. For more than 50 years, the SBA has been a vital resource to small businesses, helping millions of Americans start, grow, and expand their businesses. I respectfully ask my colleagues to support this amendment to provide the SBA's technical assistance and business development programs with the resources to expand their proven success and economic value during this economic crisis.

Mr. FEINGOLD. Mr. President, I will vote against this Omnibus appropriations bill, which contains thousands and thousands of unjustified, unexamined earmarked spending provisions, and which is being rushed through the Senate. By one estimate, the total cost of those items is nearly $8 billion. Even under ordinary circumstances it would be hard to defend those earmarks but there is certainly no defense for them at a time when the Nation is contending with this deep recession and millions of families are struggling to make ends meet.

The hundreds of pages of tables in the report accompanying the bill, each listing multiple earmarks, is probably the best rationale I have seen for earmark reform. I have been pleased to work with a number of my colleagues on a proposal to establish a new point of order against unauthorized earmarks, and on another proposal to provide the President with authority similar to a line item veto to cancel earmark spending. We certainly need to enact something like those reforms because we cannot afford to continue this abusive process. After all the talk of reform last year, and after the promising beginning made by keeping the stimulus legislation free of earmarks, we have quickly slid back to business as usual. We are considering a bill that has nearly $8 billion in earmarks. And that is just one bill. We haven't even begun the appropriations process for fiscal year 2010.

The President deserves great credit for keeping the stimulus bill free of earmarks. He should build on that achievement by insisting this omnibus appropriations bill be stripped of the earmarks currently in it. If that means vetoing the bill and sending it back to Congress for further work, then that is exactly what he should do.

I strongly prefer that Congress address this issue and clean up its own earmark mess. But right now there is little indication that Congress act without some tough leadership from the President.

Mr. President, I was pleased to support amendments offered by the Senator from Oklahoma, Mr. COBURN, that sought to eliminate some of the earmarks in the bill. I did not, however, support other efforts to cut overall funding levels in the bill. While I believe that Congress needs to be extra vigilant in ensuring that taxpayer dollars are well-spent, those efforts failed to specify where the funding would be cut. We should be making those tough decisions ourselves, and ensuring that any cuts are targeted and appropriate.

Mr. REID. Mr. President, I know everyone is anxiously awaiting the 8:15 time to arrive. I have had a number of conversations with Senator MCCONNELL, Senator KYL, and Senators on my side of the aisle. It appears at this time that we are going to have to continue to work on this bill. I have had calls from a number of my friends on the other side of the aisle, including conversations with my colleague from Nevada, and there are a number of amendments they feel strongly about, that they want the opportunity to offer. I wish that were not the case. We have had a significant number of amendments. But ''enough'' is in the eye of the beholder. As a result of that, we would probably be a vote short of being able to invoke cloture on this bill. My being a vote counter for a long time, discretion is the better part of valor.

I have not only heard from my friend from Nevada but other Senators. They have certain amendments they want to offer, and others have no amendments to offer but they want to be part of the team on the other side of the aisle, and if some of their colleagues want certain things done, they are going to go along with that. I don't criticize that.

I am not happy about it, but that is the way things work.

I have worked with Senators KYL and MCCONNELL, and by 11 o'clock tomorrow we will have a finite list of amendments, hopefully 10. There could be as many as 12. I doubt if we will need votes on all those. Senator KYL, who is the mechanic working through this process, is going to try to squeeze that down as much as he can.

With that brief statement, it would be wasted time to have a cloture vote tonight. We are not going to have a cloture vote tonight. We would just go back into a quorum and spend the rest of the night looking at each other.

We have had pleasant conversations with each other. No one is trying to game the system. I wish we could finish this bill. The House is going to send us a CR that will take us to midnight Tuesday, as I understand it.

If we get that finite list of amendments, the Senate certainly could be open tomorrow for people to offer amendments. We could have votes on some of these Monday night when we come back. I could schedule votes on Monday, but that would really make for an unhappy group of people. So I think we would be better off starting the votes at 5 or 5:30 Monday night if, in fact, people lay these amendments down.

Mr. MCCONNELL. Will the majority leader yield for an observation.

Mr. REID. Of course.

Mr. MCCONNELL. Let me underscore what the majority leader has indicated. The votes would not have been there tonight. We would be more than happy to have the vote, but since the majority leader and I concur that 60 votes are not there tonight, I think the way forward as he outlines is going to be widely acceptable on our side because we want amendments. There are additional amendments, probably, as he indicated, 10 or 12, which, as he indicates, I think would make sense to vote on on Monday.

I want to say to my Republican colleagues, we appreciate their accommodation, their requests of others of our Members to have a reasonable number of amendments on a bill of this magnitude. This is a huge appropriations bill. At the end of the day, we will not have had an unusual number of amendments voted on on a bill of this magnitude.

Mr. REID. Mr. President, I say in response to my friend, at quarter to 8 tonight, we had 59½ votes. If we can have consent, I could round that off—I don't think I could get that.

I ask unanimous consent to vitiate the cloture vote now pending.

Mr. VITTER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, if I could simply inquire of the majority leader through the Chair, I would be happy to offer consent if I had assurance that my amendment that I have been trying to call up, that I have been trying to get a vote on all week, which heretofore has been blocked, if I can have absolute assurance that will be on the list of amendments offered and voted on.

Mr. REID. Mr. President, I think he should direct that to his assistant leader, Senator KYL.

Is his amendment going to be on the list?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, it seems to me if the Senator from Louisiana has indicated he will object to the unanimous consent unless his amendment—No. 621, I gather?

Mr. VITTER. Yes.

Mr. KYL. Is on the list, that is a question, then, for the leader to address.

I wanted to indicate that we have a number of Members who have amendments they want to offer, and we are going to work hard to make sure all our Members who want to offer amendments can do so. At the same time, we are going to do our best to ensure that is not an unreasonable list of amendments. Obviously, Members who insist on having an amendment as a condition to the unanimous consent request can make that point clear.

Mr. REID. Mr. President, I think it is clear from my friend—the conversations, plural, that we have had—that the list we are talking about is a list of 10 or 12 amendments; is that right?

Mr. KYL. Mr. President, I would say to the leader that I think that is correct. That is going to require a lot of effort on this side to reduce the number of amendments that are pending, as the leader is well aware.

Mr. REID. You think you are going to have to work hard, think how hard I am going to have to work to defeat those amendments. I have more work than you have.

Mr. KYL. In response to my friend, the leader, he has worked very hard, and he has been very successful. But I do, in all seriousness, want to note that in order to try to limit the number of amendments—because there is a list of 36—it is going to require a lot of work on our side. We are going to, in good faith, do the best we can, but I just want to reiterate as far as I am concerned the Senator from Louisiana will have to be on the list because otherwise he will object to the vitiation of the cloture vote. As far as I am concerned, his amendment is on the list, but at some point the majority leader will have to agree to the list that we offer.

Mr. REID. Mr. President, I think it is fair that we have a finite list. We are now up to 35 amendments?

Mr. KYL. Mr. President, as I told the leader, we had a list of 36 amendments filed. I told the majority leader that I thought we could get that list down to 10 or 12, and that is still my intention.

Mr. REID. What I think would be fair, Mr. President—I know the Senator from Arizona is going to act in good faith to cut the number down to as small a number as he can, but we can still come back with another cloture vote if there is a lot of unnecessary amendments in that number, if you can't get people to work reasonably with you.

So I ask unanimous consent to vitiate the cloture vote, and that a subsequent cloture vote occur——

Mr. VITTER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I didn't mean to cut off the majority leader, if he wants to finish. I just wanted to reiterate—having spent the week trying to get this one amendment up—that my top priority is my amendment will be recognized, and I get a vote on that. And having heard speeches on the floor that the floor was open to amendments, yet having been blocked consistently in my attempts to get this amendment up, I have not yet heard any guarantee that will happen.

So given that, I regretfully will object to the unanimous consent request.

Mr. REID. We are familiar with his amendment. Basically, as I understand the amendment, Members would never get a COLA again. So we are willing to debate that. That basically is what it is; is that right?

Mr. VITTER. That is not correct. If I could advise the Chair, the amendment would be to require votes for any future pay raises or COLAs. It would require Member votes to not have that be on autopilot and to happen automatically, particularly given the state of the economy and the income losses and the job losses that are being suffered around the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I say to my friend from Louisiana, we will make sure that Senator MCCONNELL has a vote in relation to the amendment.

Mr. VITTER. With that assurance, Mr. President, I lift my objection.

Mr. REID. I renew my unanimous consent request to vitiate the pending cloture vote; that we not have the vote tonight.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. REID. Mr. President, for the benefit of all Members, we apologize for having Senators from all sides leave. I hope those Senators who are working with Senator KYL and want to offer these amendments will do so tomorrow or, if not, on Monday. We want to have some of these votes Monday night. We can have a series of votes Monday

night and work toward completing this stuff.

So I think that is about all I have to say, except that I appreciate everyone's cooperation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. 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. 615

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be set aside and that I be allowed to call up amendment No. 615.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. VOINOVICH, Mr. KYL, Mr. DEMINT, Mr. BROWNBACK, and Mr. CORNYN, proposes an amendment numbered 615.

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

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

The amendment is as follows:

(Purpose: To strike the restrictions on the District of Columbia Opportunity Scholarship Program)

On page 308, line 2, strike beginning with ''': Provided'' through line 8 and insert a period.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. 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 Chair clarifies that the cloture motion on H.R. 1105 has been withdrawn.

MORNING BUSINESS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

PRESIDENT OBAMA'S 2010 BUDGET

Mr. BURRIS. Madam President, as we contemplate this 2009 Omnibus Appropriations Act before us this week, I wish to look ahead to President Obama's proposed 2010 budget.

As a proud member of the Veterans' Affairs Committee, I am particularly pleased by the significant increase in funding that the administration is seeking for the Department of Veterans Affairs, led by its Secretary, GEN Eric Shinseki.

In the proposed 2010 budget, the Department of Veterans Affairs will see a $25 billion increase over the next 5 years. This additional funding will be directed toward a major expansion of benefits for those who serve our Nation in uniform.

The 2010 budget will directly assist veterans by expanding access to high-quality care for approximately 5½ million veteran patients and ensuring that care is delivered in a timely manner. More remarkable, this funding establishes VA Centers of Excellence to provide veteran-oriented care in specialized areas, such as prosthetics, vision, spinal cord injury, aging, and women's health.

The President's budget also reaches out to veterans with moderate incomes, bringing an additional half million veterans into the VA system by 2013, while maintaining or expanding existing care for low-income and disabled veterans.

At the same time, the new budget enhances services related to mental health care and broadens access and treatment areas throughout rural America. America's veterans have earned through their service the very best care we can offer, and the 2010 VA budget is a promising start.

During a recent tour through Illinois, I had the remarkable opportunity to visit with both veterans of past service, as well as meeting the young recruits training to wear the American uniform in the years ahead.

During that trip, I visited the 1082nd Airlift Wing of the Illinois Air National Guard located in Peoria, IL, and spoke with many fine airmen from this wing, including MSG Warren McCray. Master Sergeant McCray is an air guardsman who trained as a joint terminal attack controller. He deploys with Army troops on the ground ensuring that airpower can be employed against enemy positions when needed.

This courageous young man has recently returned from a tour of duty in Afghanistan and was awarded a Bronze Star with Valor. While speaking with Master Sergeant McCray, he told me of the multiple tours he had served as an air guardsman mobilized in support of Operation Enduring Freedom in Afghanistan. I was deeply impressed by his professionalism and dedicated service to this country. Even more so by his dedication to his fellow service men and women of the 1082nd Airlift Wing.

As we consider our mission abroad and weigh the cost in terms of troops and treasure, it is our duty to also consider the capacity at which these young men and women are serving us.

It doesn't matter whether they are a soldier, sailor, airman, marine or Coast Guard, or whether they are Active Duty, Guard, or Reserve. We must never forget the personal toll and sacrifice of these brave Americans and the effects made on their lives, their future, their spouses, and their children.

We must ensure that our veterans receive superior accessible care in return for their service and sacrifice, and we have an obligation to honor our veterans by serving them in the same way they have served us so selflessly.

The administration's 2010 budget for the Department of Veterans Affairs recognizes this. And in addition to expanding health benefits and high quality of care, the budget provides for comprehensive educational benefits, particularly the post-9/11 GI bill so that following their service, veterans can have access to unprecedented levels of educational support to complete their schooling.

In the same week, I visited the Naval Station Great Lakes and the North Chicago VA Medical Center. During my visit to these sites, I learned about plans for the Naval Health Clinic Great Lakes, the North Chicago VA Medical Center to merge and expand over the next couple of years. This merger will be extensive and costly, but also essential for sailors and veterans of Illinois, many of whom spend much of their lives at these facilities.

At the North Chicago VA Medical Center, I met with veterans of all ages and backgrounds. I heard their stories, their hopes, and their needs. At the Recruiting Training Command, I met with both naval officers and naval recruits and was given a tour of the barracks by LT Ellen McElligott.

I was particularly impressed with Lieutenant McElligott, a Chicago native, who serves as the ship's officer for the USS Arizona. Her professionalism, discipline, and enthusiasm for her work are qualities she shares with countless young service men and women across this great country of ours.

While touring the facility with Lieutenant McElligott, I saw the faces of hundreds of young sailors training so that they may one day serve this country.

It is so very important that LT Ellen McElligott and the young men and women like her receive adequate care and compensation while on Active Duty, Guard, or Reserve, and, most importantly, that they receive the care and resources they deserve when they return from serving their country.

As a nation, we have a moral obligation to serve and care for those brave individuals as they work so hard to serve us.

HONORING OUR ARMED FORCES

SERGEANT DANIEL TALLOUZI

Mr. UDALL of New Mexico. Mr. President, today I rise to honor two American heroes. The first is Army SGT Daniel Tallouzi. Sergeant Tallouzi was the kind of soldier who hated getting injured—not because of the pain, but because it stopped him from doing his job. A fellow soldier describes meeting Dan when Dan was recovering from an injury at Fort Hood. The soldier recalls:

Another person might have been seriously injured, but Big Dan Tallouzi shook it off,

refused any pain meds, and only wanted to get back to his crew and back to the job that he loved.

On September 25, 2006, Dan Tallouzi had just gotten off duty at Camp Taji in Baghdad when a mortar exploded nearby. A single piece of shrapnel—roughly the size of a quarter—reached the spot where he stood. It hit him behind his right ear and entered his brain.

Big Dan Tallouzi would never be the same. He returned to the United States in an ''eyes open'' coma, unable to speak, walk, or even eat on his own. Last week, he died in Albuquerque, NM, the town where he was raised.

The other hero I want to honor today is Mary Tallouzi, Dan's mother. When our soldiers serve in harm's way, the burden is borne by families, not just individuals. Dan Tallouzi understood this as well as anyone. He adored his family, and they adored him. Mary remembers Dan coming home on leave with flowers for his sister and hugs for the whole family. Home videos show him clowning for his cousins, infecting those around him with his warmth and his joy.

When Dan returned from Iraq after his injury, his mom quit her job to follow him through his treatment. First, she left New Mexico for a hospital in Germany. When Dan was transferred to Walter Reed, Mary followed. Then in search of a miracle, she had Dan transferred to the Kessler Institute in New Jersey.

At Kessler, Mary spent 12-hour days by her son's bed. In the morning, she would shave Dan's face, brush his teeth, and put on his favorite cologne. Nurses knew that Mary was watching her son's care like a hawk.

When I met Mary last May, she was back in New Mexico with Dan. After traveling for more than a year, Mary had lost her home and was struggling to find a place that could accommodate her son's needs.

What struck me about Mary was the satisfaction she felt in Dan's achievements. After all she had experienced, all she had suffered, Mary Tallouzi would still light up when she talked about her son. You could see her picturing the old Dan, and you could feel how proud she was.

Mary should be proud of Dan, and she should be proud of herself. She raised a good soldier, a good son, a good man. She bore the sacrifice that war brings, and she bore it well.

Please join me in recognizing the sacrifice of Dan, Mary, and the entire Tallouzi family.

Mr. President, I yield the floor.

APPROPRIATIONS COMMITTEE SUBCOMMITTEE MEMBERSHIPS

Mr. INOUYE. Mr. President, I ask unanimous consent to have the attached subcommittee memberships for the 111th Congress printed in the CONGRESSIONAL RECORD.

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

SUBCOMMITTEES

Senator INOUYE, as chairman of the Committee, and Senator COCHRAN, as ranking minority member of the Committee, are ex officio members of all subcommittees of which they are not regular members.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

Senators Kohl, Harkin, Dorgan, Feinstein, Durbin, Johnson, Nelson, Reed, Pryor, Brownback, Bennett, Cochran, Specter, Bond, McConnell, Collins. (9–7)

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

Senators Mikulski, Inouye, Leahy, Kohl, Dorgan, Feinstein, Reed, Lautenberg, Nelson, Pryor, Shelby, Gregg, McConnell, Hutchison, Brownback, Alexander, Voinovich, Murkowski. (10–8)

DEPARTMENT OF DEFENSE

Senators Inouye, Byrd, Leahy, Harkin, Dorgan, Durbin, Feinstein, Mikulski, Kohl, Murray, Cochran, Specter, Bond, McConnell, Shelby, Gregg, Hutchison, Bennett. (10–8)

ENERGY AND WATER DEVELOPMENT

Senators Dorgan, Byrd, Murray, Feinstein, Johnson, Landrieu, Reed, Lautenberg, Harkin, Tester, Bennett, Cochran, McConnell, Bond, Hutchison, Shelby, Alexander, Voinovich. (10–8)

FINANCIAL SERVICES AND GENERAL GOVERNMENT

Senators Durbin, Landrieu, Lautenberg, Nelson, Tester, Collins, Bond, Murkowski. (5–3)

DEPARTMENT OF HOMELAND SECURITY

Senators Byrd, Inouye, Leahy, Mikulski, Murray, Landrieu, Lautenberg, Tester, Voinovich, Cochran, Gregg, Specter, Shelby, Brownback. (8–6)

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

Senators Feinstein, Byrd, Leahy, Dorgan, Mikulski, Kohl, Johnson, Reed, Nelson, Tester, Alexander, Cochran, Bennett, Gregg, Murkowski, Collins, Voinovich. (10–7)

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

Senators Harkin, Inouye, Kohl, Murray, Landrieu, Durbin, Reed, Pryor, Specter, Cochran, Gregg, Hutchison, Shelby, Alexander. (8–6)

LEGISLATIVE BRANCH

Senators Nelson, Pryor, Tester, Murkowski. (3–1)

MILITARY CONSTRUCTION AND VETERANS AFFAIRS, AND RELATED AGENCIES

Senators Johnson, Inouye, Landrieu, Byrd, Murray, Reed, Nelson, Pryor, Hutchison, Brownback, McConnell, Collins, Alexander, Murkowski. (8–6)

STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

Senators Leahy, Inouye, Harkin, Mikulski, Durbin, Johnson, Landrieu, Lautenberg, Gregg, McConnell, Specter, Bennett, Bond, Brownback. (8–6)

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

Senators Murray, Byrd, Mikulski, Kohl, Durbin, Dorgan, Leahy, Harkin, Feinstein, Johnson, Lautenberg, Bond, Shelby, Specter, Bennett, Hutchison, Brownback, Alexander, Collins, Voinovich. (11–9)

PROTECTING INDONESIA'S FORESTS

Mr. LEAHY. Mr. President, at a time when the world seems to finally be speaking in one voice about the need for dramatic action to stop global warming, an article in the Jakarta Post on February 13 reminds us that many difficult obstacles lie ahead.

It is well known that Indonesia's forests, and particularly its peat swamps, store huge amounts of carbon. When the trees from these areas are cut and burned, which is happening due to illegal logging and to make way for the cultivation of oil palm, they emit even larger amounts of carbon into the atmosphere.

These forests are also home to one of the world's four species of endangered great apes, the orangutan, whose survival in the wild is far from certain.

President Yudhoyono has spoken of the importance of protecting the habitat of the orangutan. The U.S. Agency for International Development has been supporting this effort for years, and it is finally beginning to show results. It is focused on improving law enforcement and addressing the economic needs of the people living in areas of Borneo and Sumatra where the orangutans live, so they do not cut down the forests.

While illegal logging remains a problem in Indonesia, it is less of one than it was not long ago thanks to President Yudhoyono's government. What looms as potentially an even greater threat to the orangutan, and to climate change, is the expansion of oil palm plantations.

The Jakarta Post article says Indonesia's Minister of Agriculture plans to permit the cultivation of oil palm in millions of hectares of peat swamps. The article indicates that the Minister appears to believe that this would not contribute to global warming because while cutting the peat forests would result in emissions of greenhouse gases, oil palm trees would absorb carbon.

As convenient as that might sound, it defies both logic and science. Indonesia is already among the largest emitters of carbon in the world and the peat swamps are the primary cause. Any significant expansion of cutting and burning of peat forests would contribute to climate change. It would put Indonesia on the wrong side of an issue of critical, global importance at a time when it should be setting an example for responsible forest management. It would put Indonesia on the wrong side of history.

The United States deserves its share of criticism for consuming, and wasting, vast amounts of fossil fuels and being a major contributor to global warming. Many years have been squandered debating whether human development is a significant cause of climate change, even though the overwhelming view of scientists is that it is.

Fortunately, we are past that point. Today there is almost universal recognition that we must act together, and urgently, to stop the destruction of forests and the wasteful use of energy that contribute to climate change.

President Obama has made clear that he intends to make this issue a priority and invest in alternative energy technologies that do not emit greenhouse gases.

Indonesia, like Brazil and Central Africa, is fortunate to possess among the last significant expanses of tropical forests on Earth. The example set by President Yudhoyono and his government will profoundly affect the lives of people everywhere, as well as future generations. I join those in the environmental and scientific communities in urging the Minister of Agriculture to reconsider his position.

Finally, it is important to note that American companies are among those that import Indonesian palm oil. China and Singapore are other major importers. They should consider the consequences of using a product that is produced in a manner that causes serious harm to the environment. It is time for corporate America to review its manufacturing and marketing practices to ensure they are consistent with our collective responsibility to stop global warming.

I ask unanimous consent to have the Jakarta Post article printed in the RECORD.

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

[From the Jakarta Post, Feb. 13, 2009]

GOVT TO ALLOW PEATLAND PLANTATIONS

(By Adianto P. Simamora)

The Agriculture Ministry will issue a decree to allow businesses to dig up the country's millions of hectares of peatland for oil palm plantations.

Gatot Irianto, the ministry's head of research and development, said his office was currently drafting a ministerial decree that would explain in detail the mechanism to turn the peatland areas into oil palm plantations, a move that many say will further damage the country's environment.

''We still need land for oil palm plantations. We must be honest: the sector has been the main driver for the people's economy,'' he said Thursday on the sidelines of a discussion about adaptation in agriculture, organized by the National Commission on Climate Change.

The draft decree is expected to go into force this year.

''We've discussed the draft with stakeholders, including hard-line activists, to convince them that converting peatland is safe,'' he said.

''We promise to promote eco-friendly management to ward off complaints from overseas buyers and international communities.''

Indonesia is currently the world's largest crude palm oil (CPO) producer, and is expected to produce about 19.5 million tons this year.

Overseas buyers, however, have complained about Indonesia's CPO products, saying they are produced at the expense of the environment.

Activists point to the massive expansions of plantations, including in peatlands, for the deaths of large numbers of orangutans in Kalimantan and Sumatra and for releasing huge amounts of carbon emissions into the atmosphere.

Indonesia has about 20 million hectares of dense, black tropical peat swamps—formed when vegetation rots—that are natural carbon storage sinks.

A hectare of peatland can store between 3,400 and 4,000 tons of carbon dioxide (CO_2), but emits a much larger amount when burned.

Asked about the contribution to global warming, Gatot said trees planted in peatlands would absorb greenhouse gas emissions.

''The peatland will produce emissions only in the opening of the land, but this will be reabsorbed after new trees are planted,'' he said.

However, a World Bank report from 2007 showed Indonesia was the world's third biggest carbon emitter after the US and China, thanks mainly to the burning of peatlands.

A Wetlands International report from 2006 said Indonesia's peatlands emitted around 2 billion tons of CO2 a year, far higher than the country's emissions from energy, agriculture and waste, which together amount to only 451 million tons.

The country would have ranked 20th in the global carbon emitter list if emissions from peatlands were not counted.

The ministerial decree is being drafted at a time when President Susilo Bambang Yudhoyono is still preparing a decree on peatland management in an effort to help combat global warming.

The draft of the presidential decree, drawn up in 2007, calls for tightened supervision on the use of peatlands across the country.

COLOMBIA

Mr. LEAHY. Mr. President, the abuses perpetrated against civilians by the Revolutionary Armed Forces of Colombia, popularly known as the FARC, are too numerous to list. From kidnappings to bombings, torture and summary executions, the FARC have lost whatever credibility and popular support they may once have had. They are a criminal enterprise, despised by the vast majority of Colombians, funded with proceeds from the production and sale of cocaine, who show no respect for the laws of armed conflict.

The FARC have kidnapped hundreds of people, many of whom remain in their custody, their health and welfare unknown. From what we have learned from the few who have escaped or been released, they suffer severe hardship and deprivation.

The FARC have also targeted Colombia's vulnerable indigenous people, whose traditional lands are often located in conflict zones. They have also been victimized by other armed groups, including the Colombian army.

Two recent incidents illustrate the dangers these people face. According to the National Indigenous Organization of Colombia, on February 11, 2009, the FARC killed 10 members of the Awá tribe in Nariño department. This followed the killing of 17 Awá on February 4, also in Nariño, and also reportedly carried out by the FARC. There are reports that an unknown number of Awá have been abducted.

The killing of defenseless indigenous civilians can best be described as a crime against humanity. It is utterly without justification, and those who engage in such atrocities should pay for their crimes.

For years I have worked to help improve respect for human rights in Colombia and to strengthen Colombia's judicial system. I have also supported efforts to protect the rights of Colombia's indigenous people. When we get reports of the FARC attacking and summarily executing members of the Awá, including women and children, we are reminded how much remains to be done to protect these vulnerable groups and before real justice and peace can come to Colombia.

In recent years there have been notable improvements in security in some parts of Colombia, particularly Bogota, Medellin, and other cities. There has also been progress in expanding the presence of the state into areas which previously had been ungoverned. We are seeing some promising results from projects that provide coca farmers with titles to land, technical assistance to grow licit crops like coffee and cacao, and access to markets, in return for voluntarily stopping growing coca. These projects deserve our continued support.

But many rural areas remain conflicted or controlled by the FARC or other armed groups, some of whose members are demobilized paramilitaries. After more than $7 billion in U.S. aid and 8 years since the beginning of Plan Colombia, the amount of coca under cultivation is close to what it was before. It is now grown in smaller, more isolated plots, in many more parts of the country. More than 200,000 rural Colombians were displaced from their homes as a result of drug-related violence last year alone.

