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House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 22, 2010, at 2 p.m.

Senate

TUESDAY, SEPTEMBER 21, 2010

The Senate met at 10 a.m. and was called to order by the Honorable AL FRANKEN, a Senator from the State of Minnesota.

PRAYER

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

Let us pray.

God be in our heads, eyes, mouths, hearts, and in our understanding. God be in our looking, our thinking, and our speaking. God be with the Members of this legislative body today. Teach them and lead them into all truth. Unite them with a common desire to do what is best for our Nation and world. Give them grace to take judicious risks for the sake of truth and justice. Enable them to experience a fresh regenerating touch of Your power. In the decisions to be made in crucial days ahead, make them worthy of these demanding times that call aloud for wisdom and character. We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable AL FRANKEN 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. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 21, 2010.

To the Senate:

Under the provisions of Rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable AL FRANKEN, a Senator from the State of Minnesota, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. FRANKEN 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, today in the Senate there will be a period of morning business until 11 a.m. with the time controlled between the leaders or their designees. The majority will control the first half of that time; the Republicans will control the second half.

Following morning business, the Senate will resume consideration of the motion to proceed to the Defense authorization bill. The time until 12:30 p.m. will be equally divided between Senators LEVIN and MCCAIN or their designees.

The Senate will then recess from 12:30 until 2:15 p.m. to allow for the weekly caucus meetings. At 2:15, the Senate will proceed to a vote on the motion to invoke cloture on the DOD authorization bill.

DEFENSE AUTHORIZATION

Mr. REID. Mr. President, I want to say a few things on the vote we will have at 2:15 p.m. today. The issue that is creating all of the attention is a provision that the committee put in the bill dealing with don't ask, don't tell. The committee did a good job on that issue. What they said is, if the President of the United States and the Secretary of Defense, after reviewing the work being done by the Pentagon—which will be completed this December—decide it is in the best interest of the United States military to do away with that policy, that will be the case.

There are some who are saying this bill that came out of the committee repeals don't ask, don't tell. That is not the fact. It is not repealed in the bill. It simply says, I repeat, if the Defense Department, with the Secretary of the Defense and the President, certifies it will have no negative effect on the military after studying the Pentagon's work, then they can move forward on that and, in effect, repeal that policy. But it is not in this bill.

Anyway, the point is, we are going to have that vote at 2:15 p.m., and I will discuss with the Republican leader later today what we are going to do if there are amendments that are going to be offered on that. I have said some of the things I am interested in doing on that bill. I am not here in any way suggesting that people aren't being accurate in their depiction of this bill. I

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

just want to make sure that people understand what the facts are on this bill, and I think the Armed Services Committee did an extremely good job in committee.

RECOGNITION OF THE MINORITY LEADER

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

DEFENSE AUTHORIZATION

Mr. MCCONNELL. Mr. President, it is no secret that Americans are unhappy with the way our friends on the other side have handled things over the past few years, and especially the last year and a half. Americans have been speaking out across the country about the need to return to a smaller, more competent, more accountable government that lives within its means. Instead, Democrats in Congress have given them more government, more spending, more debt—and now they are threatening a massive tax hike to top it all off.

What has been most remarkable to me in watching this all play out is the way our friends on the other side have doubled down on their plans in the teeth of public outrage. Yesterday, we saw a CNBC survey showing most Americans don't like the idea of seeing taxes raised on anybody at this point. CNN says that most of the economists it surveyed said the best thing we can do for businesses is to assure them their taxes won't go up at the end of the year.

Yet Democratic leaders are still clinging to the discredited idea that government needs more power, more money for more Washington programs. Maybe the reason is that the Democratic vision of recovery—their idea of success, according to the assistant majority leader—is 9 percent unemployment. That is right. Yesterday, the No. 2 Democrat in the Senate said that Congress could ''breathe a sigh of relief'' at 9 percent unemployment or less. That is their idea of success.

Well, our idea of success is for businesses to start hiring again and to get this country back on track. It seems the more Americans say they want Democrats to stop what they are doing and focus on jobs and the economy, the more determined they are to press ahead with their various liberal agenda items while they have still got the chance.