Another issue that requires the attention of the Colombian Government is reparations for victims of the conflict. There are tens of thousands of people who had members of their families killed or injured by paramilitaries, the FARC, or the army. Many had land or other property stolen by paramilitaries who often had the active or tacit support of the army. The Colombian Government established mechanisms for returning stolen assets, but for the most part it has not yet happened. Very little of the land has been returned to its previous occupants. This process needs to be urgently invigorated if reconciliation is to succeed in Colombia.

Whether a family member was killed or their property stolen by the FARC, paramilitaries, or members of the army, the loss is the same. The judicial process in Colombia is wholly incapable of adjudicating the large number of cases or claims. It is critical that, as was finally done in the United States when Congress appropriated funds to compensate victims of the Japanese internment camps during World War II, the Colombian Government take the necessary steps to provide reparations for the victims so they can rebuild their lives.

The issue of extra judicial killings, or ''false positives'' as they have been called, is another major concern.

Human rights groups warned repeatedly that Colombian soldiers were luring poor young men with the promise of jobs, summarily executing them, and then dressing the bodies to appear as FARC combatants in order to obtain higher pay, time off, promotions, or other benefits. I also expressed concern about this. Instead of investigating, top Colombian officials, including the President, responded by accusing the human rights groups of being FARC sympathizers. After the U.N. High Commissioner for Human Rights confirmed these crimes and it was revealed that they were the result of official army policy, the government acknowledged the problem, but the verbal attacks against human rights defenders and journalists who wrote articles about the issue have continued.

To his credit, the Minister of Defense has taken some steps to address it, including issuing decrees disavowing the policy of rewarding body counts and dismissing army officers who were implicated in some cases. But few if any have been prosecuted and punished, and there are reportedly hundreds of these cases.

Throughout this period, despite report after report that these atrocities were occurring, former Secretary of State Rice continued to certify that the Colombian army was meeting the human rights conditions in U.S. law. That was as shameful as the Colombian Government blaming human rights defenders. The Congress had no responsible alternative to withholding a portion of the military aid for Colombia. Whether or when those funds are released will depend, in part, on how thoroughly the government addresses the problem of false positives, whether the officers involved are held accountable, and whether those who had the courage to report these crimes continue to be the target of government attacks.

I also want to mention the recently appointed Army Chief of Staff, GEN González Peña, who replaced General Montoya. General Montoya resigned under pressure due to the false positives scandal and was ''punished,'' as too often occurs in Colombia, by being appointed an ambassador. Not long ago, General González Peña commanded the 4th Brigade in Antioquia which has one of the worst rates of reported extra judicial killings. It is difficult to believe that he was unaware of what his troops were reportedly doing, and it raises a concern about his qualifications for such an important position.

This year, the Appropriations Committee will again review our aid programs in Colombia. We want to continue helping Colombia because we share many interests—in addition to stopping the traffic in illegal drugs to the United States which has not succeeded to the extent some had predicted. We need to determine what has worked and deserves continued U.S. support, whether the Colombian Government is meeting the conditions in U.S. law and what costs should be shifted to the Colombian Government as U.S. aid is ratcheted down in the coming years.

CENTENNIAL OF THE RUSSELL SENATE OFFICE BUILDING

Mr. SCHUMER. Mr. President, I wish today to pay tribute not to a person, or an agency, or an institution, but to a building. That building, the Russell Senate Office Building, turns 100 years old today.

The Russell Building has graced Capitol Hill for a century. Some of us have been fortunate to have our Senate office located in Russell. But all of us have had an occasion to attend a hearing, a meeting, or gathering in one of the building's rooms. If we take the time to stop and consider what is before us, we are struck by the beauty of an earlier era in American history. Step into the Russell Rotunda, the Caucus Room, the Rules Committee hearing room, or any of other committee hearing rooms or special function rooms in the building. You can't help but feel that you are stepping back in time when you gaze at the high ceilings, the columns, the marble, the crystal chandeliers, and the mahogany and walnut furniture.

Architects refer to its style as beaux arts, a design popular in America in the early 20th century. Many Government buildings constructed during the late 1800s through the 1920s were of this design, and the Russell Building stands today as an excellent example of this style of architecture.

To commemorate this centennial, the curatorial staff of the Secretary of the Senate's office has created an outstanding exhibit in the Russell Building and a booklet about its history. I urge you to visit the display of original Russell furniture in the Russell rotunda basement or stop by the information kiosks in the rotunda basement, the second floor of the Rotunda area outside the Caucus Room, SR–318, the Rules Committee hearing room, SR–301, the Veterans Affairs' Committee hearing room, SR–418, the basement visitors entrance on Delaware Avenue, and the 2nd floor visitors entrance on Constitution Avenue. Along the way, you'll learn about the naming of the building, the old subway, and the hearings held in the committee rooms.

As a New Yorker, I am especially pleased that there are so many connections between the Russell Building and my home State. New York architects, Carrere & Hastings, designed the building; New York cabinetmaker Thomas Wadelton manufactured full-scale models of ''very American'' furniture in his studio located in Tuckahoe, NY; New Yorker George W. Cobb, Jr., was awarded the furniture contract for the building; and much of the original mahogany furniture was manufactured by the Standard Furniture Company of Herkimer, NY. The New York association continued when in 1933 the last wing of the building opened, equipped with walnut furniture manufactured by three New York firms—the W.H. Gunlocke Chair Company, the Company of Master Craftsmen, Inc., and the Sikes-Cutler Desk Corporation.

New York is not alone in being represented in the design, construction, and furnishing of the building. From the Vermont marble to the Indiana limestone, to the Pennsylvania steelwork, to the Kansas cement, and to the elevators manufactured in Ohio, many states contributed their natural resources and the industry of their people to this historic place. It's a testament to the skills of these early 20th century architects and craftsmen that the building and its furniture and furnishings are still in use today.

The Russell Building was constructed because of the growing challenge in the early 1900s to find suitable office space to accommodate the needs of Senators. Prior to the opening of the Russell Building in 1909, Senators and their staffs conducted the business of the Nation in whatever space was available—the aisles of the Senate Chamber, the Capitol's marble hallways, nearby hotel lobbies, and local boarding houses. Constituents waited in the corridors of the Capitol when they came to meet their Senators and Congressman. As more States joined the Union, the number of lawmakers working in Washington grew. By the turn of the century, the Capitol was literally overflowing with people. The need for space to house Senators and their growing staffs was finally recognized in 1903, when the sites for the first congressional office buildings were acquired and construction of the buildings were authorized. One of these building so authorized would later become the Russell Senate Office Building. Once construction was complete, it was considered to be one of the grandest and most impressive buildings in all of Washington. It would later be named in honor of a former colleague from Georgia, the Honorable Richard Russell, who served in the Senate for 38 years.

There is an old saying there is nothing new under the Sun. And when it comes to the Senate and space, how true the saying is. As one of its areas of jurisdiction, the Rules Committee, on which I have the honor of serving as chairman, continues to search for space to meet the needs of Senators, committees, and support offices to this day—an administrative task not unlike the struggle to find space for the Senate in 1909.

During the past century, much has happened to us as a country. We added four States to the United States of America. We have experienced world wars, international conflicts, and tough economic times again and again. We have landed a man on the Moon and saw the beginning of the information age. Through all this time, the American people have persevered and thrived.

Like its occupants and visitors over the past century, the building has adapted itself for the 21st century. The Russell Senate Office Building on its 100th birthday is a working building, alive with Senators and staff doing the business of our Nation, well equipped and ready to face the challenges of the future.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

Thank you for soliciting our opinions regarding the energy crisis. I truly value this opportunity to communicate my concerns to you.

Gas prices have certainly been on the rise and like most Idahoans, I have been affected by this increase. I also remember the words of President Bush when he stated that we as a nation are ''addicted'' to oil. I am a psychologist and I know that when an addict is feeling the pain of their addiction (as we are with gas prices), it is not helpful to find them a cheaper way to get a drink.

What I am saying by that analogy is that I do not think increasing exploration for oil in Alaska or off the coast of Florida will help us in the long term. Fossil fuels are a limited resource and we'll feel the pain of those limitations sooner or later. I do not support further exploration to temporarily fix this problem. I do support the idea that we invest heavily in renewable, environmentally sustainable, energies.

For example, rather than giving huge tax breaks to oil companies to promote more gas production, let us give those tax cuts to the car manufacturers to produce cars that run on less gas or better yet, run on non-fossil based fuels. American companies are way too far behind Japanese companies in this effort and to remain competitive, I think we'll have to invest in the technologies of the future rather than scraping the bottom of the barrel for what oil remains.

Thank you.

RICK, *Pocatello.*

Why are we saving the oil in the United States? The oil fields in the lower 48 could alone make us self-sufficient; that is without the biggest oil field in the world which is in Alaska. Why are we being so dependent on foreign oil when there is no need to be? Our economy is going the wrong way and can be fixed by getting the price of gas back down where it should be. My wife and I are retired and live in the country outside of Midvale, Idaho. It is a long ways to the grocery store and department stores. I hope you can get something started in the Senate that will open some eyes. Most of the members of the Congress and Senate are financially set so the price of gas does not affect them. However, they have a lot of constituents that are hurting. Thanks for your time.

God Bless America.

BRENT and PEGGY, *Midvale.*

I have a very sincere feeling that the Congress has been waffling on the oil and gasoline price rise. It is my hope that they will soon begin to realize they are hurting the complete economy. We are all hurting because of the higher gasoline price but it trickles down to everything we buy. It burns me up to hear people complain about President Bush and how he has started the whole thing. Just yesterday he explained to the public that the Congress has not given him a bill to sign.

I certainly wish Congress could stick its neck out and demand that all new electricity generation plants be nuclear plants. We are wasting our natural gas on firing electricity generation and coal is causing emissions which I believe are not good for the world. Nuclear plants are so efficient and I wish we had not allowed France and Germany to outdo us with the technology to make safe atomic plants.

Next, I would wish that Congress would mandate a term of time that would allow us to get weaned from oil and give us a good alternative engine for automobiles, for example. We are a wide ranging country and traveling from one area to another is necessary. We do not have anything but busses to move us in most areas. I do not like the fact that corn is getting so high priced because of the ethanol push. I know that I cannot use ethanol because it will ruin all the components in my autos I presently own. I do not think enough thought has gone into ethanol use and I feel it is going to ruin our food product prices. I have been associated with agriculture all my life and I cannot believe the prices some the these crops were bringing last year.

Right now we need to be drilling off shore and ANWR for oil. I believe an oil company or two needs to build a new refinery or two to help out in the meantime. I think the oil companies have held us hostage all my life and they still are!

God Bless you and your good work.

GORDON, *Twin Falls.*

Thank you for the opportunity to let you know how energy prices are affecting me. I was forwarded your email from a friend who is on your mailing list.

I am a 56-year-old widow. My husband has been gone for 6 years. We lived a middle-class lifestyle, but now that he is gone, I am struggling to make ends meet and be able to remain in the home that my husband built for our family. Even though all my children are gone from home, I still have one child in college that I need to help. I live 7 miles west of Rigby, and 10 miles north of Idaho Falls, so I have to do a lot of driving just to get anywhere. I have drastically reduced my driving, and I still pay way more than I used to for gas.

One of the biggest areas I have been affected is with my heating costs. Natural gas is not available where my home is, so 10 years ago we put in a propane furnace, thinking it would be fairly inexpensive to operate. At the time propane was 65 cents a gallon. Last fall I filled my tank for $1.69 a gallon. When I went to refill it in February, the price had jumped to $2.40 a gallon in just a few months. I cannot afford that price to heat my home. I decided to turn my heat down to 62 degrees on my thermostat, and just wear a sweater. If I want to work in one room I run a small electric heater to stay warm. I never thought I would have to be cold in my own house because I cannot afford to run my furnace.

I think it is time to drastically increase our own production of oil. We need to drill in Alaska, and wherever else it is feasible. Is the environment more important than people's well being? I do not think so. It is time we told the environmentalists to be quiet. I think the oil companies need to be putting their huge profits into finding more sources of oil. And let us get busy and find alternatives to oil. It is about time.

Thanks for letting me express my views.

PHYLLIS, *Rigby.*

First of all, I am glad to see that your head is screwed on correctly. I am sick and tired of our Congress saying that oil companies must pay ''wind-fall profit'' taxes. As if this will fix the problem. Why are so many of our lawmakers ignorant of how economy really works? Why is supply and demand so hard to grasp for some?

Now, how is the current price of gas hitting me and my family. Rather hard, I must say. Now, I grew up in a rural area and, for that reason, I live outside of Boise. I do not care for crowds and I like to have space (though, honestly, where I live still does not have enough space). For this reason, I spend a good deal on gas. This is not the fault of the government, nor am I looking for the government to solve my problems. (They have not solved any yet, and now they're talking about universal health care, HA! do not make laugh. But I digress.)

In an effort to curb the fuel pain, last year I purchased a gas-sipping 4-banger that gets 45 mpg (I bought that when I anticipated gas @ $3/gal.). However, my wife and I have a large family and a large vehicle is a must. We have a Suburban to cary our family of 7 (including my wife and I). A large vehicle is simply a must, and given where we live, a vehicle with 4wd capability is a must too. This Suburban gets 17 mpg, and with a 42 gallon tank, it is getting rather painful to fill this beast. Assuming an empty tank, it would take $168 to fill that behemoth, but I need it and we keep the driving on that to a minimum.

Some of our circumstances are due to where we live and we chose to live there. I do not seek empathy for this. However, compassion for our people would be good. Congress could make significant strides forward if they would stop catering to special interest groups and drill in our oil reserves. There is no reason not to. Drilling in ANWR is not going to make extinct the animals that live there.

Also, there is no reason we cannot make more refineries. We cannot refine the oil we import fast enough, to say nothing about the oil that we could be drilling from our own soil and water. We should make more nuclear power, or cut our thirst for energy. It is one or the other, and since we are not cutting energy, we have got to produce more.

ANDY.

I am the Service Coordinator at Community Action Partnership in Clearwater County. We are the agency that distributes the Energy Assistance Funds (LIHEAP) for North Central Idaho. I must tell you that I am extremely concerned about our low income people this coming winter, especially

the ones on fixed incomes, such as the elderly. If congress does not increase the benefit amount of LIHEAP considerably, I am seriously afraid that some people will literally freeze to death.

Of the 500 or so LIHEAP applications I do, about 300 of them are elderly (60+). Of that 300, probably more than half heat with oil or propane. Many of them were talked into converting to an oil stove (such as TOYO) several years ago, because they were considered very energy efficient, however no one could have predicted that the price of oil would quadruple in a few years time. To make matters worse, many oil and propane company's require a minimum delivery of 100 gallons, that is over $400, and in many cases that could be half or more of their monthly income!

I intend to work with Clearwater County Social Services, and our local churches to see what can be done at the local level. I am hoping to be raise funds to purchase the most efficient electric heaters I can find to give out to our most vulnerable citizens. It certainly does not solve the overall energy problem facing this country, but at least it might keep a few people from freezing this winter.

Thank you for your interest and concern in this matter, and good luck!

BARBARA.

The American public is lazy! We should be holding all our elected officials responsible for OPEC and Big Oil's price gouging of the country through its outrageous fuel prices. We all should be continuously writing, emailing, and faxing our city councilpersons, county supervisors, state legislators, congressmen, and presidential candidates to make them support a comprehensive, alternative energy program.

It is OPEC and the Big Oil companies that are preventing the development of ethanol. And they will continue to not allow the development of ethanol unless they can monopolize that, too. It is common knowledge that they contribute thousands of dollars to congressmen so that our elected officials will drag their feet and not push through a comprehensive plan.

Brazil became energy self-sufficient within five years by converting sugar cane into ethanol. Sweden is also developing plants to turn grass and hay into ethanol. There should be laws enacted here, too, requiring every gas station to offer at least one pump for ethanol. The construction of ethanol plants should be subsidized by the government, and job tax credits should be given to those plants for hiring new workers. Our country should be ambitiously working to wean itself off gasoline so we can tell OPEC where to stick its oil.

Auto manufacturers should be mandated to sell an increasing percentage of flex fuel cars each year. Of course, it will not do you any good to buy a flex fuel car if you cannot find a station in your town that sells ethanol (I am told that there is only one station in all of San Diego that sells ethanol). And, forget it if you are traveling anywhere out of town!

You would think that with the internet, everyone would come together, pool their ideas and resources, and actually get something done. Instead, we just sit back and take whatever is dished out to us. The American public has clout it does not even realize! If this nation's work force banded together and refused to go to work until the price of gasoline went down, you can bet we would bring this country to its knees in a week or less! I am tired of working for nothing! I am tired of seeing my children not be able to make ends meet.

When the working public goes bankrupt from channeling its hard-earned money into fuel, we will be ripe for another country to come in and take us over.

Legislate ambitiously for off-shore drilling! Stop the export of oil from Alaska. Enough is enough! Do something about it!

JOSIE, *Nampa.*

I do not have much of a different story than many other Idahoans. I work hard each day 11 to 12 hrs. I live in a rural area of Canyon County so ride sharing or car pooling is not a viable option for me. I have to drive 18 miles to work so riding a bike is not an option especially after putting in a 12 hr day. I drive a small pick up Chevy S–10 to help reduce my gas usage (as I mow lawns and do small pruning jobs on the weekends to make a few extra dollars), my wife in I traded in our ford tarsus for a KIA Spectra last November to help save money and protect our budget of the current (Nov 07) high gas prices.

What I can say is that the only way out of our current situation is for our congress needs to show OPEC, that we are willing to take back control of our oil dependence.

1. Congress must do something positive about drilling oil in the U.S., no arguing, no debating, no pork added to the bills, just action.

2. We need to open up oil drilling anywhere that will have minimal environmental impact, there is no place to drill that will have no environmental impact, but we have the technology to reduce any impact to the environment that will not cause permanent damage. It is off the east coast, west coast, Gulf of Mexico or Alaska we need to start drilling.

3. We need to build refineries through the country, but especially on the west coast. The west coast refineries need to be able to process the high sulfur oil from Alaska. These actions should put a halt to the escalating oil prices from OPEC, but they are only the first steps.

4. Big Oil Tax breaks for exploration and research, I do not believe that these tax cuts are ever going to go away, but I heard a news report over the weekend the Exxon Mobil was exploring off the coast of the Philippines. This is totally insane they are spending our money in tax cuts outside the U.S.? If we are going to allow large profits and tax breaks for exploration and research then they can do in the U.S.

5. One of the biggest projects big oil could be spending our money on is research for liquefying oil shale to minimize any environmental effects of this process, but again there is no way not to have some impact on the environment, but as a country we must give a little to survive in this world situation.

6. To reduce using our oil, coal and natural gas reserves to generate electricity, we need to build Nuclear Power Plants where the need is and where is will cause minimal impact on the environment.

7. Long term measures would be to develop wind, water and solar and other alternative power satrapies, it is too late right now to impact the strategies hold OPEC has on our country, and in the long term these straggles could play an important role in our overall energy policy.

8. Please relay to your fellow Congressmen that if #1 and #2 are not acted on immediately there will be a lot on incumbents who will lose their seats in November. As the American public and trucking industry can afford the daily gas price increases. If the trucking industry falters then our whole economy will collapse. This is not a idle threat by one voter but a culmination of our elected officials doing nothing about our energy policy for the last 30 years, and within the last 6 years ignoring all the signs that OPEC now has us by the neck in a strangle hold. The big oil companies really do not care as they make money either way.

ROBERT.

Thanks for the opportunity to respond to your newsletter on energy costs. My view, as expressed even before 9/11, was that we were subconsciously willing to sacrifice our children due to our selfishness, NIMBY mentality, and uncompromising positions regarding siting of energy facilities and development of energy resources. Our inability to develop a unified, effective energy policy is reflected in our addiction to oil, and just like a drug addict, we are selling out our country to those who least care about the future and security of our children. Like street drugs, the demand driven by our oil addiction is pushing up the price that further enhances the wealth of many rouge nations that support terrorism against us and would like nothing more than to see our demise. I attribute the deaths of our beloved service members on the battlefields in the Middle East to this issue. The cost to me in terms of high gas prices lowering my standard of living is nothing compared to the sacrifice of their lives caused by our ineptness to come together as a nation with a program for energy independence with an urgency akin to President Kennedy's national commitment to put a man on the moon in a decade. Anything short of that is treating a symptom and not the disease.

There are no quick fixes. It took several decades of selfishness to get us into this predicament, and it will take at least a decade of committed effort to fix it. We, as a nation, have the intellect and the resources to achieve energy independence if we unleash our federal and private institutions from excessive regulation. Decisions of such national importance must be based on sound technical and economic evaluation, not on how we can siphon more tax dollars to benefit our constituents and enrich our political standing or how we can enhance our personal wealth. The future of our nation and our children is in our hands.

NOEL, *Idaho Falls.*

ADDITIONAL STATEMENTS

TRIBUTE TO MILLARD FULLER

• Mr. SHELBY. Mr. President, today I pay tribute to Millard Fuller, a great American entrepreneur who dedicated his life to sheltering the poor. Millard passed away on February 3, 2009. He leaves behind a great legacy of leadership and of service to the world's most vulnerable residents.

Millard was born in 1935 in Lanett, AL. It was in this town that Millard, at only 6 years old, earned his first profit by selling pigs and chickens. His entrepreneurial spirit would certainly carry him far. After some time working as a door-to-door salesman selling silk hosiery and underwear, Millard attended Auburn University to study economics. Following his graduation, Millard attended my alma mater, the University of Alabama School of Law, and it was there that he married his wife Linda.

While a law student at the University of Alabama, Millard expanded his entrepreneurial horizons and began selling Christmas trees and mistletoe with

our fellow student, Morris Dees. Together, they would go on to form a lucrative direct marketing business selling cookbooks and other items. This business would make Millard a millionaire by the time he reached the young age of 29. When his work and devotion to monetary success began to threaten his personal relationships, however, Millard and Linda made the decision to simplify their lives by selling their possessions and dedicating their lives to their Christian values.

In 1965, Millard and Linda moved to Koinonia Farm in south Georgia. It was there that Millard and Linda met and became close friends with the farm's founder, Clarence Jordan. Clarence and Millard had much in common and together they developed the concept of a housing program that would provide no-interest loans to people to build modest homes. This idea eventually grew into Habitat for Humanity.

In 1976, from a tiny house in Americus, GA, Millard and Linda established Habitat for Humanity. Today, the organization has built more than 300,000 houses around the world, providing more than 1.5 million people in more than 3,000 communities with safe, decent, affordable shelter. In April 2009, Habitat for Humanity's Alabama State Support Organization will celebrate the completion of its 1,500th house.

Millard is loved and will be missed by his wife Linda and their four children. He will also be missed by the thousands of volunteers who found inspiration through his dedication. It is because of Millard that thousands of people across the world have a place to call home. I ask this entire Senate to join me in recognizing and honoring the life of Millard Fuller.●

HONORING MAINE OXY

● Ms. SNOWE. Mr. President, at a time when our Nation is involved in a global war on terrorism, thousands of lives are disrupted as members of our armed services head off to war. One aspect that is often overlooked is the profound impact a deployment can have on a servicemember's civilian career. I wish today to commend a small business from my home State of Maine that has made a veritable commitment to ensuring that those serving our country are seamlessly reintegrated into the workforce upon their return from Active Duty, and their families taken care of while they are gone.

Maine Oxy is an Auburn-based company that specializes in welding, as well as industrial and specialty gases. A third generation family managed firm, Maine Oxy was founded in 1929 by Joseph W. Albiston as Maine Gas Service, which at that time provided sales and service to home propane customers. Six years later, Maine Oxy began providing welding supplies and industrial gases for customers throughout Androscoggin County, in central Maine. Since that time, Maine Oxy has expanded to serve three States in eight locations, including a state-of-the-art acetylene production facility. It has also established a cutting-edge Spec Air gas manufacturing laboratory, as well as the New England School of Metalwork, with programs in welding and blacksmithing, as part of its sustained growth.

As a company that truly looks after its own, Maine Oxy has excelled in assisting its employees who serve in the military. Three such members from Maine Oxy's Auburn facility—Robert Smith, Kirby Touchette, and Scott St. Pierre—were all recently called up to Active Duty as combat engineers. During their deployment, Maine Oxy assisted the servicemembers by sending them care packages, and also aided their families by helping them with various chores, including chopping firewood for one the families that needed it. Even now, Maine Oxy continues to send dozens of care packages to troops in Iraq.

Upon their return, the three deployed employees were encouraged to make use of their maximum allocated 90-day entitlement of time off before returning to work. Moreover, the company was flexible in allowing for follow-up medical appointments. Finally, the firm rehired the employees and promoted them to new positions, thereby allowing their replacement workers to maintain employment as well.

Maine has one of the highest percentages of veterans in the country at roughly 16 percent of the State's population. Our State is seeing hundreds of new veterans each year returning from combat in Iraq and Afghanistan. As such, it is heartening to see companies like Maine Oxy standing ready to assist its veteran employees in such a broad and altruistic manner. Thank you to Bruce Albiston, Maine Oxy's Chief Executive Officer, and everyone at Maine Oxy for their selfless support of their colleagues, and best wishes for their future success.●

MESSAGE FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1127. An act to extend certain immigration programs.

MEASURES DISCHARGED

The following measure was discharged from the Committee on Energy and Natural Resources by unanimous consent, and referred as indicated:

H.R. 44. An act to implement the recommendations of the Guam War Claims Review Commission; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 146. An act to establish a battlefield acquisition grant program for the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David S. Kris, of Maryland, to be an Assistant Attorney General.

Elena Kagan, of Massachusetts, to be Solicitor General of the United States.

Thomas John Perrelli, of Virginia, to be Associate Attorney General.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 386. A bill to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. THUNE (for himself and Mr. SCHUMER):

S. 527. A bill to amend the Clean Air Act to prohibit the issuance of permits under title V of that Act for certain emissions from agricultural production; to the Committee on Environment and Public Works.

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. NELSON of Florida, Mr. KERRY, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. BROWN, and Ms. KLOBUCHAR):

S. 528. A bill to prevent voter caging; to the Committee on Rules and Administration.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mr. UDALL of New Mexico, Mr. WHITEHOUSE, Mr. CARDIN, Mr. SANDERS, Mr. KERRY, and Ms. SNOWE):

S. 529. A bill to assist in the conservation of rare fields and rare canids by supporting and providing financial resources for the conservation programs of countries within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Environment and Public Works.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 530. A bill to extend Federal recognition to the Muscogee Nation of Florida; to the Committee on Indian Affairs.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI):

S. 531. A bill to provide for the conduct of an in-depth analysis of the impact of energy

development and production on the water resources of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. KENNEDY):

S. 532. A bill to amend the Internal Revenue Code of 1986 to provide a business credit against income for the purchase of fishing safety equipment; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. KENNEDY, and Ms. SNOWE):

S. 533. A bill to amend the Coastal Zone Management Act of 1972 to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida (for himself, Ms. COLLINS, and Mr. BINGAMAN):

S. 534. A bill to amend title XVIII of the Social Security Act to reduce cost-sharing under part D of such title for certain non-institutionalized full-benefit dual eligible individuals; to the Committee on Finance.

By Mr. NELSON of Florida (for himself, Mr. SESSIONS, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. KERRY, Mrs. LINCOLN, Ms. MIKULSKI, Ms. SNOWE, Mr. VITTER, and Mr. INHOFE):

S. 535. A bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN:

S. 536. A bill to amend the Clean Air Act to modify the definition of the term ''renewable biomass''; to the Committee on Environment and Public Works.

By Mr. KOHL (for himself and Mr. GRAHAM):

S. 537. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. LEAHY, Mr. MENENDEZ, and Mr. PRYOR):

S. 538. A bill to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 539. A bill to amend the Federal Power Act to require the President to designate certain geographical areas as national renewable energy zones, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. DODD, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mrs. HAGAN, Mr. MERKLEY, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. JOHNSON, Mr. SCHUMER, Mr. UDALL of New Mexico, and Mrs. BOXER):

S. 540. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. CRAPO, Mr. AKAKA, Mr. BROWN, Mr. CORKER, Mr. BOND, and Mr. ISAKSON):

S. 541. A bill to increase the borrowing authority of the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KOHL:

S. Res. 65. A resolution honoring the 100th anniversary of Fort McCoy in Sparta, Wisconsin; to the Committee on Armed Services.

By Mr. BOND:

S. Res. 66. A resolution designating 2009 as the ''Year of the Noncommissioned Officer Corps of the United States Army''; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. KOHL, Mr. SANDERS, Mr. DURBIN, Mr. CASEY, Mr. BURRIS, Mrs. GILLIBRAND, Mr. CHAMBLISS, Mr. KERRY, Mr. BENNET, Mr. BEGICH, Mr. BAYH, and Mr. DODD):

S. Res. 67. A resolution expressing the sense of the Senate that providing breakfast in schools through the national school breakfast program has a positive impact on the lives and classroom performance of low-income children; considered and agreed to.

ADDITIONAL COSPONSORS

S. 133

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 133, a bill to prohibit any recipient of emergency Federal economic assistance from using such funds for lobbying expenditures or political contributions, to improve transparency, enhance accountability, encourage responsible corporate governance, and for other purposes.

S. 182

At the request of Mr. CASEY, his name was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 378

At the request of Mr. BAYH, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 378, a bill to correct the interpretation of the term proceeds under RICO.

S. 386

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 386, a bill to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

S. 456

At the request of Mr. DODD, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. 482

At the request of Mr. FEINGOLD, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 482, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 491

At the request of Mr. WEBB, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 513

At the request of Mr. SANDERS, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 513, a bill to require the Board of Governors of the Federal Reserve System to publish information on financial assistance provided to various entities, and for other purposes.

S. 524

At the request of Mr. FEINGOLD, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors 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. CON. RES. 4

At the request of Mr. NELSON of Florida, the names of the Senator from North Carolina (Mr. BURR), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Illinois (Mr. DURBIN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Con. Res. 4, a concurrent resolution calling on the President and the allies of the United States to raise the case of Robert Levinson with officials of the Government of Iran at every level and opportunity, and urging officials of the Government of Iran to fulfill their promises of assistance to the family of Robert Levinson and to share information on the investigation into the disappearance of Robert Levinson with the Federal Bureau of Investigation.

S. CON. RES. 6

At the request of Ms. STABENOW, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 6, a concurrent resolution expressing the sense of Congress that national health care reform should ensure

that the health care needs of women and of all individuals in the United States are met.

S. RES. 20

At the request of Mr. VOINOVICH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 20, a resolution celebrating the 60th anniversary of the North Atlantic Treaty Organization.

S. RES. 60

At the request of Mrs. SHAHEEN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 60, a resolution commemorating the 10-year anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization.

AMENDMENT NO. 615

At the request of Mr. ENSIGN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 615 proposed to H.R. 1105, a bill making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. NELSON, of Florida, Mr. KERRY, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. BROWN, and Ms. KLOBUCHAR):

S. 528. A bill to prevent voter caging; to the Committee on Rules and Administration.

Mr. LEAHY. Mr. President, this week, the Nation commemorates the 49th anniversary of ''Bloody Sunday,'' a day which marked a crucial turning point in securing the right to vote for all Americans. On March 7, 1965, in Selma, Alabama, JOHN LEWIS and his fellow civil rights activists marched for their right to vote but were brutally attacked by state troopers on the Edmund Pettus Bridge. We remember the acts of courageous Americans who fought through the years for equality. We honor their legacy by reaffirming our commitment to protect the right to vote for all Americans.

On the week of this important anniversary, I am pleased to join Sen. WHITEHOUSE in introducing the Caging Prohibition Act of 2009. This legislation contains commonsense reforms to strengthen the Nation's ability to combat organized efforts to suppress the right to vote and better protect the voting rights of countless Americans.

Senator WHITEHOUSE and I introduced a similar bill two years ago in an effort to bring urgent election reform to protect voters during the 2008 presidential election. Although the Rules Committee held a hearing on the measure, the bill was not reported out of Committee before the Senate adjourned last year. I hope the Senate will do its part to prevent shenanigans from disenfranchising voters during the next Federal election, by promptly passing this bill.

During my three decades in the Senate, I have devoted a considerable portion of my work to improving democratic participation and make our government more accessible to all Americans. For the past two years, I have been delighted to have Senator WHITEHOUSE as a partner on this important issue. I thank him for his leadership on preserving and strengthening our voting rights.

In recent years, we have seen a surge in a particularly alarming form of voter suppression known as voter caging. In voter caging, a political organization sends mail to addresses on voter rolls, compiles a list of returned mail, and uses that list as grounds for partisan and unjustified purges or challenges of voters' eligibility. During the last two presidential election cycles, we have seen evidence of voter caging efforts emerge in numerous States, including Ohio, Florida, Michigan, and Pennsylvania.

Chief among the problems with voter caging is that it threatens to disenfranchise voters in an unreliable manner. Rather than preventing votes cast by ineligible voters, far too often the practice prevents legitimate voters from casting their ballots. According to a recent report from the nonpartisan Brennan Center for Justice, ''[V]oter caging lists are highly likely to include the names of many voters who are in fact eligible to vote.'' Of course, since government databases are often riddled with typos and clerical errors, these findings are hardly surprising.

Even more troubling, voter caging often aims to disenfranchise minority voters. I recall during a Senate race in Louisiana, in 1986, a memorandum from the Republican National Committee concluded that hiring a consultant to distribute 350,000 mailings marked ''do not forward'' to mostly African-American districts would ''eliminate at least 60–80,000 folks from the rolls . . . [and] could keep the black vote down considerably.'' That is unacceptable. That is wrong. No one's right to vote should be abridged, suppressed, or denied in the United States of America.

The practice of voter caging chips away at core protections in our democracy. The right to vote, and have your vote count, is a foundational right because it secures the effectiveness of all other protections. Indeed, the very legitimacy of our government is dependent on the access all Americans have to the political process. That is why voting is the cornerstone of our democracy. Any infringement on this right harms the fabric of America.

All too often, voter caging efforts have partisan goals. For example, the Judiciary Committee's investigation last Congress into the mass firings of U.S. Attorneys for political reasons shed light on how Tim Griffin, a former Bush White House aide, participated in a voter caging scheme aimed at disenfranchising African-American voters in Florida. He was later appointed interim U.S. Attorney for the Eastern District of Arkansas.

Rooting out partisan voter caging tactics requires us to give Federal officials the tools and resources they need to investigate and prosecute organized efforts to suppress the right to vote. This bill will do exactly that.

This legislation would prohibit challenging a person's eligibility to vote—or register to vote—based on a voter caging list, an unverified match list, or foreclosure status. A challenged voter may feel intimidated or discouraged, and may leave a polling site and not vote. In America, a person should not lose their fundamental right to vote, nor have that vote challenged, on the sole basis of a mistake, error, or because their mail failed to reach them. Similarly, as the current economic crisis reminds us, Americans should not have their fundamental right to vote jeopardized simply because they lose their jobs to layoffs or their homes to foreclosure.

The bill would also require any private party who challenges the right of another citizen to vote—or register to vote—to set forth in writing, under penalty of perjury, the specific grounds for the alleged ineligibility. This provision deters illegitimate challenges to voters by requiring, at a minimum, a showing of good cause. It properly balances legitimate efforts to clean voting rolls with forbidding unreliable voter purges.

I am pleased that this bill has the support of civil rights and voting rights organizations such as the Leadership Conference on Civil Rights, the Lawyers Community for Civil Rights under Law, the Brennan Center for Justice, and the People for the American Way. They understand that voter caging is a modern-day barrier to the ballot box that has created unique problems for legitimate voters for many years, and that a Federal ban on these undemocratic practices is necessary.

I hope that this year all Senators will support this important legislation and take firm action to stamp out this intolerable voter suppression tactic.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mr. UDALL, of New Mexico, Mr. WHITEHOUSE, Mr. CARDIN, Mr. SANDERS, Mr. KERRY, and Ms. SNOWE):

S. 529. A bill to assist in the Conservation of rare fields and rare canids by supporting and providing financial resources for the conservation programs of countries within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Environment and Public Works.

Mr. LIEBERMAN. Mr President, I rise to speak about the Great Cats and Rare Canids Act, which I am introducing today along with my friends

Senators SAM BROWNBACK and TOM UDALL. This bipartisan legislation continues our tradition of protecting threatened and endangered species around the world and comes at a critical time in the survival of these animals.

Of the 37 wild felid species worldwide, all are currently recognized as species in need of protection under the World Conservation Union, IUCN, Red List, the lists of species in CITES appendices I, II, and III, or the Endangered Species Act of 1973. Of the 35 wild canid species worldwide, nearly 50 percent are recognized as in need of such protection in one of these categories.

This legislation would create the Great Cats and Rare Canids Conservation Fund and builds on the success of the Multinational Species Conservation Fund, NSCF, which presently provides funding to protect tigers, rhinoceroses, elephants, great apes, and marine turtles. The Great Cats and Rare Canids Conservation Fund would support the conservation of wild felid and canid populations outside the United States by providing financial resources to conserve 15 such species that are vital for their ecological value and are listed as endangered or threatened on the IUCN Red List of Endangered Species. The great cats and rare canids included in this bill are umbrella species that, if conserved appropriately, protect their corresponding landscapes and other species dependent on those ecosystems.

Among the species protected under this act are the majestic jaguar of South and Central America, the elusive snow leopard, the cheetah, the African wild dog, and other rare carnivore species. These species are threatened by habitat loss, poaching, disease, and pollution.

The struggle of the African wild dog is one example of the plight these large carnivores face. The less than 2,500 adults that remain not only have to combat the widespread misconception that they are livestock killers, but are extremely susceptible to diseases common in domesticated animals. They have lost 89 percent their habitat and are now found in only 14 of the 39 countries that comprise their historic range.

The snow leopard is another example. Like all great cats, the snow leopard needs a large tract of uninterrupted land in which to live, but the snow leopard's habitat in China has been fragmented due to human encroachment. The cats are also under extreme poaching pressures as their fur is sold on the black market.

In addition to protecting the species already listed in the Act, the U.S. Fish and Wildlife Service has been mandated to complete a study within two years of the bill's enactment to determine what other critically endangered species could become eligible for conservation assistance. The findings of this study will enable the United States to provide conservation assistance to protect additional great cat and rare canid species that are determined to need conservation assistance in the future.

Our bill would authorize $5 million in annual spending for the conservation of more than a dozen species of great cats and rare canines. The Great Cats and Rare Canids Conservation Fund would leverage private conservation dollars from corporate and non-government sources in order to address the critical need to conserve these threatened large carnivores. Historically, for every $1 invested by the Federal Government in the programs that are part of the Multinational Species Conservation Fund, there is at least a $3 match by private donations.

These funds enable the U.S. Fish and Wildlife Service to partner with nonprofit groups and foreign entities to undertake a range of conservation programs where threatened and endangered species live. Typical activities to protect the different species in the Multinational Species Conservation Fund include new educational programs for local populations to increase awareness of these species and prevent interactions that could be harmful to people and animals, as well as increased monitoring and law enforcement activities to prevent poaching and illegal animal trafficking. Great cats are particularly at risk from hunting for trade purposes while rare canids are susceptible to disease, and this bill will allow the establishment of programs to address these species-specific threats.

The genesis of the Great Cats and Rare Canids program is nearly a decade old, and the bill under consideration today was also introduced in the past two Congresses. In that time, these species have continued to decline in numbers. I do not think our children and grandchildren will forgive us if we stand by and let these magnificent animals drift into extinction. With a relatively small investment, we can invigorate ongoing conservation efforts around the world.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI):

S. 531. A bill to provide for the conduct of an in-depth analysis of the impact of energy development and production on the water resources of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing a bill, with Senator MURKOWSKI's support, that will improve our understanding of the interdependence of energy and water and begin integrating decision-making for both resources. The relationship between energy and water is an often overlooked but serious issue that is growing in importance.

Energy and water are crucial components of modern life. Production of energy and freshwater are inextricably linked. Each is required for the production of the other, and neither resource is routinely considered in developing management policies for the other. As population density continues to increase in already water-stressed regions, it is crucial that the United States develop new policies that integrate energy and water solutions so that one resource does not undermine the use of the other.

Thermal power generation, coal, natural gas, oil, and nuclear, accounts for 39 percent of freshwater withdrawals in the U.S., second only to agriculture-related withdrawals. Water use can range from 7,500 gallons of water per megawatt-hour produced, gal/MWhr, for natural gas plants, to 60,000 gal/MWhr for some nuclear facilities. Petroleum refineries also use a significant amount of water, and the water demands of the transportation sector will only increase as the U.S. seeks to reduce its reliance on foreign oil. The two primary options for reducing gasoline use—plug-in hybrids and biofuels—are both more water intensive than gasoline. By some estimates, plug-in hybrids consume three times more water per mile traveled than conventional gasoline vehicles. If the entire production cycle is considered, some biofuels can consume as much as 20 times more water per mile traveled. Three provisions of the bill attempt to highlight and further analyze these issues: a National Academies study of water use in transportation fuel production and electricity generation; the development of power plant water use guidelines by the Department of Energy; and a directive to the Secretary of Energy to finalize an energy-water research and development roadmap to guide policy efforts in the future. Better data will lead to integration of water considerations in the development of energy policy.

Just as our energy consumption uses large amounts of water, the acquisition, treatment, and delivery of water supplies consumes massive amounts of energy. For example, 19 percent of California's electricity consumption is for water-related energy uses. Overall, treatment and delivery of municipal water supplies consume 3 percent of the nation's electricity. The bill addresses the issue of water-related energy consumption by directing the Bureau of Reclamation to evaluate energy use in Reclamation projects and identify ways to reduce such use. The bill also directs the Energy Information Administration to gather data and report on the energy consumed by water treatment and delivery activities. Once again, better data will lead to improved decision-making by State, local, and Federal water managers. Furthermore, the bill establishes research priorities for the Bureau of Reclamation's Brackish Groundwater Desalination Facility, including renewable energy integration with desalination technologies. To the extent that renewable energy can be integrated

with water treatment and delivery facilities, public acceptance of new water supply proposals is likely to increase.

The bill being introduced today is a good first step towards integrating energy and water policy. Such efforts will become increasingly necessary as growing populations, environmental needs, and a changing climate continue to affect both energy and water resources. I look forward to this legislation increasing the dialogue on these issues and hope that we can incorporate additional ideas as the legislative process proceeds.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 531

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 ''Energy and Water Integration Act of 2009''.

SEC. 2. ENERGY WATER NEXUS STUDY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy (referred to in this Act as the ''Secretary''), in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct an in-depth analysis of the impact of energy development and production on the water resources of the United States.

(b) SCOPE OF STUDY.—

(1) IN GENERAL.—The study described in subsection (a) shall be comprised of each assessment described in paragraphs (2) through (4).

(2) TRANSPORTATION SECTOR ASSESSMENT.—

(A) IN GENERAL.—The study shall include a lifecycle assessment of the quantity of water withdrawn and consumed in the production of transportation fuels, or electricity, to evaluate the ratio that—

(i) the quantity of water withdrawn and consumed in the production of transportation fuels (measured in gallons), or electricity (measured in kilowatts); bears to

(ii) the total distance (measured in miles) that may be traveled as a result of the consumption of transportation fuels, or electricity.

(B) SCOPE OF ASSESSMENT.—

(i) IN GENERAL.—The assessment shall include, as applicable—

(I) the exploration for, and extraction or growing of, energy feedstock;

(II) the processing of energy feedstock into transportation fuel;

(III) the generation, transportation, and storage of electricity for transportation; and

(IV) the conduct of an analysis of the efficiency with which the transportation fuel is consumed.

(ii) FUELS.—The assessment shall contain an analysis of transportation fuel sources, including—

(I) domestically produced crude oil (including products derived from domestically produced crude oil);

(II) imported crude oil (including products derived from imported crude oil);

(III) domestically produced natural gas (including liquid fuels derived from natural gas);

(IV) imported natural gas (including liquid fuels derived from natural gas);

(V) oil shale;

(VI) tar sands;

(VII) domestically produced corn-based ethanol;

(VIII) imported corn-based ethanol;

(IX) advanced biofuels (including cellulosic- and algae-based biofuels);

(X) coal to liquids (including aviation fuel, diesel, and gasoline products);

(XI) electricity consumed in—

(aa) fully electric drive vehicles; and

(bb) plug-in hybrid vehicles;

(XII) hydrogen; and

(XIII) any reasonably foreseeable combination of any transportation fuel source described in subclauses (I) through (XII).

(3) ELECTRICITY SECTOR ASSESSMENT.—

(A) IN GENERAL.—The study shall include a lifecycle assessment of the quantity of water withdrawn and consumed in the production of electricity to evaluate the ratio that—

(i) the quantity of water used and consumed in the production of electricity (measured in gallons); bears to

(ii) the quantity of electricity that is produced (measured in kilowatt-hours).

(B) SCOPE OF ASSESSMENT.—The assessment shall include, as applicable—

(i) the exploration for, or extraction or growing of, energy feedstock;

(ii) the processing of energy feedstock for electricity production; and

(iii) the production of electricity.

(C) GENERATION TYPES.—The assessment shall contain an evaluation and analysis of electricity generation facilities that are constructed in accordance with different plant designs (including different cooling technologies such as water, air, and hybrid systems, and technologies designed to minimize carbon dioxide releases) based on the fuel used by the facility, including—

(i) coal;

(ii) natural gas;

(iii) oil;

(iv) nuclear energy;

(v) solar energy;

(vi) wind energy;

(vii) geothermal energy;

(viii) biomass;

(ix) the beneficial use of waste heat; and

(x) any reasonably foreseeable combination of any fuel described in clauses (i) through (ix).

(4) ASSESSMENT OF ADDITIONAL IMPACTS.—In addition to the impacts associated with the direct use and consumption of water resources in the transportation and electricity sectors described in paragraphs (2) and (3), the study shall contain an identification and analysis of any unique water impact associated with a specific fuel source, including an impact resulting from—

(A) any extraction or mining practice;

(B) the transportation of feedstocks from the point of extraction to the point of processing;

(C) the transportation of fuel and power from the point of processing to the point of consumption; and

(D) the location of a specific fuel source that is limited to 1 or more specific geographical regions.

(c) REPORT TO SECRETARY.—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary a report that contains a summary of the results of the study conducted under this section.

(d) AVAILABILITY OF RESULTS OF STUDY.—On the date on which the National Academy of Sciences completes the study under this section, the National Academy of Sciences shall make available to the public the results of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SEC. 3. POWER PLANT WATER AND ENERGY EFFICIENCY.

(a) IN GENERAL.—To protect water supplies and promote the efficient use of water in the electricity production sector, the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall conduct a study to identify the best available technologies and related strategies to maximize water and energy efficiency in the production of electricity by each type of generation.

(b) GENERATION TYPES.—The study shall include an evaluation of different types of generation facilities, including—

(1) coal facilities, under which the evaluation shall account for—

(A) different types of coal and associated generating technologies; and

(B) the use of technologies designed to minimize and sequester carbon dioxide releases;

(2) oil and natural gas facilities, under which the evaluation shall account for the use of technologies designed to minimize and sequester carbon dioxide releases;

(3) hydropower, including turbine upgrades, incremental hydropower, in-stream hydropower, and pump-storage projects;

(4) thermal solar facilities; and

(5) nuclear facilities.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.

SEC. 4. WATER CONSERVATION AND ENERGY SAVINGS STUDY.

(a) DEFINITIONS.—In this section:

(1) MAJOR RECLAMATION PROJECT.—The term ''major Reclamation project'' means a multipurpose project authorized by the Federal Government and carried out by the Bureau of Reclamation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(b) STUDY.—

(1) IN GENERAL.—In accordance with paragraph (2), to promote the efficient use of energy in water distribution systems, the Secretary shall conduct a study to evaluate the quantities of energy used in water storage and delivery operations in major Reclamation projects.

(2) ELEMENTS.—In conducting the study, the Secretary shall—

(A) with respect to each major Reclamation project—

(i) assess and estimate the annual energy consumption associated with the major Reclamation project; and

(ii) identify—

(I) each major Reclamation project that consumes the greatest quantity of energy; and

(II) the aspect of the operation of each major Reclamation project described in subclause (I) that is the most energy intensive (including water storage and releases, water delivery, and administrative operations); and

(B) identify opportunities to significantly reduce current energy consumption and costs with respect to each major Reclamation project described in subparagraph (A), including, as applicable, through—

(i) reduced groundwater pumping;

(ii) improved reservoir operations;

(iii) infrastructure rehabilitation;
(iv) water reuse; and
(v) the integration of renewable energy generation with project operations.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.

SEC. 5. BRACKISH GROUNDWATER NATIONAL DESALINATION RESEARCH FACILITY.

(a) DEFINITIONS.—In this section:
(1) FACILITY.—The term ''facility'' means the Brackish Groundwater National Desalination Research Facility, located in Otero County, New Mexico.
(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) DUTY OF SECRETARY.—The Secretary shall operate, manage, and maintain the facility to carry out research, development, and demonstration activities to develop technologies and methods that promote brackish groundwater desalination as a viable method to increase water supply in a cost-effective manner.

(c) OBJECTIVES; ACTIVITIES.—
(1) OBJECTIVES.—The Secretary shall operate and manage the facility as a state-of-the-art desalination research center—
(A) to develop new water and energy technologies with widespread applicability; and
(B) to create new supplies of usable water for municipal, agricultural, industrial, or environmental purposes.
(2) ACTIVITIES.—In operating, managing, and maintaining the facility under subsection (b), the Secretary shall carry out—
(A) as a priority, the development of renewable energy technologies for integration with desalination technologies—
(i) to reduce the capital and operational costs of desalination;
(ii) to minimize the environmental impacts of desalination; and
(iii) to increase public acceptance of desalination as a viable water supply process;
(B) research regarding various desalination processes, including improvements in reverse and forward osmosis technologies;
(C) the development of innovative methods and technologies to reduce the volume and cost of desalination concentrated wastes in an environmentally sound manner;
(D) an outreach program to create partnerships with States, academic institutions, private entities, and other appropriate organizations to conduct research, development, and demonstration activities, including the establishment of rental and other charges to provide revenue to help offset the costs of operating and maintaining the facility; and
(E) an outreach program to educate the public on—
(i) desalination and renewable energy technologies; and
(ii) the benefits of using water in an efficient manner.

(d) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts or other agreements with, or make grants to, appropriate entities to carry out this section, including an agreement with an academic institution to manage research activities at the facility.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 6. ENHANCED INFORMATION ON WATER-RELATED ENERGY CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(n) WATER-RELATED ENERGY CONSUMPTION.—

''(1) IN GENERAL.—Not less than once during each 3-year period, to aid in the understanding and reduction of the quantity of energy consumed in association with the use of water, the Administrator shall conduct an assessment under which the Administrator shall collect information on energy consumption in various sectors of the economy that are associated with the acquisition, treatment, or delivery of water.

''(2) REQUIRED SECTORS.—An assessment described in paragraph (1) shall contain an analysis of water-related energy consumption for all relevant sectors of the economy, including water used for—

''(A) agricultural purposes;
''(B) municipal purposes;
''(C) industrial purposes; and
''(D) domestic purposes.

''(3) EFFECT.—Nothing in this subsection affects the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

SEC. 7. ENERGY-WATER RESEARCH AND DEVELOPMENT ROADMAP.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall develop a document to be known as the ''Energy-Water Research and Development Roadmap'' to define the future research, development, demonstration, and commercialization efforts that are required to address emerging water-related challenges to future, cost-effective, reliable, and sustainable energy generation and production.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report describing the document described in subsection (a), including recommendations for any future action with respect to the document.

By Ms. COLLINS (for herself, Mr. KENNEDY, and Ms. SNOWE):

S. 533. A bill to amend the Coastal Zone Management Act of 1972 to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce two bills that will improve the lives of our Nation's fishermen who are struggling to make a living at sea.

The fishing industry in New England is an important part of our heritage. From our nation's earliest days, fishing has served as an economic driver that has allowed our nation to prosper. Maine's proud fishing heritage is woven deeply into the cultural fabric of our state. Sadly, the global economic downturn and heavy-handed federal regulations threaten the economic stability of this venerable industry. To attempt to assist our fishing families, I am pleased to be joined by my colleague from Massachusetts, Senator KENNEDY, in introducing the Working Waterfront Preservation Act and the Commercial Fishermen Safety Act.

All along our Nation's coasts there are harbors that were once full of the hustle and bustle associated with the fishing industry. Unfortunately, there is an erosion of the vital infrastructure known as our working waterfronts that is so critical to our commercial fishing industries. I have drafted legislation that will help combat the loss of commercial access to our waterfronts and support the fishing industry's role in our maritime heritage.

When constituents first called asking me to help them in their efforts to stop the loss of their fishing businesses and the communities built around this industry, I learned that no Federal program exists that supports preserving or increasing waterfront access for the commercial fishing industry. This is especially disheartening because every week we are losing more of our working waterfronts in this country. Quite simply, once lost, these vital economic and community hubs of commercial fishing activity cannot be replaced.

That is why I am introducing the Working Waterfront Preservation Act. This legislation would create a program to support our Nation's commercial fisherman and the coastal communities that are at risk of losing their fishing businesses.