That is basically what today's vote on the Defense authorization bill is all about. The Defense authorization bill requires 4 or 5 weeks to debate. But instead of having that debate or turning to the Defense appropriations bill, which funds the military, they want to use this week for a political exercise. They want to weigh this bill down with controversy in a transparent attempt to show their special interest groups ahead of the election that they haven't forgotten them.

It is quite astonishing. Democrats have called up this bill not to have a vote on it or to consider amendments to help our troops in the field but to put on a show—to use it as an opportunity to cast votes for things Americans either don't want or aren't interested in seeing attached to a bill that is supposed to be about defense.

My friend, the majority leader, has already said this bill isn't going to pass with these items attached to it before the election. But he is keeping them on there anyway. So this is not a serious exercise, it is a show. And it is because of shows such as this our friends have lost credibility with the public.

Americans want us to take care of the basics and do it competently—take care of the basics and do it competently. This isn't too much to ask. But evidently it is too much to ask of Democratic leaders in Congress right before the election.

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

I withhold my request.

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, there will now be a period of morning business until 11 a.m., with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Washington.

DEFENSE AUTHORIZATION

Mrs. MURRAY. Mr. President, today I am joining with Senator BROWNBACK to introduce a bipartisan amendment to the Defense authorization bill that will save and create jobs in one of the most important sectors in our economy—our aerospace industry.

Our amendment is about protecting skilled family-wage jobs—manufacturing jobs, engineering jobs, and jobs with technical skills and expertise that are passed from one generation to the next. These are jobs that not only support families during this difficult economic time but that are also helping keep entire communities above water—jobs in communities such as Kansas, Connecticut, California, and in my home State of Washington. They are jobs that support small businesses, pay mortgages, and create economic opportunity, and are jobs that right now are at risk because of illegal subsidies that undercut workers and create an uneven playing field for America's aerospace workers.

The amendment Senator BROWNBACK and I are offering is a commonsense, straightforward way to protect American aerospace jobs from unfair European competition, and it is an amendment that specifically targets a major job-creating project—the Air Force's aerial refueling tanker contract—as a place where we can begin to restore fairness for our aerospace workers. This amendment says that in awarding that tanker contract the Pentagon must also consider any unfair competitive advantage aerospace companies have. And there is no bigger unfair advantage in the world of international aerospace than launch aid.

As you may know, Mr. President, launch aid is direct funding that has been provided to European aerospace company Airbus from the treasuries of European governments. It is what supports their factories and their workers and their airplanes. It is what allows them to roll the dice and lose. And it is what separates them from American aerospace companies such as Boeing, which bets the company on each new airplane line. In short, it is what allows them to stack the deck against our American workers.

In July of this year, the World Trade Organization handed down a ruling in a case that the United States brought against the European Union that finally called launch aid what it is—a trade-distorting, job-killing, unfair advantage. In what was one of our Nation's most important trade cases to date, the WTO ruled very clearly that launch aid is illegal. It creates an uneven playing field. It has harmed American workers and American companies and it needs to end.

Specifically, the WTO found that European governments have provided Airbus more than 15 billion Euros in launch aid, subsidizing every model of aircraft ever produced by Airbus in the last 40 years, including the model they plan to put up for our tanker competition. They ruled that France and Germany and Spain provided more than 1 billion Euros in infrastructure and infrastructure-related grants between 1989 and 2001, as well as another 1 billion in shared transfers and equity infusions into Airbus. They ruled that European governments provided over 1 billion Euros in funding between 1986 and 2005 for research and development directed specifically to the development of Airbus aircraft. In fact, the Lexington Institute estimates that launch aid represents over $200 billion in today's dollars in total subsidies to Airbus.

Launch aid has had very real consequences. It has created an uphill battle for our workers and for American aerospace as a whole. Because of launch aid, our workers are now not only competing against rival companies, they are competing against the treasuries of European governments. At the end of the day, that has meant lost jobs at our American aerospace companies and suppliers and in the communities that support them.

I have been speaking out against Europe's market-distorting actions for

many years because I know and understand that these subsidies are not only illegal, they are deeply unfair and anticompetitive. My home State of Washington is home to much of our country's aerospace industry, and I know our workers are the best in the world. On a level playing field, they can compete and win against absolutely anyone. Unfortunately, Airbus and the European Union have refused to allow fair competition. Instead, they use their aerospace industry as a government-funded jobs program, and they have used billions in illegal launch aid to fund it.