The need for such a program is demonstrated by the loss of commercial waterfront access occurring in Maine. Only 25 of Maine's 3,500 miles of coastline are devoted to commercial access. We are continually seeing portions of Maine's working waterfront being sold off to the highest bidder—with large vacation homes and condominiums rising in places that our fishing industry used to call home.

The reasons for the loss of Maine's working waterfront are complex. In some cases, burdensome fishing regulations have led to a decrease in landings, hindering the profitability of shore-side infrastructure, like the Portland Fish Exchange. In other cases, soaring land values and rising taxes have made the current use of commercial land unprofitable. Property is being sold and quickly converted into private spaces and second homes that are no longer the center of economic activity. With each conversion of commercial waterfront access to private development, a piece of Maine's proud maritime tradition is irretrievably lost.

Maine's lack of commercial waterfront prompted the formation of a ''Working Waterfront Coalition.'' This coalition was comprised of an impressive number of industry associations, nonprofit groups, and State agencies, who came together to preserve Maine's working waterfront.

I am pleased to note that the Working Waterfront Coalition was successful in contributing to the creation of two programs in Maine. The first is a tax incentive for property owners to keep their land in its current working waterfront state. The second is a pilot program for grant funding to secure and preserve working waterfront areas. Since 2006, the Working Waterfront Access Pilot Program has secured 11 properties totaling more than 25 acres of

land that supports more than 300 boats, 400 fishing industry jobs, and more than $26 million in income directly associated with our working waterfronts. The State of Maine has taken positive action to save its waterfronts and is a model for other States in the country facing this problem.

This work is not, however, finished. The loss of commercial waterfront access affects the fishing industry throughout all coastal states. And a modest Federal investment could do so much to save these areas. Preservation of the working waterfront is essential to protect a way of life that is unique to our coastal States and is vital to economic development along the coast. Fishermen are being pushed out of the waterfront as their profitability shrinks and land values soar. Our legislation targeting this exact problem, as no Federal program exists to assist States like Maine, Florida, Washington, and Louisiana.

The Working Waterfront Preservation Act would assist by providing Federal grant funding to municipal and State governments, non-profit organizations, and fishermen's cooperatives for the purchase of property or easements or for the maintenance of working waterfront facilities. The bill contains a $50 million authorization for grants that would require a 25 percent local match. Applications for grants would be considered by both the Department of Commerce and State fisheries agencies, which have the local expertise to understand the needs of each coastal State. Grant recipients would agree not to convert coastal properties to noncommercial uses, as a condition of receiving Federal assistance.

This legislation also includes a tax component. When properties or easements are purchased, sellers would only be taxed on half of the gain they receive from this sale. This is a vital aspect of my bill because it would diminish the pressure to quickly sell waterfront property that would then, most likely, be converted to noncommercial uses, and would increase the incentives for sellers to take part in this grant program. This is especially important given that the application process for Federal grants does not keep pace with the coastal real estate market.

This legislation is crucial for our Nation's commercial fisheries, which are coming under increasing pressures from many fronts. This new grant program would preserve important commercial infrastructure and promote economic development along our coast.

Second, I am introducing the Commercial Fishermen Safety Act of 2009, a bill to help fishermen purchase the lifesaving safety equipment they need to survive when disaster strikes.

Every day, members of our fishing communities struggle to cope with the pressures of running a small business, complying with burdensome regulations, and maintaining their vessels and equipment. These challenges have been made worse by the growing economic crisis, which only adds to the dangers associated with fishing.

Year-in and year-out, commercial fishing ranks among the nation's most dangerous occupations. Fatality rate data compiled by the Census of Fatal Occupational Injuries program for 2007 has, once again, listed fishing as having the highest fatality rate among selected occupations. While I am encouraged that 2007 saw a drop in the number of occupational-related fatalities in the fishing industry, we must be doing more to save lives at sea.

The New England fishing community is no stranger to tragedy. Just this year, the *Patriot*, a 54-foot fishing boat out of Gloucester, MA, sunk off the coast of Massachusetts without warning. The ship's captain Matteo Russo and crew member John Orlando, who were lost in the incident, were unable to send a mayday call in the early morning of January 3, 2009. The unexplained circumstance of their deaths offers little solace to the families and communities that loved them. What is clear is that preventing further loss of life requires that we do all we can to promote safety at sea.

Coast Guard regulations require all fishing vessels to carry safety equipment. The requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the vessel travels from shore to fish. Required equipment can include a liferaft that automatically inflates and floats free, should the vessel sink. Other life-saving equipment includes: personal flotation devices or immersion suits which help protect fishermen from exposure and increase buoyancy; EPIRBs, which relay a downed vessel's position to Coast Guard Search and Rescue Personnel; visual distress signals; and fire extinguishers.

When an emergency arises, safety equipment is priceless. At all other times, the cost of purchasing or maintaining this equipment must compete with other expenses such as loan payments, fuel, wages, maintenance, and insurance.

The Commercial Fishermen Safety Act of 2007 provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit is capped at $1500. Items such as EPIRBs and immersion suits cost hundreds of dollars, while liferafts can reach into the thousands. The tax credit will make life-saving equipment more affordable for more fishermen, who currently face limited options under the federal tax code.

We have seen far too many tragedies in this occupation. Please, let us support fishermen who are trying to prepare in case disaster strikes. Safety equipment saves lives. By providing a tax credit for the purchase of safety equipment, Congress can help ensure that fishermen have a better chance of returning home each and every time they head out to sea.

By Mr. WYDEN:

S. 536. A bill to amend the Clean Air Act to modify the definition of the term ''renewable biomass''; to the Committee on Environment and Public Works.

Mr. WYDEN. Mr. President, there is an old saying about ''not seeing the forest for the trees'' that applies to the current myopic policies on biomass from Federal lands. Right now, instead of helping to provide part of the solution to our Nation's dependence on foreign oil, biomass from Federal lands allowed to build up in the woods or worse become fuel for catastrophic fires. Instead of being part of the solution for energy independence, it is creating a problem for forest management and communities that border on Federal forests.

I rise today to introduce a bill that would allow woody debris and plant material—or ''biomass''—from Federal lands to become part of the solution to America's energy problems and to create new economic opportunities to help sustain our rural communities. This legislation would amend the Clean Air Act to modify the definition of the term ''renewable biomass'' contained in the Federal Renewable Fuel Standard so that biomass from Federal lands is eligible as a fuel source under this standard.

Today, biomass from Federal lands cannot be counted as a renewable transportation fuel. The change I am proposing would help tackle a number of critical problems—expanding the universe of biomass that can be used for fuel, helping pay for programs to reduce dangerous levels of dead and dying trees that fuel wildfires, thinning unhealthy, second growth forests, providing low-carbon fuels to address climate change, and create jobs in increasingly difficult economic times.

The reason we need this legislation goes back to the 2007 energy bill—the Energy Independence and Security Act of 2007. In that legislation, the Congress dramatically expanded the Federal mandate for the use of renewable biofuels, such as ethanol from corn and cellulose, and biodiesel. Unfortunately, this legislation included a definition of renewable biomass that is now part of the Clean Air Act which excluded slash and thinning byproducts from Federal lands—all Federal lands. This occurred despite the bipartisan work we had undertaken here in the Senate and in the Energy and Natural Resources Committee to come up with a more commonsense definition. The result is that biomass from millions of acres of Federal lands are arbitrarily excluded from serving as feedstock for the very renewable biofuels that the mandate requires.

Changing the definition of ''renewable biomass'' for the renewable fuels standard is very important to states like Oregon, where the Federal Government owns much of the land and where our forests are choked and overstocked. Critical work needs to take

place in these forests and utilizing the excess biomass—small diameter trees, limbs and debris—for energy will help us get that work accomplished while getting us the added benefit of green energy. These byproducts are often a critical energy source for rural Americans, who use them in environmentally-friendly wood pellet stoves. But more importantly, they are part of the future of clean, renewable fuels—as further development of cellulosic ethanol will allow us to use these waste materials reclaimed literally from the forest and mill floors. Conversely, by excluding biomass from Federal lands, the existing mandate places ever more weight on the use of biomass from other sources, including the use of food-based corn and grains and private forests.

My bill seeks to utilize biomass from Federal lands in an environmentally responsible way. It will protect those natural resources that need to be protected, while allowing renewable biomass from Federal lands to contribute to our Nation's energy mix. First, my bill would allow biomass from National Forests and Bureau of Land Management forests to qualify as renewable biomass under the Federal Renewable Fuels Standard, but it would continue to exclude old growth and biomass from National Parks, Wilderness Areas and other environmentally protected areas. Second, the bill would require Federal land managers to ensure that the quantities of biomass harvested even from these eligible National Forest and BLM lands are sustainable. While biomass holds great potential as a clean source of energy, I want to ensure that it gets harvested at levels that are truly sustainable and that biofuels and bioenergy projects dependent on renewable biomass are sized appropriately so that we protect our forests and natural resources and ensure that biofuels production facilities will not wither and die because of inadequate feedstock supplies.

I want to be clear that my legislation only addresses the question of how the Renewable Fuel Standard treats biomass from Federal lands. It does not and it is not intended to reopen or overhaul the Renewable Fuels Standard as a whole. It is simply a targeted fix for our Federal public lands.

As we move forward with new energy legislation and work on developing additional green energy solutions, I want to ensure that renewable biomass is genuinely one of those solutions, including biomass from Federal lands. It is my hope that beyond fixing the definition in the Clean Air Act for the Renewable Fuels Standard, Congress will include a comparable definition in legislation addressing climate change and renewable electricity production requirements.

I look forward to working with my colleagues here in the Senate and in the House of Representatives to advance a biomass definition that balances sound energy policy with practical and sensible use of our forests.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENEWABLE BIOMASS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that Congress should seek to establish a consistent definition for the term ''renewable biomass''.

(b) RENEWABLE BIOMASS.—Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) is amended—

(1) by redesignating clauses (v) through (vii) as clauses (vi) through (viii), respectively;

(2) by inserting after clause (iv) the following:

''(v) Slash and precommercial sized thinnings harvested—

''(I) in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

''(II) from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702), other than—

''(aa) components of the National Wilderness Preservation System;

''(bb) wilderness study areas;

''(cc) inventoried roadless areas and all unroaded areas of at least 5,000 acres;

''(dd) old growth stands;

''(ee) components of the National Landscape Conservation System; and

''(ff) national monuments.''; and

(3) by striking clause (vi) (as redesignated by paragraph (1)) and inserting the following:

''(vi) Biomass obtained on land in any ownership from the immediate vicinity of any building, camp, or public infrastructure facility (including roads), at risk from wildfire.''.

By Mr. KOHL (for himself and Mr. GRAHAM):

S. 537. A bill to amend chapter 111 of tire 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Sunshine in Litigation Act of 2009, a bill that will curb the ongoing abuse of secrecy orders in Federal courts. The result of this abuse, which often comes in the form of sealed settlement agreements, is to keep important health and safety information hidden from the public.

This problem has been recurring for decades, and most often arises in product liability cases. Typically, an individual brings a cause of action against a manufacturer for an injury or death that has resulted from a defect in one of its products. The injured party often faces a large corporation that can spend a virtually unlimited amount of money defending the lawsuit, prolonging the time it takes to reach resolution. Facing a formidable opponent and mounting medical bills, a plaintiff often has no choice but to settle the litigation. In exchange for the award he or she was seeking, the victim is forced to agree to a provision that prohibits him or her from revealing information disclosed during the litigation.

Plaintiffs get a respectable award, and the defendant is able to keep damaging information from getting out. Because they remain unaware of critical public health and safety information that could potentially save lives, the American public incurs the greatest cost.

This concern about excessive secrecy is warranted by the fact that tobacco companies, automobile manufacturers, and pharmaceutical companies have settled with victims and used the legal system to hide information which, if it became public, could protect the American people from future harms. Surely, there are appropriate uses for such orders, like protecting trade secrets and other truly confidential company information. This legislation makes sure such information is protected. But, protective orders are certainly not supposed to be used for the sole purpose of hiding damaging information from the public, to protect a company's reputation or profit margin.

One of the most famous cases of abuse of secrecy orders involved Bridgestone/Firestone tires. From 1992–2000, tread separations of various Bridgestone and Firestone tires caused accidents across the country, many resulting in serious injuries and even fatalities. Instead of owning up to their mistakes and acting responsibly, Bridgestone/Firestone quietly settled dozens of lawsuits, most of which included secrecy agreements. It was not until 1999, when a Houston public television station broke the story, that the company acknowledged its wrongdoing and recalled 6.5 million tires. By then, it was too late. More than 250 people had died and more than 800 were injured as a result of the defective tires.

If the story ended there, and the Bridgestone/Firestone cases were just an aberration, one might argue that there is no urgent need for legislation. But, unfortunately, the list of abuses goes on. There is the case of General Motors. Although an internal memo demonstrated that GM was aware of the risk of fire deaths from crashes of pickup trucks with ''side saddle'' fuel tanks, an estimated 750 people were killed in fires involving trucks with these fuel tanks. When victims sued, GM disclosed documents only under protective orders, and settled these cases on the condition that the information in these documents remained secret. This type of fuel tank was installed for 15 years before being discontinued.

Evidence suggests that the dangers posed by protective orders and secret settlements continue. On December 11, 2007, at a hearing before the Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy and Consumer Rights, Johnny Bradley Jr. described his tragic personal story that demonstrates the implications of court endorsed secrecy. In 2002, Mr. Bradley's

wife was killed in a rollover accident allegedly caused by tread separation in his Cooper tires. While litigating the case, his attorney uncovered documented evidence of Cooper tire design defects. Through aggressive litigation of protective orders and confidential settlements in cases prior to the Bradleys' accident, Cooper had managed to keep the design defect documents confidential. Prior to the end of Mr. Bradley's trial, Cooper Tires settled with him on the condition that almost all litigation documents would be kept confidential under a broad protective order. With no access to documented evidence of design defects, consumers will continue to remain in the dark about this life-threatening defect.

In 2005, the drug company Eli Lilly settled 8,000 cases related to harmful side effects of its drug Zyprexa. All of those settlements required plaintiffs to agree ''not to communicate, publish or cause to be published . . . any statement . . . concerning the specific events, facts or circumstances giving rise to [their] claims.'' In those cases, the plaintiffs uncovered documents which showed that, through its own research, Lilly knew about the harmful side effects as early as 1999. While the plaintiffs kept quiet, Lilly continued to sell Zyprexa and generated $4.2 billion in sales in 2005. More than a year later, information about the case was leaked to the New York Times and another 18,000 cases settled. Had the first settlement not included a secrecy agreement, consumers would have been able to make informed choices and avoid the harmful side effects, including enormous weight gain, dangerously elevated blood sugar levels, and diabetes.

This very issue is currently before a Federal judge in Orlando, FL. There, the court is faced with deciding whether AstraZeneca can keep under seal clinical studies about the harmful side effects of an antipsychotic drug, Seroquel. Plaintiffs' lawyers and Bloomberg News sued to force AstraZeneca to make public documents discovered in dismissed lawsuits. Late last month, the court unsealed some of the documents at question, and is still deciding whether to unseal the remainder of the documents. This is exactly the sort of case where we need judges to consider public health and safety when deciding whether to allow a secrecy order.

There are no records kept of the number of confidentiality orders accepted by State or Federal courts. However, anecdotal evidence suggests that court secrecy and confidential settlements are prevalent. Beyond General Motors, Bridgestone/Firestone, Cooper Tire, Zyprexa and Seroquel, secrecy agreements have also had real life consequences by allowing Dalkon Shield, Bjork-Shiley heart valves, and numerous other dangerous products and drugs to remain in the market. And those are only the ones we know about.

While some states have already begun to move in the right direction, we still have a long way to go. It is time to initiate a Federal solution for this problem. The Sunshine in Litigation Act is a modest proposal that would require federal judges to perform a simple balancing test to ensure that in any proposed secrecy order, the defendant's interest in secrecy truly outweighs the public interest in information related to public health and safety.

Specifically, prior to making any portion of a case confidential or sealed, a judge would have to determine—by making a particularized finding of fact—that doing so would not restrict the disclosure of information relevant to public health and safety. Moreover, all courts, both Federal and State, would be prohibited from issuing protective orders that prevent disclosure to relevant regulatory agencies.

This legislation does not prohibit secrecy agreements across the board. It does not place an undue burden on judges or our courts. It simply states that where the public interest in disclosure outweighs legitimate interests in secrecy, courts should not shield important health and safety information from the public. The time to focus some sunshine on public hazards to prevent future harm is now.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 537

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 ''Sunshine in Litigation Act of 2009''.

SEC. 2. RESTRICTIONS ON PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Restrictions on protective orders and sealing of cases and settlements

''(a)(1) A court shall not enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery, an order approving a settlement agreement that would restrict the disclosure of such information, or an order restricting access to court records in a civil case unless the court has made findings of fact that—

''(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

''(B)(i) the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

''(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

''(2) No order entered in accordance with paragraph (1), other than an order approving a settlement agreement, shall continue in effect after the entry of final judgment, unless at the time of, or after, such entry the court makes a separate finding of fact that the requirements of paragraph (1) have been met.

''(3) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

''(4) This section shall apply even if an order under paragraph (1) is requested—

''(A) by motion pursuant to rule 26(c) of the Federal Rules of Civil Procedure; or

''(B) by application pursuant to the stipulation of the parties.

''(5)(A) The provisions of this section shall not constitute grounds for the withholding of information in discovery that is otherwise discoverable under rule 26 of the Federal Rules of Civil Procedure.

''(B) No party shall request, as a condition for the production of discovery, that another party stipulate to an order that would violate this section.

''(b)(1) A court shall not approve or enforce any provision of an agreement between or among parties to a civil action, or approve or enforce an order subject to subsection (a)(1), that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

''(2) Any such information disclosed to a Federal or State agency shall be confidential to the extent provided by law.

''(c)(1) Subject to paragraph (2), a court shall not enforce any provision of a settlement agreement described under subsection (a)(1) between or among parties that prohibits 1 or more parties from—

''(A) disclosing that a settlement was reached or the terms of such settlement, other than the amount of money paid; or

''(B) discussing a case, or evidence produced in the case, that involves matters related to public health or safety.

''(2) Paragraph (1) does not apply if the court has made findings of fact that the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information.

''(d) When weighing the interest in maintaining confidentiality under this section, there shall be a rebuttable presumption that the interest in protecting personally identifiable information relating to financial, health or other similar information of an individual outweighs the public interest in disclosure.

''(e) Nothing in this section shall be construed to permit, require, or authorize the disclosure of classified information (as defined under section 1 of the Classified Information Procedures Act (18 U.S.C. App.)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

''1660. Restrictions on protective orders and sealing of cases and settlements.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) take effect 30 days after the date of enactment of this Act; and

(2) apply only to orders entered in civil actions or agreements entered into on or after such date.

By Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. LEAHY, Mr. MENENDEZ, and Mr. PRYOR):

S. 538. A bill to increase the recruitment and retention of school counselors, school social workers, and

school psychologists by low-income local educational agencies; to the Committee on Health, Education, Labor, and Pensions.

Mrs. LINCOLN. Mr. President, on behalf of children in lower-income schools across our nation, I rise today to introduce the Increased Student Achievement through Increased Student Support Act.

Each day, teachers in our schools are tasked not only with addressing the academic needs of students, but also with the behavioral, social, and emotional needs of the children in their classrooms. When they are left to address these emotional and behavioral issues, they have less time to deliver high quality academic instruction to the rest of the students in their class. Additionally, teachers often do not have the training or expertise to deal with many of the emotional issues their students face. Children overcoming mental illness or family issues such as the deployment of a parent to a war zone, homelessness, or domestic abuse, need the assistance of a trained professional, such as a school psychologist, school counselor, or school social worker.

While student support services provided by these support personnel are readily available in many school districts, other low-income schools often lack access to these support personnel. Too many schools in low-income rural and urban areas have to share school counselors, social workers, and psychologists with many schools in the area, limiting their students' access to these services and placing an unnecessary burden on our teachers and our students.

That is why I rise today along with my colleagues Senators COCHRAN, LEAHY, MENENDEZ, and PRYOR to enthusiastically offer the Increased Student Achievement through Increased Student Support Act. This bill will authorize grant funding to form partnerships between higher education institutions that train school guidance counselors, social workers, and psychologists and qualified rural and urban low-income Local Education Agencies to train and place these important school support professionals in under-served schools across the country.

This bipartisan bill also authorizes grant funding to universities to recruit and hire faculty to train graduate students to become school counselors, school social workers, and school psychologists. Additionally, it provides tuition credits to such graduate students, and offers student loan forgiveness to program graduates employed as school counselors, social workers, or psychologists by rural or urban low-income Local Education Agencies for a minimum of five years.

By increasing the number of student support personnel in our country's under-served schools, we will provide students with the social and emotional support they need to succeed in the classroom. We will also provide teachers the assistance they need so they can concentrate on providing the academic instruction our children need.

By taking these steps to improve student access to school counselors, school social workers, and school psychologists, I am confident we can make strides in raising academic achievement in schools across the country.

As we move forward, I want to encourage my colleagues to support America's children by supporting this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 538

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 ''Increased Student Achievement Through Increased Student Support Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Research shows that socioeconomic status and family background characteristics are highly correlated with educational outcomes, with a concentration of low-performing schools in low-income and underserved communities.

(2) Teachers cite poor working conditions, student behavior, lack of student motivation, and lack of administrative support as key reasons why they choose to leave the teaching profession.

(3) Teachers and principals working for low-income local educational agencies are increasingly tasked with addressing not only the academic needs of a child, but also the social, emotional, and behavioral needs of a child that require the services of a school counselor, school social worker, and school psychologist, and these needs often interfere with delivering quality instruction and raising student achievement.

(4) Rates of abuse and neglect of young children in military families have doubled with the increased military involvement of the United States abroad since October 2002; likewise, adolescents with deployed parents report increased perceptions of uncertainty and loss, role ambiguity, negative changes in mental and behavioral health, and increased relationship conflict, raising concerns about the impact of deployment on military personnel and their families and whether schools that serve a large number of children with deployed parents have sufficient staff and expertise to meet these challenges.

(5) Children of military families in rural communities are often geographically isolated, and schools that were already experiencing understaffing of school counselors, school social workers, and school psychologists face even greater challenges meeting the increased needs of students enduring the stress that comes along with having a deployed parent or parents.

(6) Schools served by low-income local educational agencies suffer disproportionately from a lack of services, with many schools sharing a single school counselor, school social worker, or school psychologist with neighboring schools.

(7) Too few school counselors, school social workers, and school psychologists per student means that such personnel are often unable to effectively address the needs of students.

(8) The American School Counselor Association and American Counseling Association recommend having at least 1 school counselor for every 250 students.

(9) The School Social Work Association of America recommends having at least 1 school social worker for every 400 students.

(10) The National Association of School Psychologists recommends having at least 1 school psychologist for every 1,000 students.

(11) Recent research of victimization of children ages 2 to 17 suggests that more than one-half of the children experienced a physical assault in the study year. More than 1 in 4 experienced a property offense, more than 1 in 8 experienced a form of child maltreatment, 1 in 12 experienced a sexual victimization, and more than 1 in 3 had been a witness to violence or experienced another form of indirect victimization. Only 29 percent of the children had no direct or indirect victimization.

(12) Principals and teachers see signs of trauma-related stress in many students including hostile outbursts, sliding grades, poor test performance, and the inability to pay attention.

(13) It is estimated, based on recent data on the number of children in foster care, that more than 500,000 children are in the foster care system each year, with 289,000 exiting the system each year due to aging out or adoption.

SEC. 3. PURPOSE.

The purpose of this Act is to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies in order to—

(1) support all students who are at risk of negative educational outcomes;

(2) improve student achievement, which may be measured by growth in academic achievement on tests required by the applicable State educational agency, persistence rates, graduation rates, and other appropriate measures;

(3) improve retention of teachers who are highly qualified;

(4) increase and improve outreach and collaboration between school counselors, school social workers, and school psychologists and parents and families served by low-income local educational agencies;

(5) increase and improve collaboration among teachers, principals, school counselors, school social workers, and school psychologists and improve professional development opportunities for teachers and principals in the area of strategies related to improving classroom climate and classroom management; and

(6) improve working conditions for all school personnel.

SEC. 4. GRANT PROGRAM TO INCREASE THE NUMBER OF SCHOOL COUNSELORS, SCHOOL SOCIAL WORKERS, AND SCHOOL PSYCHOLOGISTS EMPLOYED BY LOW-INCOME LOCAL EDUCATIONAL AGENCIES.

(a) GRANT PROGRAM AUTHORIZED.—The Secretary of Education shall award grants on a competitive basis to eligible partnerships that receive recommendations from the peer review panel established under subsection (d), to enable such partnerships to carry out pipeline programs to increase the number of school counselors, school social workers, and school psychologists employed by low-income local educational agencies by carrying out any of the activities described by subsection (g).

(b) GRANT PERIOD.—A grant awarded under this section shall be for a 5-year period and may be renewed for additional 5-year periods upon a showing of adequate progress, as the Secretary determines appropriate.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible graduate institution, on behalf of an eligible partnership, shall submit to the Secretary a grant application, including—

(1) an assessment of the existing ratios of school counselors, school social workers, and school psychologists to students enrolled in schools in each low-income local educational agency that is part of the eligible partnership; and

(2) a detailed description of—

(A) a plan to carry out a pipeline program to train, place, and retain school counselors, school social workers, or school psychologists, or any combination thereof, as applicable, in low-income local educational agencies; and

(B) the proposed allocation and use of grant funds to carry out activities described by subsection (g).

(d) PEER REVIEW PANEL.—

(1) ESTABLISHMENT OF PANEL.—The Secretary shall establish a peer review panel to evaluate applications for grants under subsection (c) and make recommendations to the Secretary regarding such applications.

(2) EVALUATION OF APPLICATIONS.—In making its recommendations, the peer review panel shall take into account the purpose of this Act and the application requirements under subsection (c), including the quality of the proposed pipeline program.

(3) RECOMMENDATION OF PANEL.—The Secretary may award grants under this section only to eligible partnerships whose applications receive a recommendation from the peer review panel.

(4) MEMBERSHIP OF PANEL.—

(A) The peer review panel shall include at a minimum the following members:

(i) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school counselor education.

(ii) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school social worker education.

(iii) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school psychology education.

(iv) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of teacher education.

(v) One individual with expertise in school counseling who works or has worked in public schools.

(vi) One individual with expertise in school social work who works or has worked in public schools.

(vii) One individual with expertise in school psychology who works or has worked in public schools.

(viii) One administrator who works or has worked for a low-income local educational agency.

(ix) One highly qualified teacher who has substantial experience working for a low-income local educational agency.

(B) At least one of the members described in subparagraph (A) shall be a clinical faculty member.

(e) DISTRIBUTION OF GRANTS.—From among the applications receiving a recommendation by the peer review panel, the Secretary shall—

(1) award the first 5 grants to eligible partnerships from 5 different States;

(2) to the extent practicable, distribute grants equitably among eligible partnerships that propose to train graduate students in each of the three professions of school counseling, school social work, and school psychology; and

(3) to the extent practicable, equitably distribute the grants among eligible partnerships that include an urban low-income local educational agency and partnerships that include a rural low-income local educational agency, with a minimum of 16.3 percent of the funds (representing the percent of low-income children served by rural local educational agencies according to the United States Bureau of Census Small Area Income Poverty Estimates, 2006) awarded to eligible partnerships that include a rural low-income local educational agency.

(f) PRIORITY.—The Secretary shall give priority to eligible partnerships that—

(1) propose to use the grant funds to carry out the activities described under paragraphs (1) through (3) of subsection (g) in schools that have higher numbers or percentages of low-income students and students not meeting the proficient level of achievement (as described by section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)) in comparison to other schools that are served by the low-income local educational agency that is part of the eligible partnership;

(2) include a low-income local educational agency that has fewer school counselors, school social workers, and school psychologists per student than other eligible partnerships;

(3) include one or more eligible graduate institutions that offer graduate programs in the greatest number of the following areas:

(A) school counseling;

(B) school social work; and

(C) school psychology; and

(4) propose to collaborate with other institutions of higher education with similar programs, including sharing facilities, faculty members, and administrative costs.

(g) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used—

(1) to pay the administrative costs (including supplies, office and classroom space, supervision, mentoring, and transportation stipends as necessary and appropriate) related to—

(A) having graduate students of school counseling, school social work, and school psychology placed in schools served by participating low-income local educational agencies to complete required field work, credit hours, internships, or related training as applicable for the degree, license, or credential program of each such student; and

(B) offering required graduate course work for graduate students of school counseling, school social work, and school psychology on the site of a participating low-income local educational agency;

(2) for not more than the first 3 years after participating graduates receive a masters or other graduate degree or obtain a State license or credential in school counseling, school social work, or school psychology, to hire and pay all or part of the salaries of such participating graduates to work as school counselors, school social workers, and school psychologists in schools served by participating low-income local educational agencies;

(3) to increase the number of school counselors, school social workers, and school psychologists per student in schools served by participating low-income local educational agencies to work towards the student support personnel target ratios;

(4) to recruit, hire, and retain culturally or linguistically under-represented graduate students in school counseling, school social work, and school psychology for placement in schools served by participating low-income educational agencies;

(5) to recruit, hire, and pay faculty as necessary to increase the capacity of a participating eligible graduate institution to train graduate students in the fields of school counseling, school social work, and school psychology;

(6) to develop coursework that will—

(A) encourage a commitment by graduate students in school counseling, school social work, or school psychology to work for low-income local educational agencies;

(B) give participating graduates the knowledge and skill sets necessary to meet the needs of—

(i) students and families served by low-income local educational agencies; and

(ii) teachers, administrators, and other staff who work for low-income local educational agencies;

(C) enable participating graduates to meet the unique needs of students at-risk of negative educational outcomes, including students who—

(i) are English language learners;

(ii) have a parent or caregiver who is a migrant worker;

(iii) have a parent or caregiver who is a member of the Armed Forces or National Guard who has been deployed or returned from deployment;

(iv) are homeless, including unaccompanied youth;

(v) have come into contact with the juvenile justice system or adult criminal justice system, including students currently or previously held in juvenile detention facilities or adult jails and students currently or previously held in juvenile correctional facilities or adult prisons;

(vi) have been identified as eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(vii) have been a victim to or witnessed domestic violence or violence in their community; and

(viii) are foster care youth, youth aging out of foster care, or former foster youth; and

(D) utilize best practices determined by the American School Counselor Association, National Association of Social Workers, School Social Work Association of America, and National Association of School Psychologists;

(7) to provide tuition credits to graduate students participating in the program;

(8) for student loan forgiveness for participating graduates who are employed as school counselors, school social workers, or school psychologists by participating low-income local educational agencies for a minimum of 5 consecutive years; and

(9) for similar activities to fulfill the purpose of this Act, as the Secretary determines appropriate.

(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds for the activities described in subsection (g).

(i) REPORTING REQUIREMENTS.—Each eligible partnership that receives a grant under this section shall submit an annual report to the Secretary on the progress of such partnership in carrying out the purpose of this Act. Such report shall include a description of—

(1) actual service delivery provided through grant funds, including—

(A) characteristics of the participating eligible graduate institution, including descriptive information on the model used and actual program performance;

(B) characteristics of graduate students participating in the program, including performance on any tests required by the State

educational agency for credentialing or licensing, demographic characteristics, and graduate student retention rates;

(C) characteristics of students of the participating low-income local educational agency, including performance on any tests required by the State educational agency, demographic characteristics, and promotion, persistence, and graduation rates, as appropriate;

(D) an estimate of the annual implementation costs of the program; and

(E) the numbers of students, schools, and graduate students participating in the program;

(2) outcomes that are consistent with the purpose of the grant program, including—

(A) internship and post-graduation placement;

(B) graduation and professional career readiness indicators; and

(C) characteristics of the participating low-income local educational agency, including changes in hiring and retention of highly qualified teachers and school counselors, school psychologists, and school social workers;

(3) the instruction, materials, and activities being funded under the grant program; and

(4) the effectiveness of any training and ongoing professional development provided—

(A) to students and faculty in the appropriate departments or schools of the participating eligible graduate institution;

(B) to the faculty, administration, and staff of the participating low-income local educational agency; and

(C) to the broader community of providers of social, emotional, behavioral, and related support to students and to those who train such providers.

(j) EVALUATIONS.—

(1) INTERIM EVALUATIONS.—The Secretary may conduct interim evaluations to determine whether each eligible partnership receiving a grant is making adequate progress as the Secretary considers appropriate. The contents of the annual report submitted to the Secretary under subsection (i) may be used by the Secretary to determine whether an eligible partnership receiving a grant is demonstrating adequate progress.

(2) FINAL EVALUATION.—The Secretary shall conduct a final evaluation to—

(A) determine the effectiveness of the grant program in carrying out the purpose of this Act; and

(B) compare the relative effectiveness of each of the various activities described by subsection (g) for which grant funds may be used.

(k) REPORT.—Not sooner than 5 years nor later than 6 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings of the evaluation conducted under subsection (j)(2), and such recommendations as the Secretary considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to carry out this section $30,000,000 for each of the fiscal years 2010 to 2020.

(2) From the total amount appropriated to carry out this section each fiscal year, the Secretary shall reserve not more than 3 percent of that appropriation for evaluations under subsection (j).

SEC. 5. STUDENT LOAN FORGIVENESS FOR INDIVIDUALS WHO ARE EMPLOYED FOR 5 OR MORE CONSECUTIVE SCHOOL YEARS AS SCHOOL COUNSELORS, SCHOOL SOCIAL WORKERS, SCHOOL PSYCHOLOGISTS, OR OTHER QUALIFIED PSYCHOLOGISTS OR PSYCHIATRISTS BY LOW-INCOME LOCAL EDUCATIONAL AGENCIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide student loan forgiveness to individuals who are not and have never been participants in the grant program established under section 4 and who have been employed for 5 or more consecutive school years as school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists by low-income local educational agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the program under this section.

SEC. 6. FUTURE DESIGNATION STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to identify a formula for future designation of regions with a shortage of school counselors, school social workers, and school psychologists to use in implementing grant programs and other programs such as the programs established under this Act or for other purposes related to any such designation, based on the latest available data on—

(1) the number of residents under the age of 18 in an area served by a low-income local educational agency;

(2) the percentage of the population of an area served by a low-income local educational agency with incomes below the poverty line;

(3) the percentage of residents age 18 or older in an area served by a low-income local educational agency with secondary school diplomas;

(4) the percentage of students identified as eligible for special education services in an area served by a low-income local educational agency;

(5) the youth crime rate in an area served by a low-income local educational agency;

(6) the current number of full-time-equivalent and active school counselors, school social workers, and school psychologists employed by a low-income local educational agency;

(7) the number of students in an area served by a low-income local education agency in military families (active duty and reserve duty) with parents who have been alerted for deployment, are currently deployed, or have returned from a deployment in the previous school year; and

(8) such other criteria as the Secretary considers appropriate.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings of the study conducted under subsection (a).

SEC. 7. DEFINITIONS.

In this Act:

(1) SCHOOL COUNSELING PROGRAM DEFINITIONS.—The terms ''child and adolescent psychiatrist'', ''school counselor'', ''school psychologist'', ''school social worker'', and ''other qualified psychologist'' have the meaning given the terms in section 5421 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7245).

(2) ESEA GENERAL DEFINITIONS.—The terms ''State educational agency'', ''local educational agency'', and ''highly qualified'' have the meaning given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) BEST PRACTICES.—The term ''best practices'' means a technique or methodology that, through experience and research related to the practice of school counseling, school psychology, or school social work, has proven to reliably lead to a desired result.

(4) ELIGIBLE GRADUATE INSTITUTION.—The term ''eligible graduate institution'' means an institution of higher education that offers a program of study that leads to a masters or other graduate degree—

(A) in school psychology that is accredited or nationally recognized by the National Association of School Psychologists Program Approval Board and that prepares students in such program for the State licensing or certification exam in school psychology;

(B) in school counseling that prepares students in such program for the State licensing or certification exam in school counseling;

(C) in school social work that is accredited by the Council on Social Work Education and that prepares students in such program for the State licensing or certification exam in school social work; or

(D) any combination of (A), (B), and (C).

(5) ELIGIBLE PARTNERSHIP.—The term ''eligible partnership'' means—

(A) a partnership between 1 or more low-income local educational agencies and 1 or more eligible graduate institutions; or

(B) in regions in which local educational agencies may not have a sufficient elementary and secondary school student population to support the placement of all participating graduate students, a partnership between a State educational agency, on behalf of 1 or more low-income local educational agencies, and 1 or more eligible graduate institutions.

By Mr. REID:

S. 539. A bill to amend the Federal Power Act to require the President to designate certain geographical areas as national renewable energy zones, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, as John F. Kennedy said about 50 years ago, ''The Chinese use two brush strokes to write the word 'crisis.' One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger—but recognize the opportunity.''

America has not one crisis, but at least three crises that loom large before us. The economy is in obvious turmoil, pollution is causing the climate to change, and we are far too dependent on oil, particularly oil from unfriendly places around the world. These challenges hamper our security in profound ways.

Fortunately, with a new President and a bipartisan mandate in Congress, the opportunities to change direction and turn crisis into opportunity have never been more abundant. Now is the time to focus our resources on investments that will create jobs today and sustainable economic growth into the future.

I know that we have the technology to use less oil tomorrow then we used today, and even less the day after. We can move quickly toward greater energy independence, but only if we make major investments now in clean energy, like natural gas and electric vehicles and much more efficient fleets, and all produced right here in America and with American jobs.

President Obama's economic recovery plan is a giant step in the right direction. It provides $11 billion for smart grid technology and expanding transmission to renewable rich areas, as well as hundreds of millions of dollars to promote greater use of alternative fuel vehicles, including plug-in hybrids and fueling insfrastructure.

That plan is a massive infusion to help Americans become more energy efficient, including $300 million for energy efficient appliance rebates.

But even if we stopped wasting nearly one-third of the country's annual current energy consumption unnecessarily spending trillions of dollars and sending billions of tons of pollution up into the air we would still need new supplies of clean energy for sustainable economic growth.

Fortunately, Nevada and other parts of the desert southwest have enough solar energy potential to power our country seven times over. If that potential is combined with the wind energy from the Great Plains and the hundreds of thousands of megawatts of geothermal energy deep beneath the earth, the whole country could have cost-free fuel for many generations to come.

Innovators and entrepreneurs in every state have already begun to harness this power. But the field is in its infancy and it will only mature with significant and sustained support and attention at the Federal level.

But we must also focus our attention and investments on planning and siting new electricity transmission and breaking down barriers to a truly national approach. Otherwise, the vast clean renewable power in the sun, wind and geothermal resources of Nevada, off the country's coasts in the oceans, in the biomass on our lands, forests and in our cities, and in the remote and rural areas of the country, will never get to consumers.

Our transmission system and its regulations have been built up over many decades with the main target of assuring reliability and availability. Yet the grid is still fragile and not well equipped to meet the demands of this century's smart technologies or our environmental or national security challenges.

These issues were the topic of focused discussion last week at a genuinely important event a National Clean Energy Summit hosted by the Center for American Progress, CAP. This followed up on a similar gathering that I hosted in Las Vegas last August with John Podesta and the CAP Action Fund and the University of Nevada Las Vegas.

Last week's event was no ordinary meeting. It was admirably moderated by former Senator Tim Wirth and included President William Jefferson Clinton, Vice President Al Gore, Energy Secretary Steven Chu, Interior Secretary Ken Salazar, House Speaker NANCY PELOSI, Senator JEFF BINGAMAN, Representative ED MARKEY, energy executive T. BOONE PICKENS, and leaders from government, business, labor, and the non-profit communities.

In particular, I would like to note the very constructive participation of the country's State regulatory commissions and authorities, ably represented by Fred Butler of New Jersey, President of the National Association of Regulatory Utility Commissioners. They have extremely difficult jobs maintaining reliability, keeping costs down, and being held responsible for the utilities' every move.

The outcome of our discussion was clear—reforming our energy policies to build a cleaner, greener national transmission system—an electric superhighway—must be a top national priority. However, equally clear was the sense that it will not be easy and will require everyone to work together with common purpose and through a strong public-private partnership to be effective in addressing our grave national challenges.

The need for reform is very clear. That is why I am introducing a bill today that charts a course to a cleaner, greener, and smarter national energy transmission system without sacrificing reliability or affordability. This will ensure a more secure and sustainable energy future for America.

Though this bill is loosely based on my legislation from the last Congress, this new and broader version is the product of input and a shared vision from many important stakeholders. In particular, the Center for American Progress and the Energy Future Coalition must be congratulated for their hard work and leadership in this complicated policy area. They have helped make it understandable to many in Washington, D.C.

But no one can beat T. Boone Pickens in explaining to the American people how critically important it is to transform the nation's electricity grid to accelerate the use of renewable energy. He is a source of immense renewable energy and really helping to drive this issue home.

My legislation will require the President to designate renewable energy zones with significant clean energy generating potential. Then, a massive planning effort will begin in all the interconnection areas of the country to maximize the use of that renewable potential by building new transmission capacity. The states would propose cost allocation means to fund the new lines in the green transmission grid plans. If either process falters, then the federal government would be given clear authority to keep things moving and get the new transmission built on schedule and funded equitably.

This bill is not perfect and has ample room for improvement. But as the bill works its way through the legislative process, I am hopeful that people will come together in good faith and propose revisions that will help solve the problems that we tried to identify at the Summit. There has already been a great deal of non-partisan, thoughtful work that Congress can draw upon in legislating and I look forward to the hearing that Chairman BINGAMAN has scheduled on this topic for next week.

Here are just a few of the organizations that provided valuable input in the drafting process for this bill: The Energy Future Coalition; the Center for American Progress; the Pickens Plan; Energy Foundation; Sierra Club; Natural Resources Defense Council; National Wildlife Federation; Audubon Society; The Wilderness Society; Bonneville Power Administration; Western Area Power Administration; Tennessee Valley Authority; Bureau of Land Management; Federal Energy Regulatory Commission; Department of Energy; North American Electric Reliability Corporation; National Association of Regulatory Utility Commissioners; California PUC; Working Group for Investment in Reliable and Economic Electric Systems; Florida Power & Light; Midwest Independent System Operator; PJM Interconnection; ITC Transmission; Trans-Elect Transmission; Pacific Gas & Electric; American Electric Power; American Public Power Association; Large Public Power Council; Salt River Project; National Rural Electric Cooperative Association; Solar Energy Industries Association; Bright Source Energy; RES-Americas; American Wind Energy Association; Iberdrola Renewables; Colorado River Energy Distributors Association; Electric Power Supply Association; National Electrical Manufacturers Association; and many more.

Mr. President, I ask unanimous consent that the text of the bill and support material be printed in the RECORD.

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

S. 539

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 ''Clean Renewable Energy and Economic Development Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) electricity produced from renewable resources—

(A) helps to reduce emissions of greenhouse gases and other air pollutants;

(B) enhances national energy security;

(C) conserves water and finite resources; and

(D) provides substantial economic benefits, including job creation and technology development;

(2) the potential exists for a far greater percentage of electricity generation in the United States to be achieved through the use of renewable resources, as compared to the percentage of electricity generation using renewable resources in existence as of the date of enactment of this Act;

(3) the President has set out a goal that at least 25 percent of the electricity used in the United States by 2025 come from renewable sources;

(4) many of the best potential renewable energy resources are located in rural areas far from population centers;

(5) the lack of adequate electric transmission capacity is a primary obstacle to the development of electric generation facilities fueled by renewable energy resources;

(6) the economies of many rural areas would substantially benefit from the increased development of water-efficient electric generation facilities fueled by renewable energy resources;

(7) more efficient use of existing transmission capacity, better integration of resources, and greater investments in distributed renewable generation and off-grid solutions may increase the availability of transmission and distribution capacity for adding renewable resources and help keep ratepayer costs low;

(8) the Federal Government has not adequately supported or implemented an integrated approach to accelerating the development, commercialization, and deployment of renewable energy technologies, renewable electricity generation, and transmission to bring renewable energy to market, including through enhancing distributed renewable generation or through vehicle and transportation sector use;

(9) it is in the national interest for the Federal Government to implement policies that would enhance the quantity of electric transmission capacity available to take full advantage of the renewable energy resources available to generate electricity, and to more fully integrate renewable energy into the energy policies of the United States, and to address the tremendous national security and global warming challenges of the United States; and

(10) existing transmission planning processes are fragmented across many jurisdictions, which results in difficult coordination between jurisdictions, delays in implementation of plans, and complex negotiations on sharing of costs.

SEC. 3. NATIONAL RENEWABLE ENERGY ZONES AND GREEN TRANSMISSION.

(a) IN GENERAL.—The Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding at the end the following:

"PART IV—NATIONAL RENEWABLE ENERGY ZONES AND GREEN TRANSMISSION

"SEC. 401. DEFINITIONS.

''In this part:

''(1) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency; and

''(ii) any solid, nonhazardous, cellulosic material that is derived from—

''(I) mill residue, precommercial thinnings, slash, brush, or nonmerchantable material;

''(II) solid wood waste materials, including a waste pallet, a crate, dunnage, manufacturing and construction wood wastes, and landscape or right-of-way tree trimmings;

''(III) agriculture waste, including an orchard tree crop, a vineyard, a grain, a legume, sugar, other crop byproducts or residues, and livestock waste nutrients; or

''(IV) a plant that is grown exclusively as a fuel for the production of electric energy.

''(B) INCLUSIONS.—The term 'biomass' includes animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

''(C) EXCLUSIONS.—The term 'biomass' does not include—

''(i) municipal solid waste from which hazardous and recyclable materials have not been separated;

''(ii) paper that is commonly recycled; or

''(iii) pressure-treated, chemically-treated, or painted wood waste.

''(2) DISTRIBUTED RENEWABLE GENERATION.—The term 'distributed renewable generation' means—

''(A) reduced electric energy consumption from the electric grid because of use by a customer of renewable energy generated at or near a customer site; and

''(B) electric energy or thermal energy production from a renewable energy resource for a customer that is not connected to an electric grid or thermal energy source pipeline.

''(3) ELECTRICITY-CONSUMING AREA.—The term 'electricity-consuming area' means an area of significant electrical load.

''(4) ELECTRICITY FROM RENEWABLE ENERGY.—The term 'electricity from renewable energy' means electric energy generated from—

''(A) solar energy, wind, biomass, landfill gas, renewable biogas, or geothermal energy;

''(B) new hydroelectric generation capacity achieved from increased efficiency, or an addition of new capacity, at an existing hydroelectric project; or

''(C) hydrokinetic energy, including—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas;

''(ii) free flowing water in rivers, lakes, and streams;

''(iii) free flowing water in man-made channels, including projects that use nonmechanical structures to accelerate the flow of water for electric power production purposes; or

''(iv) differentials in ocean temperature through ocean thermal energy conversion.

''(5) ERCOT.—The term 'ERCOT' means the Electric Reliability Council of Texas.

''(6) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means—

''(A) the Department of the Interior and the bureaus of the Department that manage Federal land and water, including—

''(i) the Bureau of Land Management;

''(ii) the Bureau of Reclamation;

''(iii) the United States Fish and Wildlife Service; and

''(iv) the National Park Service;

''(B) the Forest Service of the Department of Agriculture; and

''(C) if applicable and appropriate, the Department of Defense.

''(7) FEDERAL TRANSMITTING UTILITY.—The term 'Federal transmitting utility' means—

''(A) a Federal power marketing agency that owns or operates an electric transmission facility; and

''(B) the Tennessee Valley Authority.

''(8) GREEN TRANSMISSION GRID PROJECT.—

''(A) IN GENERAL.—The term 'green transmission grid project' means a project for—

''(i) a new transmission facility rated at or above 345 kilovolts that is part of an Interconnection-wide plan developed pursuant to section 403 for an extra high voltage transmission grid to enable transmission of electricity from renewable energy (including existing or projected renewable generation) to electricity-consuming areas; or

''(ii) a new renewable feeder line that an Interconnection-wide plan or the Commission determines is needed to connect renewable generation to the extra high voltage transmission grid.

''(B) INCLUSIONS.—The term 'green transmission grid project' includes any network upgrades associated with a facility described in clause (i) or (ii) of subparagraph (A) that are required to ensure the reliability or efficiency of the underlying transmission network, including inverters, substations, transformers, switching units, storage units, and related facilities necessary for the development, siting, transmission, storage, and integration of electricity generated from renewable energy sources.

''(9) GRID-ENABLED VEHICLE.—The term 'grid-enabled vehicle' means an electric drive vehicle or fuel cell vehicle that has the ability to communicate electronically with an electric power provider or with a localized energy storage system with respect to charging or discharging an onboard energy storage device, such as a battery.

''(10) INDIAN LAND.—The term 'Indian land' means—

''(A) any land within the limits of any Indian reservation, pueblo, or rancheria;

''(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was, on the date of enactment of this part—

''(i) held in trust by the United States for the benefit of any Indian tribe or individual; or

''(ii) held by any Indian tribe or individual subject to restriction by the United States against alienation;

''(C) any dependent Indian community; and

''(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act (42 U.S.C. 1601 et seq.).

''(11) INTERCONNECTION.—The term 'Interconnection' has the meaning given the term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

''(12) LOAD-SERVING ENTITY.—The term 'load-serving entity' means any person, Federal, State, or local agency or instrumentality, or electric cooperative that delivers electric energy to end-use customers.

''(13) REGIONAL PLANNING ENTITY.—The term 'regional planning entity' means an entity certified by the Commission to coordinate regional planning for an Interconnection.

''(14) RENEWABLE FEEDER LINE.—

''(A) IN GENERAL.—The term 'renewable feeder line' means all transmission facilities and equipment within a national renewable energy zone owned, controlled, or operated by a transmission provider that are capable of being used to deliver electricity from multiple renewable energy resources to the point at which the transmission provider connects to a high-voltage transmission facility.

''(B) INCLUSIONS.—The term 'renewable feeder line' includes any associated modifications, additions, or upgrades to or associated with the facilities and equipment described in subparagraph (A).

''(C) EXCLUSIONS.—The term 'renewable feeder line' does not include—

''(i) a generator lead line capable of connecting only 1 generator; or

''(ii) equipment owned by a generator.

''(15) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(16) TRANSMISSION PROVIDER.—The term 'transmission provider' means an entity that owns, controls, or operates a transmission facility.

"SEC. 402. DESIGNATION OF NATIONAL RENEWABLE ENERGY ZONES.

''(a) DESIGNATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date of enactment of this part for the Western Interconnection and not later than 270 days after the date of enactment of this part for the Eastern Interconnection, the President shall designate as a national renewable energy zone each geographical area that, as determined by the President—

''(A) has the potential to generate in excess of 1 gigawatt of electricity (or a lower quantity of electricity determined by the President) from renewable energy, a significant portion of which could be generated in a rural area or on Federal land within the geographical area;

''(B) has an insufficient level of electric transmission capacity to achieve the potential described in subparagraph (A); and

''(C) has the capability to contain additional renewable energy electric generating facilities that would generate electric energy consumed in 1 or more electricity-consuming areas if there were a sufficient level of transmission capacity.

''(2) INCLUSION.—The President may include in any national renewable energy zone designated under paragraph (1) a military installation.

''(3) EXCLUSIONS.—The President shall not include in any national renewable energy zone designated under paragraph (1) any of the following areas:

''(A) National parks, national marine sanctuaries, reserves, recreation areas, and other similar units of the National Park System.

''(B) Designated wilderness, designated wilderness study areas, and other areas managed for wilderness characteristics.

''(C) National historic sites and historic parks.

''(D) Inventoried roadless areas and significant noninventoried roadless areas within the National Forest System.

''(E) National monuments.

''(F) National conservation areas.

''(G) National wildlife refuges and areas of critical environmental concern.

''(H) National historic and national scenic trails.

''(I) Areas designated as critical habitat.

''(J) National wild, scenic, and recreational rivers.

''(K) Any area in which Federal law prohibits energy development, or that the Federal agency or official exercising authority over the area exempts from inclusion in a national renewable energy zone through land use, planning, or other public process.

''(L) Any area in which applicable State law enacted prior to the date of enactment of this section prohibits energy development.

''(b) RENEWABLE ENERGY REQUIREMENTS.—In making the designations required by subsection (a), the President shall take into account Federal and State requirements for utilities to incorporate renewable energy as part of meeting the load of load-serving entities.

''(c) CONSULTATION.—Before making any designation under subsection (a) or (e), the President shall consult with—

''(1) the Governors of affected States;

''(2) the public;

''(3) Federal transmitting utilities, public utilities and transmission providers, and cooperatives;

''(4) State regulatory authorities and regional electricity planning organizations;

''(5) Federal land management agencies, Federal energy and environmental agencies, and State land management, energy, and environmental agencies;

''(6) renewable energy companies;

''(7) local government officials;

''(8) renewable energy and energy efficiency interest groups;

''(9) Indian tribes; and

''(10) environmental protection and land, water, and wildlife conservation groups.