They are going to do just about anything to keep those illegal subsidies in place. We saw evidence of that in recent days in news on Airbus's attempts to distract and hide their job-killing subsidies through their retaliatory WTO case against Boeing. Unfortunately for them, it was a smokescreen that failed. News reports and analysts have all shown that the two WTO decisions are worlds apart. In fact, leading aerospace analyst Loren Thompson wrote after the Boeing ruling that it ''found nothing comparable to European launch aid.'' The most recent WTO ruling really only reinforces that American aerospace workers have been at a competitive disadvantage, and that needs to change.

Let me be clear about one thing. Our objective here is not to limit competition; our objective is to make sure everyone can compete on a level playing field. Airbus has made it clear they will go to any lengths to hurt our country's aerospace industry. We need to make it clear that we will take every action to stop them because this is not only about the future of aerospace, right now it is about jobs that will help our entire economy recover.

In fact, as we look for ways to stimulate job growth and keep American companies innovating and growing, we should look no further than this amendment. This amendment is commonsense policy. It makes sure the U.S. Government policy translates to Pentagon policy because the fact is that the U.S. Government, through our Trade Representative, has taken the position that Airbus subsidies are illegal and unfair. Yet the U.S. Department of Defense is ignoring that position as we look now to purchase a tanker fleet, and that does not make any sense—not for our country, not for our military, and certainly not for our workers. The WTO made a fair decision. Airbus subsidies are illegal and anticompetitive. Now the DOD needs to take that ruling into account.

When I talk to our aerospace workers back home in Washington State, I want to tell them we have evened the stakes. I want them to know their government is not looking the other way as policies continue to undercut their job opportunities. I want them to know that while they are working to secure our country by producing the best airplanes in the world, their government is doing everything it can to make sure there are fair opportunities that will keep them on the job.

I know our workers will win a fair and open competition, and I urge the DOD to do the right thing to make this competition fair and open by considering illegal subsidies in awarding these critical contracts.

I urge my colleagues to support this bipartisan amendment when we adopt it and help us protect our American aerospace jobs as a result.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, in a few hours we are going to be voting on whether we want to take up the Defense bill. That should be a no-brainer, for, after all, defense of the country is one of the most important things the U.S. Government can do. We are going to consider that. Yet we have some highly inflammatory issues that possibly are going to derail this bill.

I have the privilege of sitting on both the Senate Armed Services Committee and the Intelligence Committee. The provisions in this bill, from my standpoint, are going to ensure that our service men and women who are putting their lives on the line for this country will have the training, the equipment, and the resources they need and deserve.

Back in February, the Secretary of Defense told our Armed Services Committee that the Department's top priorities are ''rearming and strengthening the nation's commitment to care for the all-volunteer force, our greatest strategic asset'' and ''rebalancing America's defense posture by emphasizing capabilities needed to prevail in current conflicts while enhancing capabilities that may be needed in the future.'' That is what the Secretary of Defense said. What more can you say? That is what this bill does. This National Defense Authorization Act is going to authorize over $700 billion in discretionary budget authority for the programs and initiatives to carry out what the Secretary of Defense said.

In order to carry this out for an all-volunteer force, here are some of the things the bill will do. It will improve the quality of life for the service members and their families, authorizing much needed military construction and housing projects.

Here is another example: Ensure that all of the forces preparing to deploy are trained for what they are deploying for and that their equipment is ready so that they can succeed at combat. I remember back in the early days of the Iraq war, I had mamas and daddies calling me because members of the Florida National Guard were in Iraq and they did not even have the adequate body armor. Never again for those kinds of things. But that is another reason for us to have this bill.

Another reason: It will authorize a 1.4-percent pay raise for our service members.

To get ready for the ongoing efforts to prevail in this fight, here is also what the bill would do:

Counterinsurgency. It enhances our ability to go after the bad guys in those counterinsurgency operations in Afghanistan, and it would improve the ability of our military to counter nontraditional threats such as those that now threaten us in the cyber warfare domain.

Of course, it would support the highest priority unfunded needs that are identified by the Chiefs of Staff.

It would also authorize over $110 billion in base budget authority for funding high-priority weapons systems. I will give an example. The Navy's littoral combat ship allows us to get in close to shore in modernized equipment and boats; also, the E2–D Advanced Hawkeye, the Air Force's Joint STARS Program, and the new hot, stealthy F–35 Joint Strike Fighter.