''(d) RECOMMENDATIONS.—Not earlier than 3 years after the date of enactment of this part, and triennially thereafter, the Secretary and the Secretary of the Interior shall, after consultation with the Federal transmitting utilities, the Commission, the Chief of the Forest Service, the Secretary of Commerce, the Secretary of Defense, the Council on Environmental Quality, and the Governors of the States, shall recommend to the President and Congress—

''(1) specific areas with the greatest potential for environmentally acceptable renewable energy resource development that the President could designate as renewable energy zones, considering such factors as the impact on sensitive wildlife species, the impact on sensitive resource areas, and the presence of already disturbed or developed land; and

''(2) any modifications of laws (including regulations) and resource management plans necessary to fully achieve that potential, including identifying improvements to permit application processes involving military and civilian agencies.

''(e) EXISTING PROCESSES.—In carrying out this section, the President may use existing processes that designate renewable energy zones.

''(f) REVISION OF DESIGNATIONS.—The President may modify the designation of renewable energy zones, including modification based on the recommendations received under subsection (d).

''(g) ELECTION.—The ERCOT Interconnection may elect to participate in the process described in this section.

''(h) ADMINISTRATION.—The designation of a renewable energy zone shall not be considered a major Federal action under Federal law.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section (including renewable energy resource assessments) $25,000,000 for each of fiscal years 2009 through 2019.

''SEC. 403. INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING.

''(a) IN GENERAL.—To achieve Interconnection-wide coordination of planning to integrate renewable energy resources from renewable energy zones into the interstate electric transmission grid and make the renewable energy resources fully deliverable to electricity consuming areas, not later than 60 days after the date of enactment of this part, the Commission shall, by regulation or order, issue a request for 1 or more organizations to be certified as the regional planning entity for each Interconnection.

''(b) CONTENTS OF APPLICATION.—The application shall include proposals for provisions for an open, inclusive, transparent, and nondiscriminatory planning process that—

''(1) includes consultation with affected Federal land management agencies and States within the Interconnection;

''(2) builds on planning undertaken by States, Federal transmitting utilities, regional transmission organizations, independent system operators, utilities, and other interested parties;

''(3) takes account of corridor designation work and other planning carried out by Federal land management agencies, the Department of Energy, and other interested parties;

''(4) solicits input from transmission owners, regional transmission organizations, independent system operators, States, generator owners, prospective developers of new transmission and generation resources, regional entities, Federal land management agencies, environmental protection and land, water, and wildlife conservation groups, and other interested parties; and

''(5) includes an interim process to expeditiously evaluate whether new renewable feeder lines should be added to the green transmission grid project plan.

''(c) DESIGNATION.—Not later than 120 days after the date of enactment of this part, the Commission shall designate 1 or more appropriate organizations to serve as the regional planning entity to represent the Interconnection under this part.

''(d) INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLAN.—Not later than 1 year after the date of the deadline for designations under section 402(a), the regional planning entity in each Interconnection shall produce and submit to the Commission an Interconnection-wide green transmission grid project plan.

''(e) TERM; REQUIREMENTS.—An Interconnection-wide green transmission grid project plan shall—

''(1) enhance transmission access for electricity from renewable energy in renewable energy zones;

''(2) include identification of green transmission grid projects (both high-voltage and renewable feeder lines) needed to interconnect renewable energy zones with electricity-consuming areas;

''(3) fully consider national reliability, economic, environmental, and security needs;

''(4) take into account transmission infrastructure required for efficient and reliable delivery of the output of new renewable generation resources needed to meet established and projected Federal and State renewable energy policies and targets;

''(5) provide a plan for a period of at least 10 years into the future;

''(6) consider alternatives to new transmission, including energy efficiency, demand response, energy storage, and distributed renewable generation;

''(7) include a timeline for construction of projects; and

''(8) be filed with the Commission annually for approval consistent with this section.

''(f) PARTICIPATION OF SECRETARY.—The Secretary shall provide technical expertise to States and regional planning entities in development of Interconnection-wide plans through—

''(1) analysis for the green transmission grid project planning process; and

''(2) demonstration and commercial application activities of new technologies in the green transmission grid project plan.

''(g) PARTICIPATION OF FEDERAL TRANSMITTING UTILITIES.—

''(1) IN GENERAL.—A Federal transmitting utility shall participate in the planning process in the applicable Interconnection.

''(2) GREEN TRANSMISSION GRID PROJECT FACILITIES.—Not later than 1 year after the date a regional planning entity files a plan, a Federal transmitting utility that owns or operates 1 or more electric transmission facilities in a State with a national renewable energy zone shall identify specific green transmission grid project facilities that are required to substantially increase the generation of electricity from renewable energy in the national renewable energy zone.

''(h) FAILURE TO SUBMIT PLAN.—

''(1) IN GENERAL.—If a State in an Interconnection does not participate in a timely manner in an Interconnection-wide green transmission grid project planning process in accordance with this section, or if such a planning process is established but fails to result in the submission by the regional planning entity of the requisite components of the Interconnection-wide green transmission grid project plan by the date specified in subsection (d), the Commission shall develop through a rulemaking, after consultation with the Secretary, Federal transmitting utilities, the Secretary of the Interior, regional transmission organizations, the electric reliability organization, regional entities, and municipal and cooperative entities, an Interconnection-wide green transmission grid project plan on behalf of the 1 or more nonsubmitting States or regional planning entity in the Interconnection.

''(2) DEADLINE.—Any final rule required under paragraph (1) shall be completed not later than 1 year after the date on which the Commission determines that—

''(A) the regional planning entity has failed to submit an Interconnection-wide green transmission project plan on a timely basis; or

''(B) a State has failed to participate in a timely manner in the planning process.

''(i) EVALUATION AND RECOMMENDATIONS.—The Commission shall—

''(1) periodically evaluate whether green transmission grid projects to enable the delivery of renewable energy are being constructed in accordance with the Interconnection-wide green transmission grid project

plan for both the Western and Eastern Interconnections;

''(2) take any necessary actions to address any identified obstacles to investment, siting, and construction of projects identified as needed under an Interconnection-wide plan; and

''(3) not later than 2 years after the date of enactment of this part, submit to Congress recommendations for any further actions or authority needed to ensure the effective and timely development of transmission infrastructure necessary to ensure the integration and deliverability of renewable energy from renewable energy zones to electricity-consuming areas in the United States.

''(j) RECOVERY OF COSTS ASSOCIATED WITH INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING.—

''(1) IN GENERAL.—A regional planning entity and a State shall be permitted to recover prudently incurred costs to carry out Interconnection-wide planning activities required under this section pursuant to a Federal transmission surcharge that will be established by the Commission for the purposes of carrying out this section.

''(2) SURCHARGE.—A regional planning entity, in consultation with States in an Interconnection, shall—

''(A) recommend the Federal transmission surcharge based on a formula rate that is submitted to the Commission for approval; and

''(B) adjust the formula and surcharge on an annual basis.

''(3) COST RESPONSIBILITY.—Cost responsibility under the surcharge shall be assigned based on energy usage to all load-serving entities within the United States portion of the Eastern and Western Interconnections.

''(4) LIMITATION.—The total amount of surcharges that may be imposed or collected nationally under this subsection shall not exceed $80,000,000 in any calendar year.

''(5) DISTRIBUTION.—The Secretary shall, in accordance with the regulations promulgated under paragraph (1), distribute on an equitable basis funds received under that paragraph among States and planning entities, if the Governor of the receiving State—

''(A) in the case of the first year of distribution, certifies to the Secretary that the State will participate in an Interconnection-wide green transmission grid project planning process; and

''(B) in the case of the second and subsequent years of distribution—

''(i) is part of an Interconnection-wide planning process that submits to the Commission timely Interconnection-wide green transmission grid project plans under this section; and

''(ii) certifies annually to the Secretary that all load-serving entities in the State—

''(I) offer a fairly-priced renewable power purchase option to all the customers of the entities; or

''(II) have demonstrated an increase in the number of customers above the previous year participating in a demand-side management program that reduces peak demand, increases reliability, and reduces consumer costs.

''(6) APPLICABILITY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), this subsection applies to all users, owners, and operators of the bulk-power system within the United States portion of the Eastern and Western Interconnections.

''(B) EXCLUSIONS.—This subsection does not apply to the State of Alaska or Hawaii or to the ERCOT, unless the State or ERCOT voluntarily elects to participate in the planning process, and to be responsible for a pro rata portion of the Federal transmission surcharge imposed under this subsection.

''(C) PROJECT DEVELOPERS.—Nothing in this section or part prevents a project developer from carrying out a transmission project to enable renewable development if the project developer assumes all of the risk and cost of the proposed project.

''SEC. 404. FEDERAL SITING OF GREEN TRANSMISSION GRID PROJECT FACILITIES.

''(a) IN GENERAL.—The Commission, after consultation with affected States, may issue 1 or more permits for the construction or modification of an electric transmission facility if the Commission finds that—

''(1) the transmission facility—

''(A) is included in an Interconnection-wide green transmission grid project plan submitted under section 403; or

''(B) is proposed by a project developer to integrate renewable energy resources from renewable energy zones or to integrate renewable resources from other geographic areas, if the project developer assumes all of the risk and cost of the proposed facilities;

''(2) the transmission facility optimizes transmission capability based on the assessment by the Commission of technical constraints, project economics, land use limitations, and the potential generation capacity of renewable energy zones interconnected to the project; and

''(3) the owner or operator of the transmission facility has failed to make reasonable progress in siting the facility based on timelines in the plan.

''(b) EVIDENCE OF NEED.—Inclusion of a project in an Interconnection-wide green transmission grid project plan submitted under section 403 shall be considered to be sufficient evidence of need for the project to warrant the granting of a construction permit under subsection (a).

''(c) PERMIT APPLICATION.—

''(1) IN GENERAL.—A permit application under subsection (a) shall be made in writing to the Commission.

''(2) ADMINISTRATION.—The Commission shall promulgate regulations specifying—

''(A) the form of the application;

''(B) the information to be contained in the application; and

''(C) the manner of service of notice of the permit application on interested persons.

''(d) GRANTING OF CONSTRUCTION PERMIT.—

''(1) IN GENERAL.—A construction permit may be issued to any applicant described in subsection (a)(1)(B) if the Commission finds that—

''(A) the applicant is able and willing to take actions and perform the services proposed in accordance with this part (including the requirements, rules, and regulations of the Commission under this part); and

''(B) the proposed operation, construction, or expansion is or will be required by the present or future public convenience and necessity.

''(2) ADMINISTRATION.—The Commission shall have the power to attach to the issuance of the construction permit, and to the exercise of rights granted under the permit, such reasonable terms and conditions as the public convenience and necessity may require.

''(e) CONSTRUCTION PERMIT FOR AN AREA ALREADY BEING SERVED.—Nothing in this section limits the power of the Commission to grant construction permits for service of an area already being served by another transmission provider.

''(f) RIGHTS-OF-WAY.—

''(1) IN GENERAL.—In the case of a permit under subsection (a) for an electric transmission facility to be located on property other than property owned by the United States, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facility, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the United States district court for the district in which the property concerned is located, or in the appropriate court for the State in which the property is located.

''(2) USE.—Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction, modification, operation, or maintenance of an electric transmission facility, and any appropriate mitigation measures or other uses approved by the Commission, within a reasonable period of time after acquisition of the right-of-way.

''(3) PRACTICE AND PROCEDURE.—The practice and procedure in any action or proceeding under this subsection in the United States district court shall conform, to the maximum extent practicable, to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

''(4) LIMITATIONS.—

''(A) IN GENERAL.—Nothing in this subsection authorizes the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of an electric transmission facility included in a green transmission grid project plan or related facility.

''(B) ADMINISTRATION.—The right-of-way—

''(i) shall not be used for any purpose not described in subparagraph (A) or paragraph (2); and

''(ii) shall terminate on the termination of the use for which the right-of-way is acquired.

''(g) STATE AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), in granting a construction permit under subsection (a), the Commission shall—

''(A) permit State regulatory agencies to identify siting constraints and mitigation measures, based on habitat protection, environmental considerations, or cultural site protection; and

''(B)(i) incorporate those identified constraints or measures in the construction permit; or

''(ii) if the Commission determines that such a constraint or measure is inconsistent with the purposes of this part, infeasible, or not cost-effective—

''(I) consult with State regulatory agencies to seek to resolve the issue; and

''(II) incorporate into the construction permit such siting constraints and mitigation measures as are determined to be appropriate by the Commission, based on consultation by the Commission with State regulatory agencies, the purposes of this part, and the record before the Commission.

''(2) NONADOPTION OF RECOMMENDATIONS.—If, after taking the actions required under paragraph (1), the Commission does not adopt in whole or in part a recommendation of an agency, the Commission shall publish a statement of a finding that the adoption of the recommendation is infeasible, not cost-effective, or inconsistent with this part or other applicable provisions of law.

''(3) INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING PROCESS.—The Commission shall not be required to include constraints or measures described in paragraph (1) that are identified by a State that does not participate in an Interconnection-wide green transmission grid project planning process under section 403.

''(h) ENVIRONMENTAL REVIEWS.—

''(1) IN GENERAL.—With respect to any project or group of projects for which a construction permit is granted under subsection (a), the Commission shall—

''(A) serve as the lead agency for purposes of coordinating any Federal authorizations and environmental reviews or analyses required for the project, including those required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(B) in consultation with other affected agencies, prepare a single environmental review document that would be used as the basis for all decisions under Federal law relating to the proposed project, in accordance with section 216(h) of this Act, including siting constraints and mitigation measures;

''(C) not later than 90 days after the date of filing of an application for a permit under this section, enter into a memorandum of understanding with affected Federal agencies to carry out this subsection, including—

''(i) a schedule for environmental review and a budget necessary to comply with the schedule for each project or group of projects; and

''(ii) the budget resources necessary to carry out the memorandum; and

''(D) ensure that, once an application has been submitted with such data as the Commission considers to be necessary, all permit decisions and related environmental reviews under applicable Federal laws shall be completed not later than 1 year after the date of submission of a complete application.

''(2) APPEAL.—If any Federal agency has denied a Federal authorization required for a certified project under this part or has failed to determine whether to issue the authorization not later than 1 year after the date of submission of a complete application, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

''(i) RESTRICTED AREAS.—In granting a construction permit under subsection (a), the Commission shall consider and, to the maximum extent practicable, select alternative routes to avoid areas described in section 402(a)(3).

''(j) ACCESS TO TRANSMISSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the owner or operator of any project described in subsection (a) that traverses multiple States that participate in an Interconnection-wide green transmission grid project planning process under section 403 shall ensure that each State in which the green transmission grid project traverses shall have access to transmission under the project, unless the access would make the project technically or economically impractical.

''(2) ADDITIONAL FUNDS.—If a project owner or operator described in paragraph (1) cannot make the assurances described in that paragraph for a State, the State shall be eligible for additional funds under section 405.

''(k) MINIMUM RENEWABLE REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the transmission provider for a green transmission grid project sited through the granting of a construction permit under subsection (a) shall certify annually to the Commission, in accordance with regulations promulgated by the Commission, that at least 75 percent of the transmission capacity of the project is available to renewable resources.

''(2) APPLICATION.—The requirements shall be applicable only to generators directly interconnecting to the project.

''(3) ADJUSTMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Commission may reduce the minimum percentage specified in paragraph (1) in any case in which the Commission determines that it is necessary for a specific renewable feeder line to have less than 75 percent of generation resources interconnecting to the renewable feeder line be renewable resources in order to maintain compliance with Commission-approved reliability standards.

''(B) COST-EFFECTIVE ENERGY STORAGE OPTIONS.—In making a determination on a reduction for a proposed project under subparagraph (A), the Commission shall consider cost-effective energy storage options in the area covered by the project, including detailed reports developed by the project developer or interconnecting generators at the direction of the Commission.

''(l) FIRM TRANSMISSION RIGHTS.—The Commission shall adopt, by rule, regulations requiring transmission providers to offer, on a priority basis, firm or equivalent financial transmission rights for any green transmission grid project sited under this section for transmission of energy from renewable resources to a load-serving entity that contracts to purchase renewable resources, or to renewable energy generation owners.

''(m) ADMINISTRATION.—Nothing in this section waives the application of any applicable Federal environmental law.

''(n) STATE SITING AUTHORITY.—Nothing in this section precludes a transmission project developer from seeking siting authority from a State.

''SEC. 405. GRANTS FOR INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANS.

''(a) IN GENERAL.—The Secretary, in consultation with the Commission, shall make grants to States and planning entities that submit or implement Interconnection-wide green transmission grid project plans required to be developed pursuant to this part in a timely manner for (as appropriate)—

''(1) implementation of sections 403 and 404;

''(2) transmission improvements (including smart grid investments) for States and planning entities that meet deadlines in implementing those plans;

''(3) training for State regulatory authority staff and local workforces relating to renewable generation resources, smart grid, or new transmission technologies;

''(4) mitigation of landowner concerns and impacts;

''(5) habitat and wildlife conservation;

''(6) security upgrades to the transmission system and authorized uses under title XIII of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381 et seq.);

''(7) energy storage, reliability, or distributed renewable generation projects; and

''(8) other programs and projects that are consistent with the purposes of this part.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000, including amounts made available—

''(1) under the American Recovery and Reinvestment Act of 2009; or

''(2) through the sale of carbon allowances in a law enacted after the date of enactment of this Act that imposes a limitation on greenhouse gas emissions.

''SEC. 406. COST ALLOCATION.

''(a) IN GENERAL.—As part of an Interconnection-wide green transmission grid project plan submitted under section 403, the regional planning entity, after consultation with affected State regulatory authorities, shall file with the Commission under this section a cost allocation plan for sharing the costs of developing and operating green transmission grid projects that are identified and built pursuant to an Interconnection-wide green transmission project plan to enable delivery of electric energy from renewable energy resources in renewable energy zones.

''(b) APPROVAL.—Not later than 90 days after the date of filing, the Commission shall approve a cost allocation plan proposed under subsection (a) unless the Commission determines that—

''(1) taking into account the users of the transmission facilities, the plan will result in rates that are unduly discriminatory or preferential or are not just and reasonable;

''(2) the plan would unduly inhibit the development of renewable energy electric generation projects; or

''(3) the plan would not allow the transmission provider providing service over the facilities or the entity constructing or financing the project, as appropriate, the opportunity to recover prudently incurred costs, including a reasonable return on investment, associated with the transmission facilities the transmission provider has committed to build pursuant to the Interconnection-wide green transmission plan.

''(c) FAILURE TO SUBMIT A COST ALLOCATION PLAN.—

''(1) IN GENERAL.—If a regional planning entity is unable, for whatever reason, to develop and propose an acceptable cost allocation plan at the time the regional planning entity files an Interconnection-wide green transmission grid project plan, the Commission shall institute, on the motion of the Commission, a proceeding to initially allocate the costs of new transmission facilities built pursuant to an Interconnection-wide green transmission project plan.

''(2) COST ALLOCATION.—The Commission shall allocate the costs of green transmission grid projects—

''(A) broadly to all load-serving entities in the Interconnection; or

''(B) to load-serving entities within a part of the Interconnection.

''(3) RENEWABLE FEEDER LINES.—

''(A) IN GENERAL.—A renewable feeder line may be included in a broad cost allocation if the Commission finds that the renewable feeder line—

''(i) would be used by renewable energy resources remote from existing transmission and load centers;

''(ii) will likely result in multiple individual renewable energy electric generation projects being developed by multiple competing developers; and

''(iii) has at least 1 project subscribed through an executed generator Interconnection agreement with the transmission provider and has tangible demonstration of additional interest.

''(B) NEW RENEWABLE GENERATION PROJECTS.—

''(i) IN GENERAL.—As new renewable generation projects are constructed and interconnected to a renewable feeder line under subparagraph (A), the 1 or more new transmission services contract holders shall be liable for a pro rata share of the facility costs of the transmission grid project.

''(ii) TRANSMISSION REVENUES.—The transmission revenues shall be applied as a credit to the initial allocation of project costs.

''(d) COST ALLOCATION RATE FILINGS.—If a cost allocation plan is approved by the Commission in accordance with this section—

''(1) any public utility that has rates that are affected by the approved cost allocation plan shall file the allocation plan with the Commission pursuant to section 205; and

''(2) the cost allocation plan shall be presumed lawful under section 205 on filing, without notice or further opportunity for comment or hearing.

''(e) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), the authority of the Commission under this section and section 403 to approve transmission plans and to allocate costs incurred pursuant to the plans applies to all transmission providers, generators, and users, owners, and operators of the

power system within the Eastern and Western Interconnections of the United States, including entities described in section 201(f).

''(2) REGIONAL PLANNING ENTITIES.—The Commission shall have authority over regional planning entities to the extent necessary to carry out this section and section 403.

''(3) EXCLUSIONS.—

''(A) IN GENERAL.—This section does not apply in the State of Alaska or Hawaii or to the ERCOT, unless the State or ERCOT voluntarily elects to participate in a cost allocation plan under this section.

''(B) EXISTING COST ALLOCATION AGREEMENTS.—A project for which a cost allocation or cost recovery agreement was accepted by the Commission before the date of enactment of this part shall not be included in cost allocation under this section.

''SEC. 407. FEDERAL TRANSMITTING UTILITIES ENCOURAGING CLEAN ENERGY DEVELOPMENT IN NATIONAL RENEWABLE ENERGY ZONES.

''(a) LACK OF PRIVATE FUNDS.—If, by the date that is 3 years after the date of enactment of this part, no privately-funded entity has committed to financing (through self-financing or through a third-party financing arrangement with a Federal transmitting utility) to ensure the construction and operation of a green transmission grid project (which the Commission has identified as an essential part of an Interconnection-wide green transmission project plan) by a specified date, the Federal transmitting utility responsible for the identification under section 403(d) shall finance such a transmission facility if the Federal transmitting utility has sufficient bonding authority under subsection (b).

''(b) BONDING AUTHORITY.—

''(1) IN GENERAL.—In addition to any other authority to issue and sell bonds, notes, and other evidence of indebtedness, a Federal transmitting utility may issue and sell bonds, notes, and other evidence of indebtedness in an amount not to exceed, at any 1 time, an aggregate outstanding balance of $10,000,000,000, to finance the construction of transmission facilities described in subsection (a) for the principal purposes of—

''(A) increasing the generation of electricity from renewable energy; and

''(B) conveying that electric energy to an electricity-consuming area.

''(2) RECOVERY OF COSTS.—A Federal transmitting utility shall recover the costs of green transmission grid project facilities financed pursuant to subsection (a) from entities using the transmission facilities over a period of 50 years.

''(3) NONLIABILITY OF CERTAIN CUSTOMERS.—Individuals and entities that, as of the date of enactment of this part, are customers of a Federal transmitting utility shall not be liable for the costs, in the form of increased rates charged for electric energy or transmission, of green transmission grid project facilities constructed pursuant to this section, except to the extent the customers are treated in a manner similar to all other users of the green transmission grid project facilities.

''SEC. 408. FEDERAL POWER MARKETING AGENCIES.

''(a) PROMOTION OF RENEWABLE ENERGY AND ENERGY EFFICIENCY.—Each Federal transmitting utility shall—

''(1) identify and take steps to promote energy conservation and renewable energy electric resource development in the regions served by the Federal transmitting utility; and

''(2) identify opportunities to promote the development of facilities generating electricity from renewable energy on Indian land within the service territory of the Federal transmitting utility.

''(b) WIND INTEGRATION PROGRAMS.—The Bonneville Power Administration and the Western Area Power Administration shall each establish a program focusing on the improvement of the integration of wind energy into the transmission grids of those Administrations through the development of transmission products, including through the use of Federal hydropower resources, that—

''(1) take into account the intermittent nature of wind electric generation; and

''(2) do not impair electric reliability.

''(c) SOLAR INTEGRATION PROGRAM.—Each of the Federal Power Marketing Administrations and the Tennessee Valley Authority shall establish a program to carry out projects focusing on the integration of solar energy, through photovoltaic, concentrating solar power systems and other forms and systems, into the respective transmission grids and into remote and distributed applications in the respective service territories of the Federal Power Marketing Administrations and Tennessee Valley Authority, that—

''(1) take into account the solar energy cycle;

''(2) consider the appropriate use of Federal land for generation or energy storage, where appropriate; and

''(3) do not impair electric reliability.

''(d) GEOTHERMAL INTEGRATION PROGRAM.—The Bonneville Power Administration and the Western Area Power Administration shall establish a joint program to carry out projects focusing on the development and integration of geothermal energy and enhanced geothermal system resources into the respective transmission grids of the Bonneville Power Administration and the Western Area Power Administration, as well as nongrid, distributed applications in those service territories, including projects combining geothermal energy resources with biofuels production or other industrial or commercial uses requiring process heat inputs, that—

''(1) consider the appropriate use of Federal land for the projects and activities;

''(2) displace fossil fuel baseload generation or petroleum imports; and

''(3) do not impair electric reliability.

''(e) RENEWABLE ELECTRICITY AND ENERGY SECURITY PROJECTS.—

''(1) IN GENERAL.—The Federal transmitting utilities, shall, in consultation with the Commission, the Secretary, the States, and such other individuals and entities as are necessary, undertake geographically diverse projects within the respective service territories of the Federal transmitting utilities to acquire and demonstrate grid-enabled and nongrid-enabled plug-in electric and plug-in hybrid electric vehicles and related technologies as part of their fleets of vehicles.

''(2) INCREASE IN RENEWABLE ENERGY USE.—To the maximum extent practicable, each project conducted pursuant to any of subsections (b) through (d) shall include a component to develop vehicle technology, utility systems, batteries, power electronics, or such other related devices as are able to substitute, as the main fuel source for vehicles, transportation-sector petroleum consumption with electricity from renewable energy sources.

''(f) REREGULATING DAMS AND PUMPED STORAGE STUDY.—The Secretary of the Interior and the Secretary of the Army (acting through Chief of Engineers), in consultation with the Secretary of Energy, shall—

''(1) study the potential for reregulating facilities and pumped storage units at Federal dams to identify the facilities and units that are most worthy of further evaluation; and

''(2) submit to Congress a report on the results of the study, including recommendations on the next steps that should be taken.

''(g) WIND OR SOLAR–HYDRO INTEGRATION DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—The Western Area Power Administration may fund the construction of wind or solar generation to supply firming energy to Western Area Power Administration to test the economic feasibility of wind-hydro or solar-hydro integration.

''(2) TRIBAL LAND.—In carrying out this subsection, the Western Area Power Administration shall consider locating the wind or solar generation facilities on tribal land.

''(3) NONREIMBURSABLE COSTS.—All costs associated with a demonstration under this subsection shall be considered nonreimbursable to electric energy customers of the Western Area Power Administration.

''SEC. 409. SOLAR ENERGY RESERVE PILOT PROJECT.

''(a) PURPOSE.—The purpose of this section is to establish a solar energy reserve pilot program on Federal land for the advancement, development, assessment, and installation of commercial utility-scale solar electric energy systems that will function as a potential model for the future development of renewable energy zones identified under this Act.

''(b) SITE SELECTION.—The Secretary of Energy and the Secretary of the Interior, in consultation with the Secretary of Defense, the Commission, States, and tribal and local units of government (as appropriate), shall—

''(1) identify 1 or more areas of Federal land under the jurisdiction of the Bureau of Land Management or land withdrawn by the Secretary of Energy for other purposes that is feasible and suitable for the installation of solar electric energy systems that are sufficient to generate not less than 4 gigawatts and not more than 25 gigawatts;

''(2) not later than 180 days after the date of enactment of this part, initiate the process for withdrawal of 1 or more tracts of land to the Secretary of Energy pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) for the purpose of creating solar energy reserves or the designation of land withdrawn to the Secretary of Energy for other purposes as a solar energy reserve; and

''(3) identify the needed transmission upgrades to connect the solar energy reserves to the transmission grid.

''(c) INELIGIBLE FEDERAL LAND.—A solar energy reserve shall not be established under this section on any land excluded for designation under section 402(a)(2).

''(d) DEVELOPMENT WITHIN RESERVES.—The Secretary of Energy shall—

''(1) have the sole authority to issue land use authorizations for land withdrawn under subsection (b);

''(2) establish criteria for approving applications and developing infrastructure for solar reserves;

''(3) not later than 2 years after the date of enactment of this part, work with Federal agencies, States, and other interested persons to ensure, to the maximum extent practicable, that adequate infrastructure is available for operation of the first solar energy reserve;

''(4) provide, to the maximum extent practicable, for a variety of utility-scale solar electric energy technologies; and

''(5) ensure, to the maximum extent practicable, that all solar energy reserves pursuant to this section are permitted using an expedited permitting process.

''(e) DEVELOPING SOLAR ENERGY RESERVES.—

''(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Secretary may—

''(A) install appropriate infrastructure, including—

''(i) roads;

''(ii) renewable feeder lines that connect to transmission lines; and

''(iii) equipment to access public or private utility systems;

''(B) recover reasonable costs to pay for the management of the solar energy reserves and maintenance of the infrastructure relating to the use of the land, except that the Secretary shall not recover costs to pay for infrastructure if the costs have or will be paid for by Federal funds, to remain available until expended; and

''(C) negotiate agreements on behalf of all solar electricity systems within the solar energy reserve for—

''(i) the purchase of materials and equipment;

''(ii) the provision of public utility services and other services; and

''(iii) access to electric transmission facilities.

''(2) OPTING OUT.—A developer of a solar electricity system shall have the option, prior to the effective date of the agreement, to opt out of any agreement negotiated by the Secretary under paragraph (1)(C).

''(f) ROYALTIES AND FEES.—

''(1) IN GENERAL.—In lieu of rental fees, each solar electricity system developer shall pay to the Secretary a royalty on the sale of electricity produced from a solar electricity system placed into service on a solar energy reserve established under this section.

''(2) AMOUNT OF ROYALTY.—The amount of the royalty payable for a solar electricity system placed into service on a solar energy reserve under this subsection shall be equal to 1.0 mil per kilowatt-hour of electricity generated by the facility.

''(3) DEPOSIT IN TREASURY.—All royalties received by the United States from royalties under this subsection shall be deposited in the Treasury.

''(4) USE OF ROYALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the amount of royalties deposited in the Treasury from a solar energy reserve for a fiscal year under paragraph (3)—

''(i) 20 percent shall be paid to the 1 or more States within the boundaries of which the solar energy reserve is located;

''(ii) 30 percent shall be paid to the 1 or more counties within the boundaries of which the solar energy reserve is located;

''(iii) 20 percent shall be deposited in a separate account in the Treasury, to be known as the 'BLM Solar Energy Permit Processing Improvement Fund', except that if the Fund equals $10,000,000 or more, no additional royalties under this subsection shall be deposited in the Fund; and

''(iv) 5 percent shall be deposited into a separate account in the Treasury, to be known as the 'Solar Energy Land Reclamation, Remediation, and Restoration Fund'.

''(B) BLM SOLAR ENERGY PERMIT PROCESSING IMPROVEMENT FUND.—Amounts deposited under subparagraph (A)(iii) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the purpose of paying for the coordination and processing of solar energy right-of-way permit and land use applications and planning for solar energy development on land under the jurisdiction of the Bureau of Land Management.

''(C) SOLAR ENERGY LAND RECLAMATION, REMEDIATION, AND RESTORATION FUND.—Amounts deposited under subparagraph (A)(iv) shall be available to the Secretary of Energy for expenditure, without further appropriation and without fiscal year limitation, for the purpose of reclaiming, remediating, and restoring land within a solar energy reserve on which a solar electricity facility has permanently ceased operation before disposal or for withdrawn land that is returned to the Department of the Interior.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy and the Secretary of the Interior such sums as are necessary to carry out this section.

''SEC. 410. RELATIONSHIP TO OTHER LAWS.

''Nothing in this part supersedes or affects any Federal environmental, public health or public land protection, or historic preservation law, including—

''(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

''(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

''SEC. 411. REGULATIONS.

''Except as otherwise provided in this part, not later than 1 year after the date of enactment of this part, the Commission shall promulgate such regulations as are necessary to carry out this part.''.

(b) GREEN TRANSMISSION INFRASTRUCTURE INCENTIVE RATES.—Section 219(a) of the Federal Power Act (16 U.S.C. 824s(a)) is amended by striking ''purpose of'' and all that follows through the end of the subsection and inserting ''purpose of—

''(1) benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion; or

''(2) integrating renewable energy resources into the transmission system.''.

(c) MAXIMUM FUNDING AMOUNT FOR THIRD-PARTY FINANCE.—Section 1222 of the Energy Policy Act of 2005 (42 U.S.C. 16421) is amended by striking subsection (g) and inserting the following:

''(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $2,500,000,000 under subsection (c)(1) for the period of fiscal years 2009 through 2018.''.

(d) ENFORCEMENT.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''part II'' each place it appears and inserting ''part II or IV''.

SEC. 4. RENEWABLE ENERGY PILOT PROJECT OFFICES.

(a) IN GENERAL.—Section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924) is amended by adding at the end the following:

''(k) PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.—

''(1) DEFINITION OF RENEWABLE ENERGY.—In this subsection, the term 'renewable energy' means energy derived from a wind, solar, geothermal, or biomass source.

''(2) FIELD PROJECT OFFICES.—As part of the Pilot Project, the Secretary shall designate 1 or more field offices of the Bureau of Land Management in each of the following States to serve as Renewable Energy Pilot Project Offices for coordination of Federal permits for renewable energy projects and renewable energy transmission involving Federal land (other than permits issued by the Federal Energy Regulatory Commission):

''(A) Arizona.

''(B) California.

''(C) Colorado.

''(D) Oregon or Washington.

''(E) New Mexico.

''(F) Nevada.

''(G) Montana.

''(H) Wyoming.

''(3) MEMORANDUM OF UNDERSTANDING.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into an amended memorandum of understanding under subsection (b) to provide for the inclusion of the additional Renewable Energy Pilot Project Offices in the Pilot Project.

''(B) SIGNATURES BY GOVERNORS.—The Secretary may request that the Governors of each of the States described in paragraph (2) be signatories to the amended memorandum of understanding.

''(C) DESIGNATION OF QUALIFIED STAFF.—Not later than 30 days after the date of the signing of the amended memorandum of understanding, all Federal signatory parties shall, if appropriate, assign to each Renewable Energy Pilot Project Offices designated under paragraph (2) an employee described in subsection (c) to carry out duties described in that subsection.

''(D) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Renewable Energy Pilot Project Office additional personnel under subsection (f).''.

(b) PERMIT PROCESSING IMPROVEMENT FUND.—Section 35(c)(3) of the Mineral Leasing Act (30 U.S.C. 191(c)(3)) is amended—

(1) by striking ''use authorizations'' and inserting ''and renewable energy use authorizations''; and

(2) by striking ''section 365(d)'' and inserting ''subsections (d) and (k)(2) of section 365''.

THE CLEAN RENEWABLE ENERGY AND ECONOMIC DEVELOPMENT ACT OF 2009—SUMMARY

Sec. 402. Renewable Energy Zones: This bill directs the President to designate renewable energy zones, which are areas that can generate in excess of 1 gigawatt of electricity from renewable energy, include rural areas or Federal land, and have insufficient transmission capacity to achieve their renewable energy generation potential. This bill excludes environmentally sensitive and culturally significant areas from renewable energy zones.

Electricity from renewable energy is defined to include solar, wind, geothermal, biomass, biogas, incremental hydroelectric capacity and hydrokinetic resources.

Some areas, especially the Western U.S., already have processes in place to identify renewable energy zones. Recognizing the ongoing efforts in the Western U.S., this bill allows the President to use zones designated through existing processes, and sets deadlines on designating renewable energy zones for the Western Interconnection of 90 days after enactment of the bill and 270 days after enactment of the bill for the Eastern Interconnection.

Sec. 403. Interconnection-Wide Green Transmission Grid Planning: Transmission planning today is a geographically fragmented, lengthy process that does not address the types of projects needed to integrate renewable energy into the transmission grid. The U.S. electric transmission network is divided into three interconnections, the West, the East, and Texas. This bill requires participatory and transparent transmission planning on an interconnection-wide basis for green transmission projects to integrate renewable electricity resources from renewable energy zones into the transmission grid. The objective of the planning process is to enhance transmission access for electricity from renewable energy in renewable energy zones, while recognizing national economic, reliability, and security goals. The planning process established in this bill must be based on established and projected Federal and State renewable energy policies and targets. This bill requires the planning process to solicit input from all stakeholders, including transmission owners, regional transmission organizations, independent system operators, State commissions, electricity generators, prospective developers of new transmission and generation resources, regional reliability organizations, and environmental protection and land, water, and wildlife conservation groups.

This bill requires the plan to consider alternatives to new transmission, including

energy efficiency, demand response, distributed generation, and cost-effective energy storage.

To expedite building transmission to meet the President's renewable energy goal, this bill requires the interconnection-wide green transmission plans to be submitted to the Commission within 1 year of the deadline for designation of renewable energy zones.

If a regional planning entity does not organize a planning process, or does not complete a plan by the deadlines established by FERC, this bill gives FERC backstop planning authority to establish a planning process and conduct planning, in consultation with DOE, federal power marketing authorities, the electric reliability organization and regional reliability organizations. This bill also gives FERC backstop planning authority for any state that does not participate in an interconnection-wide planning process.

To cover costs of regional planning entities and states participating in interconnection-wide planning, this bill establishes a surcharge on all transmission customers. The funds from the surcharge will be distributed to regional planning entities and to states whose governors certify that they are participating in green transmission planning for the first year, and subject to timely submission of a green transmission grid plan in subsequent years. State Governors are also required to demonstrate that planning entities are able to effectively represent a wide spectrum of stakeholders, including the protection and conservation of land, consumer protection, and fish and wildlife protection.

Sec. 404. Federal Siting of Green Transmission Grid Project Facilities: Transmission line siting is currently conducted through a separate process in each state, which can cause lengthy delays for multi-state transmission lines. This bill allows transmission project developers to apply to FERC for federal backstop siting for green transmission projects that are part of the green transmission grid plan and integrate renewable energy resources from renewable energy zones, or for transmission projects that FERC determines are needed to integrate renewable generation resources. For states that participate in interconnection-wide planning, this bill requires FERC to consider state recommendations in siting the line, and to work with states to resolve differences. This bill gives FERC the authority to issue a construction permit, including the right of eminent domain, for green transmission projects that meet specific conditions, including a minimum renewable requirement, optimizing transmission capacity, and providing transmission access to states the project passes through. To coordinate the process of siting transmission on Federal lands, this bill sets FERC as the lead agency for environmental reviews, with a single environmental review document, and directs affected agencies to develop a memorandum of understanding, including a schedule for environmental review and a budget necessary to carry out the schedule.

This bill ensures that green transmission projects are truly green by requiring transmission line siting to consider and use alternative routes where possible to avoid environmentally sensitive or culturally significant areas. In addition, this bill requires transmission projects that use federal siting authority to ensure that at least 75% of the capacity of transmission project is available to renewable generation, or the maximum possible amount of renewable generation that can be reliably interconnected. In addition, to ensure that renewable generation resources have access to transmission, transmission providers for green transmission projects that use federal siting must give priority to load-serving entities contracting with renewable generators, or to renewable generation developers, when offering firm transmission rights.

As a condition for federal siting, each transmission project developer must demonstrate that it has sufficient capacity to connect multiple renewable generation resources in the renewable energy zone(s) to which it connects, based on reliability criteria, land use limitations, economic considerations and the potential generation capacity of the renewable energy zones interconnected to the project. This will allow future renewable generators to connect to the transmission system without building multiple transmission lines through an area.

Large transmission lines may pass through states without providing any benefit to the state. This bill requires green transmission projects that use federal siting authority to provide transmission access to load or generation in each state they pass through. If a project cannot provide interconnection to a state, that state will be eligible for additional funds through DOE grants.

Sec. 405. Grants for green transmission grid project plans: This bill authorizes the DOE, in consultation with FERC, to make grants to states and planning entities to implement the planning and siting described in this bill, for transmission improvements including smart grid investments, for training for state public utility commission staff, for mitigation of landowner concerns, for habitat and wildlife conservation, for security upgrades to the transmission system, for energy storage, for reliability projects, transmission business development, and for distributed generation projects. These grants are funded through the American Recovery and Reinvestment Act of 2009, and in the future through sale of carbon allowances if a carbon allowance system is implemented. These grants are available only to states that participate in green transmission grid planning and implement green transmission grid projects in a timely fashion.

Sec. 406. Cost Allocation: This bill encourages the States and participants in a green transmission plan to agree on and propose a cost allocation to FERC. If no cost allocation is filed, this bill allows FERC to determine a just and reasonable cost allocation that takes account of the widely distributed impacts of the transmission project. This bill allows FERC to allocate costs to all users, owners, and operators of the bulk power system in a region of an interconnection or throughout an interconnection.

This bill provides that costs of a green transmission project initially built with extra transmission capacity to multiple renewable generators can initially be allocated with the cost allocation. As new generation projects interconnect, they will pay their share of the transmission grid project, reducing the effect on rates of the transmission provider's customers.

Sec. 407. Encouraging Clean Energy Development in Renewable Energy Zones: To ensure that transmission projects needed to integrate renewable energy resources get built in a timely manner, this bill allows federal transmitting utilities to construct projects if no privately-funded entity commits to financing them within 3 years. This bill extends bonding authority of federal transmitting utilities to finance construction of transmission.

Sec. 408. Federal power marketing agencies: This bill directs federal power marketing agencies to promote renewable energy and energy efficiency, by developing wind, solar and geothermal integration programs, and directs the federal transmitting utilities to undertake renewable electricity and energy security projects. It also directs WAPA to study reregulating hydroelectric dams and allows WAPA to fund a wind-hydro or solar-hydro integration demonstration project.

Sec. 409. Solar Energy Reserve Pilot Project: This bill establishes a pilot program on Federal land for commercial utility-scale solar electric energy systems on lands identified by the Secretary of Interior and the Secretary of Energy.

Sec. 410. Investment incentives: To encourage investment in green transmission projects, this bill extends infrastructure investment incentives from the Energy Policy Act of 2005 to include transmission projects that integrate renewable energy resources into the transmission system. The limit on third-party financing of transmission investments in the Western Area and Southwestern Area Power Administration territories is raised to $2.5 billion.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. DODD, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mrs. HAGAN, Mr. MERKLEY, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. JOHNSON, Mr. SCHUMER, Mr. UDALL of New Mexico, and Mrs. BOXER):

S. 540. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, I am pleased to join Senator KENNEDY once again in the introduction of this important legislation. The bill that we introduce today will correct the Supreme Court's decision in Riegel v. Medtronic, which misconstrued the intent of Congress and cut off access to our Nation's courts for citizens injured or killed by defective medical devices.

Last year, the Senate Judiciary Committee held a series of hearings to examine the way in which the Supreme Court's decisions in the areas of retirement benefits, consumer product safety, workplace discrimination, and personal finance have consistently trended against the rights of consumers and in favor of big business. In many cases that have profound effects on the lives of ordinary Americans, the Court has either ignored the intent of Congress, deferred to corporate interests, or sided with a Federal agency's flawed interpretation of a congressional statute's preemptive force to disadvantage consumers. The impact of the decisions that were the focus of those hearings continues to be felt by Americans today, whether they are prohibited from seeking redress in the courts for an injury caused by a defective product, paying exorbitant credit card interest rates and fees with no relief from the laws of their own State, or subjected to the unscrupulous practices of some in the mortgage lending industry.

These hearings raised awareness in Congress, and among Americans, about the impact the Supreme Court has on our everyday lives. And I am especially proud that following on these hearings,

and through the efforts of a determined and principled congressional majority, we witnessed our constitutional democracy at work when President Obama signed the Lilly Ledbetter Fair Pay Act. I am heartened that Congress reclaimed the intent of its original legislation and overrode the Supreme Court to restore the rights of Americans to be free from discrimination in the workplace.

Just yesterday in the case of Wyeth v. Levine the Supreme Court foreclosed the need for Congress to act in another important area when it validated the views of many by rejecting the Bush administration and the Food and Drug Administration's extravagant views of a regulatory agency's ability to preempt State law. I am glad the Court spoke clearly and decisively on this issue. The Court's decision was not only a vindication of Congress's primary authority to pre-empt State law, but a victory for every American who relies upon pharmaceutical drugs and entrusts the manufacturers of those drugs with insuring their safety. The Court's decision also vindicated the laws and courts of the State of Vermont, and I am proud to have expressed my views to the Court as to Congress's intent in this area and on behalf of Diana Levine.

The bill we introduce today is another important step to correct an erroneous reading by the Court of Congress's intent in enacting the medical device amendments of 1976. This legislation will make explicit that the preemption clause in the medical device amendments upon which the Court relied does not, and never was intended to preempt the common law claims of consumers injured by a federally approved medical device.

The extraordinary power to preempt State law and regulation lies with Congress alone. Where the Court reaches to the extent it did in the Riegel decision to find Federal preemption contrary to what Congress intended, Congress is compelled to act, just as it was in the case of Lilly Ledbetter. I hope all Senators will join us in this effort.

Mr. HARKIN. Mr. President, I am proud to join my colleagues in reintroducing the Medical Device Safety Act. This legislation reverses the Supreme Court's erroneous decision in Riegel v. Medtronic. There, the Court misread a statute designed to protect consumers by giving the Food and Drug Administration, FDA, the authority to approve medical devices as preempting State tort claims when a medical device causes harm. Riegel prevents consumers from receiving fair compensation for injuries sustained, medical expenses incurred and lost wages, and it must be reversed.

Congressional action should be unnecessary. When Congress passed the Medical Device Amendments, or MDA, in 1976, it did so ''[t]o provide for the safety and effectiveness of medical devices intended for human use.'' In other words, Congress passed the MDA precisely to protect consumers from dangerous medical devices. Towards that end, Congress gave the FDA the authority to approve, prior to a product entering the market, certain medical devices. For over 30 years the MDA has been in effect, and over that period FDA regulation and tort liability have complimented each other in protecting consumers.

Given the MDA's purpose, and the fact it has operated successfully for 30 years, I was disheartened to find the Court twist the meaning of the statute to strip from consumers all remedies when a medical device fails. In contorted logic, the Court found that the FDA's requirements in approving a medical device preempted State laws designed to ensure that manufacturers marketed safe devices. In other words, the Court believes that a company's responsibility to its patients ends when it receives FDA approval. I strenuously disagree.

In fact, there is absolutely no evidence that Congress intended that under the MDA consumers would lose their only avenue for receiving compensation for injuries caused by negligent or inadequately labeled devices. Not a single Member or committee report articulated the view that the statute would preempt State tort law.

Nevertheless, because of the Court's decision, it is imperative that Congress act to ensure that those harmed by flawed medical devices can seek compensation. The bill introduced today addresses the Court's action by explicitly stating that actions for damages under State law are preserved. Specifically, it amends section 521 of the Federal Food, Drug, and Cosmetic Act to state that the section shall not be construed to modify or otherwise affect any action for damages or the liability of any person under the law of any State. And the bill applies retroactively to the date of the enactment of the MDA, consistent with Congress's intent when it passed that act over 30 years ago. Practically, that means that it applies to cases pending on the date of enactment of this legislation or claims for injuries sustained prior to enactment.

The harm from Riegel, unless Congress acts, cannot be more real. In the year since Riegel was decided alone, courts across the country have dismissed product liability claims. Take Charles Riegel. During an angioplasty, a catheter burst and caused him serious injuries and disabilities, and a State jury found Medtronic negligent. Because of the Supreme Court's decision, however, Mr. Riegel's wife will receive no compensation for the defective design and inadequate warning. Take Gary Despain. A defective hearing aid caused severe damage to his right ear, and he became disabled and unemployed. Because of the Supreme Court's decision, Mr. Despain has no ability to see remedies for his injuries.

Recently, a court dismissed the claims of almost 1,500 patients who brought suit arising from Medtronic's Sprint Fidelis defibrillator—specific models of thin wires that connect an implantable cardiac-defibrillator directly to the heart. In October 2007, the product was recalled after lead fractured in several cases and was thought to contribute to deaths and serious injuries. Again, because of the Court's ruling, injured plaintiffs have no recourse against the company that caused the harm.

While FDA approval of medical devices, moreover, is important, it cannot be the sole protection for consumers. FDA approval is simply inadequate to replace the longstanding safety incentives and consumer protections State tort law provides.

As a senior member of the Health, Education, Labor and Pension Committee, which has oversight over FDA, I have worked hard to ensure that the FDA performs its job. No matter how effective the FDA is, however, the FDA simply cannot guarantee that no defective, dangerous, and deadly medical device will reach consumers. As the former Director of the FDA's Center for Devices and Radiological Health acknowledged, the FDA's ''system of approving devices isn't perfect, and that unexpected problems [with approved devices] do arise.'' In 1993, a House report identified a ''number of cases in which the FDA [had] approved devices that proved unsafe in use.''

The fact is, the FDA conducts the approval process with minimal resources and simply does not have adequate funds to genuinely ensure that devices are safe or to properly and effectively reevaluate approvals as new information is available.

Further, the FDA approval process is based on partial information. A principal shortcoming is that the device's manufacturer compiles the studies and data supporting an application, and the data is often unreliable. And the FDA does not conduct independent investigations into a device's safety. A manufacturer, moreover, is not required to submit information about development of the device, including alternative designs, manufacturing methods, and labeling possibilities that the manufacturer considered but rejected.

In 1993, an FDA committee found flaws in the design, conduct, and analysis of the clinical studies used to support applications that were ''sufficiently serious to impede the agency's ability to make the necessary judgments about [device] safety and effectiveness.'' It added, ''[o]ne of the main reasons [problems arise after approval] is that the data upon which we base our safety and effectiveness decisions isn't perfect.'' Likewise, in 1996, the inspector general of the Department of Health and Human Services reported ''serious deficiencies . . . in the clinical data submitted as part of pre-market applications.''

Moreover, there is very little FDA oversight once a device reaches doctors

and patients. In fact, even the best designed and most reliable clinical studies by their very nature cannot duplicate all aspects and hazards of everyday use. Moreover, while manufacturers are supposed to report defects and injuries, the FDA has admitted that there is ''severe underreporting'' of defects and injuries.

Given the FDA's limitations, it is crucial that an individual have a right to seek redress. When defective medical devices reach the market, whether or not approved by the FDA, patients are often injured. Those injured are often left temporarily unable to work or to enjoy normal lives, and in many cases never fully recover. State tort law provides the only relief for patients injured by defective medical devices and should not be foreclosed.

Not only does access to State court mean that a person injured can receive fair compensation, but there are other advantages. Such suits aid in exposing dangers and serve as a catalyst to address their consequences. Through discovery, litigation can help uncover previously unavailable information on adverse effects of products that might not have been caught during the regulatory system. Litigants can demand documents and information on product risks that might not have been shared with the FDA. In this way, the public as a whole is alerted to dangers in medical products.

Finally, providing the ability to sue when injured provides an important incentive to manufacturers to use the utmost care. Additionally, threat of product liability suits creates continuing incentives for product manufacturers to improve the safety of their device, even after FDA approval.

As the Supreme Court recognized this week, in Wyeth v. Levine, in holding that failure to warn claims involving FDA approved drugs are not preempted, ''[s]tate tort suits uncover unknown drug hazards and provide incentives for drug manufacturers to disclose safety risks promptly. They also serve a distinct compensatory function that may motivate injured persons to come forward with information.'' The Court continued, ''the FDA has long maintained that state law offers an additional, and important, layer of consumer protection that complements FDA regulation.''

The same consumer protection that State courts provide which the Court recognized as important in the context of faulty drug warnings is equally important for those consumers harmed by faulty medical devices.

In conclusion, sadly the Court fundamentally misread Congress's intent in passing the Medical Device Amendments in 1976, and Reigel appears to represent yet another victory by big business over consumers. That is not, however, the final say on the matter. To quote Chief Justice Roberts, ''every area involving an interpretation of a statute, the final say is not with the Supreme Court, the final say is with Congress. And if they don't like the Supreme Court's interpretation of it, they can change it.''

Make no mistake, moreover, it can be done. Last year, Congress passed and the President signed the ADA Amendments Act, reversing decisions in which the Court consistently misconstrued the will of Congress and held that the ADA does not protect many people with serious disabilities from discrimination. This year, we were successful in reversing the Court's draconian Lilly Ledbetter decision, making clear that those discriminated against do have a recourse in law.

Those injured by faulty medical devices deserve to have their day in court and are entitled to compensation when they are injured by faulty medical devices, have medical expenses to pay and lost wages, regardless of whether the FDA approved a device. We must reverse this erroneous decision and ensure that those who have suffered serious injury at the hands of others receive justice.

By Mr. DODD (for himself, Mr. CRAPO, Mr. AKAKA, Mr. BROWN, Mr. CORKER, Mr. BOND, and Mr. ISAKSON):

S. 541. A bill to increase the borrowing authority of the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I have been approached, along with my colleague Senator SHELBY and leaders of the House Financial Services Committee, by the Chairman of the Federal Deposit Insurance Corporation, Sheila Bair, with a request to increase substantially the FDIC's borrowing authority from Treasury from the current $30 billion to $100 billion, for use by the FDIC's Deposit Insurance Fund and for temporary additional borrowing authority to help weather the economic crisis. In response to her request, I am introducing the Depositor Protection Act of 2009, which provides this authority. We are taking this step out of an abundance of caution and to meet any contingencies that the fund may face in the coming months.

The FDIC's Deposit Insurance Fund DIF absorbs losses that result from the corporation's obligation to protect insured deposits when FDIC-insured financial institutions fail. Insured financial institutions pay premiums that support the DIF and under current law those premiums can be increased to cover any losses to the fund.

Today, the House passed legislation to substantially and permanently increase this borrowing authority as part of H.R. 1106, the Helping Families Save Their Homes Act of 2009. Last month, Treasury Secretary Geithner and Chairman Bernanke of the Federal Reserve Board wrote to me to underscore their support for the FDIC's increased borrowing authority.

Since the FDIC's borrowing authority was last increased in 1991, the asset size of banks has tripled. Even more important, the financial system is under considerable stress, and the level of thrift and bank failures has been rising. This line of credit is designed strictly to serve as a backstop to cover potential losses to the DIF.

Though this statutory borrowing authority has historically never been tapped, and Chairman Bair has made clear she does not anticipate doing so, I agree with Chairman Bair, Secretary Geithner, and Chairman Bernanke that under current economic circumstances such an increase in borrowing authority is both prudent and necessary. It is important that we increase this line of borrowing authority so that the FDIC has the funds available which might be needed to meet its obligations to protect insured depositors and to reassure the public that the Government continues to stand firmly behind the FDIC's insurance guarantee.

Additionally, on Friday, February 27, the FDIC Board voted to impose a one-time special assessment of 20 basis points on insured depository institutions because of concern about the level of the DIF. This special assessment is in addition to the regular premiums, which were increased on February 27 to a range of 12 to 16 basis points. The DIF is significantly below the statutory minimum reserve ratio of 1.15. As of December 31, 2008, the DIF ratio stood at .4. The FDIC has informed us that with the increased borrowing authority provided in this legislation, it believes it can reduce the size of the special assessment while still maintaining appropriate assessments at a level that supports the DIF with funding from the banking industry.

Mr. President, I ask unanimous consent that the text of the bill and 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. 541

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 ''The Depositor Protection Act of 2009''.

SEC. 2. INCREASED BORROWING AUTHORITY OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(1) by striking ''$30,000,000,000'' and inserting ''$100,000,000,000'';

(2) by striking ''The Corporation is authorized'' and inserting the following:

''(1) IN GENERAL.—The Corporation is authorized'';

(3) by striking ''There are hereby'' and inserting the following:

''(2) FUNDING.—There are hereby''; and

(4) by adding at the end the following:

''(3) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and

the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $500,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above $100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.''.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, March 5, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

1DEAR MR. CHAIRMAN: I am writing to express my support for the Depositor Protection Act of 2009, legislation to increase the Federal Deposit Insurance Corporation's borrowing authority with the Treasury Department if losses from failed financial institutions exceed the industry funded resources of the Deposit Insurance Fund (DIF).

As you know, the FDIC's borrowing authority was set in 1991 at $30 billion and has not been raised since that date. Assets in the banking industry have tripled since 1991, from $4.5 trillion to $13.6 trillion. As I indicated in my previous letter of January 26, 2009, the FDIC believes it is prudent to adjust the statutory line of credit proportionately to leave no doubt that the FDIC can immediately access the necessary resources to resolve failing banks and provide timely protection to insured depositors.

The legislation would include important additional authority for the FDIC and would rationalize the FDIC's current borrowing authority. Under current law, the FDIC has the authority to borrow up to $30 billion from Treasury to cover losses incurred in insuring deposits up to $100,000. In addition, when Congress temporarily increased deposit insurance coverage to $250,000, it temporarily lifted all limits on the FDIC's borrowing authority to implement the new deposit insurance obligation.

The bill would permanently increase the FDIC's authority to borrow from Treasury from $30 billion to $100 billion. In addition the bill also would temporarily authorize an increase in that borrowing authority above $100 billion (but not to exceed $500 billion) based on a process that would require the concurrence of the FDIC, the Federal Reserve Board, and the Treasury Department, in consultation with the President.

Because the existing borrowing authority for losses from bank failures provides a thin margin of error, it was necessary for the FDIC recently to impose increased assessments on the banking industry. These assessments will have a significant impact on insured financial institutions, particularly during a financial crisis and recession when banks must be a critical source of credit to the economy.

The size of the special assessment reflected the FDIC's responsibility to maintain adequate resources to cover unforeseen losses. Increased borrowing authority, however, would give the FDIC flexibility to reduce the size of the recent special assessment, while still maintaining assessments at a level that supports the DIF with industry funding. While the industry would still pay assessments to the DIF to cover projected losses and rebuild the Fund over time, a lower special assessment would mitigate the impact on banks at a time when they need to serve their communities and revitalize the economy.

In conclusion, the Depositor Protection Act would leave no doubt that the FDIC will have the resources necessary to address future contingencies and seamlessly fulfill the government's commitment to protect insured depositors against loss. I strongly support this legislation and look forward to working with you to enact it into law.

Sincerely,

SHEILA C. BAIR,
Chairman.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, February 2, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to join the Secretary of the Treasury in expressing my agreement that the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury Department should be increased to $100 billion from its current level of $30 billion. While the FDIC has substantial resources in the Deposit Insurance Fund, the line of credit with the Treasury Department provides an important back-stop to the fund and has not been adjusted since 1991. An increase in the line of credit is a reasonable and prudent step to ensure that the FDIC can effectively meet potential future obligations during periods such as the difficult and uncertain economic climate that we are currently experiencing.

I also support legislation that would allow the Secretary of the Treasury, in consultation with the Chairman of the Board of Governors of the Federal Reserve System if Congress believes that to be appropriate, to increase the FDIC's line of credit with the Treasury in exigent circumstances. This mechanism would allow the FDIC to respond expeditiously to emergency situations that may involve substantial risk to the financial system.

The Federal Reserve would be happy to work with your staff on this matter, as well as on the other amendments under consideration that would allow the FDIC more flexibility in the timing and scope of assessments that it charges to recover costs to the Deposit Insurance Fund in the event that the systemic risk exception in the Federal Deposit Insurance Act has been invoked.

Sincerely,

BEN S. BERNANKE,
Chairman.

DEPARTMENT OF THE TREASURY,
Washington, DC, February 2, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the Federal Deposit Insurance Corporation's (FDIC) current request to increase its permanent statutory borrowing authority under its line of credit with the Treasury Department from $30 billion to $100 billion. Since the last increase in that authority in 1991, the banking industry's assets have tripled. More importantly, the financial and credit markets continue to be under acute stress, and the level of thrift and bank failures has been rising. Although the FDIC's Deposit Insurance Fund remains substantial at $35 billion, and the FDIC has never needed to tap the existing line of credit with the Treasury Department in the past, the proposed increase in the limit is a reasonable and prudent step to ensure that the FDIC can effectively meet any potential future. obligations.

The Treasury Department also supports the FDIC's request to make future adjustments to the line of credit based on exigent circumstances, but recommends that such future adjustments require the concurrence of both the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. This future adjustment mechanism would provide an additional layer of protection for insured depositors and enhance the confidence of financial markets during this turbulent period.

The Treasury Department also supports the FDIC having authority to determine the time period for recovering any loss to the insurance fund resulting from actions taken after a systemic risk determination by the Secretary of the Treasury.

I hope that you find our views useful in the Committee's consideration of the FDIC's request. Thank you for the opportunity to share these views.

Sincerely,

TIMOTHY F. GEITHNER,
Secretary of the Treasury.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—HONORING THE 100TH ANNIVERSARY OF FORT MCCOY IN SPARTA, WISCONSIN

Mr. KOHL submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 65

Whereas 2009 is the 100th anniversary of the Army operating a military installation in Sparta, Wisconsin;

Whereas the Army began training in Monroe County, Wisconsin on the 4,000-acre family farm of Robert Bruce McCoy in September 1905;

Whereas the Army purchased the McCoy farm and established the Sparta Maneuver Tract on June 8, 1909;

Whereas the Sparta Maneuver Tract was officially designated Camp McCoy on November 19, 1926, in honor of Major General Robert Bruce McCoy;

Whereas Camp McCoy served as one of the largest and most modern artillery camps in the Nation, training field artillery units for deployment in World War I;

Whereas Camp McCoy served as a supply base for the Civilian Conservation Corps during the Great Depression, supplying uniforms, lodging, and food to thousands of young men;

Whereas Camp McCoy was modernized and expanded to help prepare military units for deployment in World War II, resulting in the construction of 1,500 buildings capable of training and supporting 35,000 troops;

Whereas Camp McCoy was temporarily an internment camp during the Japanese American internment, a period of grave injustice to individuals of Japanese ancestry;

Whereas Camp McCoy served as a prisoner of war camp for 4 years, housing Japanese, German, and Korean prisoners of war;

Whereas Camp McCoy served as a major training center for the Fifth Army preparing for the Korean War;

Whereas Camp McCoy was officially renamed Fort McCoy on September 30, 1974, recognizing Fort McCoy's status as a year-round Army training facility;

Whereas Fort McCoy was designated as a Resettlement Center for Cuban refugees, housing approximately 15,000 Cubans in 1980;

Whereas Fort McCoy served as a major mobilization site during Operations Desert Shield and Desert Storm, preparing more than 18,000 soldiers for deployment; and

Whereas Fort McCoy continues to support our Nation's defense, training more than 100,000 soldiers per year and preparing 85,000 military personnel from 49 States and 2 territories for mobilization since September 11, 2001: Now, therefore, be it

Resolved, That the Senate honors Fort McCoy in Sparta, Wisconsin, on its 100th anniversary and commends the men and women who have worked and trained at the fort.

Mr. KOHL. Mr. President, today I honor the 100 year legacy of Fort McCoy and the men and women who have worked and trained at the fort.

On June 8th, 1909, the United States Army began training on a tract of land that would eventually become Fort McCoy. Named for Major General Robert McCoy, the fort has embodied his commitment to military service for 100 years. Providing training to more than 100,000 reserve and active duty soldiers per year, Fort McCoy is the only facility focused on supporting total force training. As a pioneer for field artillery and maneuver training, the fort has developed into one of the largest and most modern artillery camps in the nation. Fort McCoy has supported and trained our troops through every major military action of the twentieth and twenty-first centuries and has truly remained an unwavering presence for the United States Armed Services.

I am proud to recognize the 100 year anniversary of Fort McCoy and the enduring commitment that its troops have given to the United States of America.

SENATE RESOLUTION 66—DESIGNATING 2009 AS THE ''YEAR OF THE NONCOMMISSIONED OFFICER CORPS OF THE UNITED STATES ARMY''

Mr. BOND submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 66

Whereas the Secretary of the Army has designated 2009 as the Year of the United States Army Noncommissioned Officer (NCO) to honor more than 200 years of service by the noncommissioned officers of the Army to the Army and the American people;

Whereas the modern noncommissioned officer of the Army operates autonomously, and always with confidence and competence;

Whereas the Noncommissioned Officer Corps of the Army has distinguished itself as the most accomplished group of military professionals in the world, with noncommissioned officers of the Army leading the way in education, training, and discipline, empowered and trusted like no other noncommissioned officers, and serving as role models to the most advanced armies in the world; and

Whereas the noncommissioned officers of the Army share their strength of character and values with every soldier, officer, and civilian they support across the regular and reserve components of the Army, and take the lead and are the keepers of Army standards: Now, therefore, be it

Resolved, That the Senate—

(1) designates 2009 as the ''Year of the Noncommissioned Officer Corps of the United States Army''; and

(2) encourages the people of the United States to recognize the ''Year of the Noncommissioned Officer Corps of the United States Army'' with appropriate ceremonies and activities.

SENATE RESOLUTION 67—EXPRESSING THE SENSE OF THE SENATE THAT PROVIDING BREAKFAST IN SCHOOLS THROUGH THE NATIONAL SCHOOL BREAKFAST PROGRAM HAS A POSITIVE IMPACT ON THE LIVES AND CLASSROOM PERFORMANCE OF LOW-INCOME CHILDREN

Mr. FEINGOLD (for himself, Mr. KOHL, Mr. SANDERS, Mr. DURBIN, Mr. CASEY, Mr. BURRIS, Mrs. GILLIBRAND, Mr. CHAMBLISS, Mr. KERRY, Mr. BENNET, Mr. BEGICH, Mr. BAYH, and Mr. DODD) submitted the following resolution; which was considered and agreed to:

S. RES. 67

Whereas participants in the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) include public, private, elementary, middle, and high schools, as well as schools in rural, suburban, and urban areas;

Whereas access to nutrition programs such as the school lunch program, established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the national school breakfast program helps to create a stronger learning environment for children and improves children's concentration in the classroom;

Whereas missing breakfast and the resulting hunger has been shown to harm the ability of children to learn and to hinder academic performance;

Whereas students who eat a complete breakfast have been shown to make fewer mistakes and to work faster in math exercises than those who eat a partial breakfast;

Whereas implementing or improving classroom breakfast programs has been shown to increase breakfast consumption among eligible students dramatically, doubling, and in some cases, tripling numbers of participants in school breakfast programs, as evidenced by research in Minnesota, New York, and Wisconsin;

Whereas providing breakfast in the classroom has been shown in several instances to improve attentiveness and academic performance, while reducing absences, tardiness, and disciplinary referrals;

Whereas studies suggest that eating breakfast closer to the time students arrive in the classroom and take tests improves the students' performance on standardized tests;

Whereas studies show that students who skip breakfast are more likely to have difficulty distinguishing among similar images, show increased errors, and have slower memory recall;

Whereas children who live in families that experience hunger are likely to have lower math scores, receive more special education services, and face an increased likelihood of repeating a grade;

Whereas making breakfast widely available in different venues or in a combination of venues, such as by providing breakfast in the classroom, in the hallways outside classrooms, or to students as they exit their school buses, has been shown to lessen the stigma of receiving free or reduced-price school breakfasts, which stigma sometimes prevents eligible students from obtaining traditional breakfast in the cafeteria;

Whereas in fiscal year 2008, 8,520,000 students in the United States consumed free or reduced-price school breakfasts provided under the national school breakfast program;

Whereas less than half of the low-income students who participate in the national school lunch program also participate in the national school breakfast program;

Whereas at least 16,000 schools that participate in the national school lunch program do not participate in the national school breakfast program;

Whereas in fiscal year 2008, 60 percent of school lunches served, and 80 percent of school breakfasts served, were served to students who qualified for free or reduced-priced meals;

Whereas the current economic situation, including the increase of nearly 3 percent in the national unemployment rate in 2008, is causing more families to struggle to feed their children and to turn to schools for assistance;

Whereas studies suggest that children who eat breakfast take in more nutrients, such as calcium, fiber, protein, and vitamins A, E, D, and B-6;

Whereas studies show that children who participate in school breakfast programs eat more fruits, drink more milk, and consume less saturated fat than those who do not eat breakfast;

Whereas children who do not eat breakfast, either in school or at home, are more likely to be overweight than children who eat a healthful breakfast on a daily basis; and

Whereas March 2 through March 6, 2009 is National School Breakfast Week: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance of the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and the positive impact of the program on the lives of low-income children and families and on children's overall classroom performance;

(2) expresses strong support for States that have successfully implemented school breakfast programs in order to alleviate hunger and improve the test scores and grades of participating students;

(3) encourages all States to strengthen their school breakfast programs, provide incentives for the expansion of school breakfast programs, and promote improvements in the nutritional quality of breakfasts served;

(4) recognizes the need to provide States with resources to improve the availability of adequate and nutritious breakfasts;

(5) recognizes the impact of nonprofit and community organizations that work to increase awareness of, and access to, breakfast programs for low-income children; and

(6) recognizes that National School Breakfast Week helps draw attention to the need for, and success of, the national school breakfast program.

AMENDMENTS SUBMITTED AND PROPOSED

SA 665. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 666. Mr. ENZI (for himself, Mr. CRAPO, Mr. BARRASSO, and Mr. RISCH) submitted an amendment intended to be proposed by him

to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 667. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 668. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 669. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 670. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 671. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 1105, supra; which was ordered to lie on the table.

SA 672. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1105, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 665. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 942, between lines 14 and 15, insert the following:

INVESTMENTS IN ENERGY SECTOR OF IRAN

SEC. 7093. (a) None of the amounts appropriated or otherwise made available by this Act may be made available for the Department of State until the Secretary of State, in consultation with the Secretary of the Treasury, submits to Congress a report on investments by foreign companies in the energy sector of Iran since the date of the enactment of the Iran Sanctions Act (Public Law 104–172; 50 U.S.C. 1701 note), including information compiled from credible media reports. The report shall include the status of any United States investigations of companies that may have violated the Iran Sanctions Act, including explanations of why the Department of State has not made a determination of whether any such investment constitutes a violation of such Act.

(b) In this section, the term ''investment'' has the meaning given the term in section 14 of the Iran Sanctions Act (Public Law 104–172; 50 U.S.C. 1701 note).

SA 666. Mr. ENZI (for himself, Mr. CRAPO, Mr. BARRASSO, and Mr. RISCH) submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 115 of division E and insert the following:

SEC. 115. ROYALTY COLLECTION PROCESS STUDY.

(a) STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (acting through the Director of the Minerals Management Service) (referred to in this section as the ''Secretary'') shall conduct a study of the royalty collection process for coal, other solid minerals, and geothermal resources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives a report that—

(1) describes the results of the study conducted under subsection (a); and

(2) includes any recommendations of the Secretary with respect to ways in which the royalty collection process may be improved.

SA 667. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 602, beginning on line 16, strike ''*Provided*,'' and all that follows through ''fiscal year:'' on line 22.

SA 668. Mr. ENZI submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title II of division F, insert the following:

SEC. ____. Notwithstanding any other provision of this Act, no funds shall be made available under this Act to modify the HIV/AIDS funding formulas under title XXVI of the Public Health Service Act.

SA 669. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

After section 430 of title IV of division E, insert the following:

SEC. 431. NATIONAL FOREST FOUNDATION.

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

(b) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 405 of the National Forest Foundation Act (16 U.S.C. 583j-3) is amended—

(1) in subsection (a), by striking ''section 410(a)'' and inserting ''section 410''; and

(2) in subsection (b), by striking ''section 410(b)'' and inserting ''section 410''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 410 of the National Forest Foundation Act (16 U.S.C. 583j-8) is amended to read as follows:

''SEC. 410. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the Secretary of Agriculture to carry out this title $3,000,000 for fiscal year 2009 and each fiscal year thereafter, to be made available to the Foundation to match, on a 1-for-1 basis, private contributions that are made to the Foundation.''.

SA 670. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 942, between lines 14 and 15, insert the following:

CIVILIAN STABILIZATION INITIATIVE

SEC. 7093. (a) The amount appropriated or otherwise made available by title I for the Department of State under the heading ''CIVILIAN STABILIZATION INITIATIVE'' is hereby increased by $30,000,000.

(b) The amount appropriated or otherwise made available by title II for the United States Agency for International Development under the heading ''CIVILIAN STABILIZATION INITIATIVE'' is hereby reduced by $30,000,000.

(c)(1) Of the amount appropriated or otherwise made available by title I for the Department of State under the heading ''CIVILIAN STABILIZATION INITIATIVE'', as increased by subsection (a), $30,000,000 may be made available to the United States Agency for International Development for the Agency's portion of the Civilian Stabilization Initiative.

(2) Of the amount made available to the United States Agency for International Development pursuant to paragraph (1), up to $6,000,000 may be made available to the Office of Surge Administration.

SA 671. Mr. LUGAR submitted an amendment intended to be proposed by him to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 760, strike lines 1 through 16.

SA 672. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1105, making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 351, lines 2 and 3, strike ''*Provided further*,'' and all that follows through ''110–140:'' on line 11 and insert the following: ''*Provided further*, That $2,300,000 is for the Veterans Assistance and Services Program authorized under section 21(n) of the Small Business Act (15 U.S.C. 648(n)): *Provided further*, That $110,000,000 shall be available to fund grants to small business development centers for performance in fiscal year 2009 or fiscal year 2010 as authorized: *Provided further*, That $3,250,000 is for the Small Business Energy Efficiency Program authorized under section 1203(c) of the Energy Independence and Security Act of 2007 (15 U.S.C. 657h(c)): *Provided further*, That $3,250,000 is for small business development center grant programs for veterans: *Provided further*, *That* $7,000,000 is for the Service Corps of Retired Executives program authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)): *Provided further*, That $17,100,000 is for the women's business center program under section 29 of the Small Business Act (15 U.S.C. 656): *Provided further*, That $8,000,000 is for the Office of Trade of the Small Business Administration: *Provided further*, That $4,000,000 is for the HUBZone program under section 31 of the Small Business Act (15 U.S.C. 657a):''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing

will be held on Thursday, March 12, 2009, at 2:45 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nomination of David Hayes to be Deputy Secretary of the Interior.

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 Amanda__kelly@energy.senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 5, 2009 at 10 a.m., to conduct a hearing entitled ''American International Group: Examining What Went Wrong, Government Intervention, and Implications for Future Regulation.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEAHY. Mr. President, I would like to ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 5, 2009, at 9:30 a.m., in room SH–216 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 5, 2009, at 10:30 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, March 5, 2009, at 10 a.m. to conduct a hearing entitled ''Follow the Money: Transparency and Accountability for Recovery and Reinvestment Spending.''

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

COMMITTEE ON THE JUDICIARY

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, March 5, 2009, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEAHY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 5, 2009 at 9:30 a.m. in room 106 of the Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEAHY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 5, 2009 at 2:30 p.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. LEAHY. 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 Thursday, March 5, 2009, at 2:30 p.m. to conduct a hearing entitled, ''Lessons Learned: How the New Administration Can Achieve an Accurate and Cost-Effective 2010 Census.''

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

NATIONAL ASBESTOS AWARENESS WEEK

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 57 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 57) designating the first week of April 2009 as ''National Asbestos Awareness Week.''

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

Mr. MERKLEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 57) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 57

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas asbestos fibers can cause mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally, little is known about late-stage treatment of asbestos-related diseases, and there is no cure for such diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognoses;

Whereas the United States has reduced its consumption of asbestos substantially, yet continues to consume almost 2,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas exposure to asbestos continues, but safety and prevention of asbestos exposure already has significantly reduced the incidence of asbestos-related diseases and can further reduce the incidence of such diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana have asbestos-related diseases at a significantly higher rate than the national average and suffer from mesothelioma at a significantly higher rate than the national average; and

Whereas the establishment of a ''National Asbestos Awareness Week'' will raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate—

(1) designates the first week of April 2009 as ''National Asbestos Awareness Week'';

(2) urges the Surgeon General to warn and educate people about the public health issue of asbestos exposure, which may be hazardous to their health; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Office of the Surgeon General.

NATIONAL SCHOOL BREAKFAST PROGRAM

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 67, submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 67) expressing the sense of the Senate that providing breakfast in schools through the national school breakfast program has a positive impact on the lives and classroom performance of low-income children.

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

Mr. MERKLEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 67) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 67

Whereas participants in the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) include public, private, elementary, middle, and high schools, as well as schools in rural, suburban, and urban areas;

Whereas access to nutrition programs such as the school lunch program, established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the national school breakfast program helps to create a stronger learning environment for children and improves children's concentration in the classroom;

Whereas missing breakfast and the resulting hunger has been shown to harm the ability of children to learn and to hinder academic performance;

Whereas students who eat a complete breakfast have been shown to make fewer mistakes and to work faster in math exercises than those who eat a partial breakfast;

Whereas implementing or improving classroom breakfast programs has been shown to increase breakfast consumption among eligible students dramatically, doubling, and in some cases, tripling numbers of participants in school breakfast programs, as evidenced by research in Minnesota, New York, and Wisconsin;

Whereas providing breakfast in the classroom has been shown in several instances to improve attentiveness and academic performance, while reducing absences, tardiness, and disciplinary referrals;

Whereas studies suggest that eating breakfast closer to the time students arrive in the classroom and take tests improves the students' performance on standardized tests;

Whereas studies show that students who skip breakfast are more likely to have difficulty distinguishing among similar images, show increased errors, and have slower memory recall;

Whereas children who live in families that experience hunger are likely to have lower math scores, receive more special education services, and face an increased likelihood of repeating a grade;

Whereas making breakfast widely available in different venues or in a combination of venues, such as by providing breakfast in the classroom, in the hallways outside classrooms, or to students as they exit their school buses, has been shown to lessen the stigma of receiving free or reduced-price school breakfasts, which stigma sometimes prevents eligible students from obtaining traditional breakfast in the cafeteria;

Whereas in fiscal year 2008, 8,520,000 students in the United States consumed free or reduced-price school breakfasts provided under the national school breakfast program;

Whereas less than half of the low-income students who participate in the national school lunch program also participate in the national school breakfast program;

Whereas at least 16,000 schools that participate in the national school lunch program do not participate in the national school breakfast program;

Whereas in fiscal year 2008, 60 percent of school lunches served, and 80 percent of school breakfasts served, were served to students who qualified for free or reduced-priced meals;

Whereas the current economic situation, including the increase of nearly 3 percent in the national unemployment rate in 2008, is causing more families to struggle to feed their children and to turn to schools for assistance;

Whereas studies suggest that children who eat breakfast take in more nutrients, such as calcium, fiber, protein, and vitamins A, E, D, and B-6;

Whereas studies show that children who participate in school breakfast programs eat more fruits, drink more milk, and consume less saturated fat than those who do not eat breakfast;

Whereas children who do not eat breakfast, either in school or at home, are more likely to be overweight than children who eat a healthful breakfast on a daily basis; and

Whereas March 2 through March 6, 2009 is National School Breakfast Week: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance of the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and the positive impact of the program on the lives of low-income children and families and on children's overall classroom performance;

(2) expresses strong support for States that have successfully implemented school breakfast programs in order to alleviate hunger and improve the test scores and grades of participating students;

(3) encourages all States to strengthen their school breakfast programs, provide incentives for the expansion of school breakfast programs, and promote improvements in the nutritional quality of breakfasts served;

(4) recognizes the need to provide States with resources to improve the availability of adequate and nutritious breakfasts;

(5) recognizes the impact of nonprofit and community organizations that work to increase awareness of, and access to, breakfast programs for low-income children; and

(6) recognizes that National School Breakfast Week helps draw attention to the need for, and success of, the national school breakfast program.

DISCHARGE AND REFERRAL—H.R. 44

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 44 and the bill referred to the Committee on the Judiciary.

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

ORDERS FOR FRIDAY, MARCH 6, 2009

Mr. MERKLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. Friday, March 6; 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 resume consideration of H.R. 1105, the Omnibus appropriations bill.

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

PROGRAM

Mr. MERKLEY. Mr. President, there will be no rollcall votes on Friday. The next votes are expected to begin after 5 p.m. Monday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MERKLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:18 p.m., adjourned until Friday, March 6, 2009, at 10 a.m.