This bill takes several steps to enhance our capabilities to protect our country against emerging threats, including terrorism and the proliferation of weapons of mass destruction. This is in a subject area of the subcommittee in Armed Services that I chair.

We are going to have an increased capability for manufacturing and testing capabilities to reduce the time required to produce high-demand items such as body and vehicle armor, the IED jammers, Mine Resistant Ambush Protected Vehicles—that is the MRAP vehicles—and to modernize Department test capability facilities to ensure new weapons systems meet the requirements of that warfighter who is out there on the ground, facing the threat.

In this bill is also funding for advanced technologies for weapons systems and further R&D to reduce our dependency on fossil fuels in our military machine.

It is going to add $113 million for unfunded requirements that were identified by the commander of the Special Operations Command for ground mobility vehicles, deployable communications equipment, thermal and night vision goggles, special operations combat assault rifles, and nonlethal weapons technologies. This is the new kind of war and combat we are facing. It is often these highly specialized, trained units that are going in under stealth with highly sophisticated weapons and equipment to go after a very stealthy enemy who does not wear a uniform and who blends right into the local population.

This bill also goes after getting us improved in the nonproliferation programs.

There is so much in this bill. Yet we are facing not even getting the 60 votes this afternoon to be able to proceed with the Nation's defense. Why is that? Because there is a provision in here, that was voted out of the Armed Services Committee, on the repeal of the standing policy in the military of don't ask, don't tell—a repeal of it once the

Department of Defense completes a comprehensive review of the repeal. The President, the Secretary of Defense, and the Chairman of the Joint Chiefs—once that review is done under the bill—must certify to Congress that they can implement the repeal while maintaining readiness, effectiveness, and unit cohesion. This provision obviously has received a great deal of attention. I believe that proceeding in this way—very cautiously—will allow the DOD to examine all the implications of repealing this policy while moving forward with this change.

It is clear that this Defense bill is a key piece of the legislation for our military. For 48 consecutive years, the Senate has completed work on a Defense authorization bill. This year, a year when we have forces engaged in ground combat as we speak, is not the year for the Senate to suddenly say: No, we are not going to pass this kind of legislation.

I urge the Senate this afternoon on this vote to allow us to proceed to the discussion and the amending of the Defense bill.

Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. There is 5½ minutes remaining.

COLOMBIA

Mr. NELSON of Florida. Mr. President, I also wish to share some observations of a recent visit I made to another troubled part of the world. In Colombia, I witnessed a country transformed. I went there with our four-star commander, General Fraser of the U.S. Southern Command. We went to a former FARC base in southern Colombia, the little village of La Macarena. It is now a headquarters for the special operations forces of the Colombian military.

It is interesting, this place out in the middle of the jungle, a violent narcotrafficking insurgency that had completely controlled this territory and had intimidated and terrorized the people. The FARC leadership used to hold press conferences under a large tree that is now in the middle of that Colombian military base.

There are actually vacationers from around the world that are coming to a nearby stream that used to be the vacation destination for FARC leaders and their friends. Well, those days of the FARC controlling that part of Colombia are over. In recent years, the Colombian military has killed, captured, disarmed hundreds of FARC fighters, and those who remain are on the move.

The FARC is not defeated, but they are certainly diminished. Just before General Fraser and I arrived, the military carried out another daring hostage rescue, raiding a FARC camp and freeing four Colombian hostages. Some of those had been in captivity for well over a decade. I met with the President of Colombia. He was the Defense Minister a couple years ago, before he was elected President, when they pulled off that miraculous deception that rescued the three American hostages who had been there for years in captivity with the FARC. Two of those three American hostages were from Florida.

So the Colombians, with U.S. assistance, have transformed their military into a 21st century counterinsurgency force, and it has been very effective. They are even sending their forces now to help train the Mexican security forces, where there is so much trouble brewing.

Since the time is drawing nigh, I will share at a later date the troubles that Mexico faces. It is substantial, with the narcotraffickers basically penetrating all levels of the Mexican Government but especially the local and State governments of Mexico. It is of enormous importance to the United States that we have success with our neighbors, our friends to the south, to be able to get control of their country just like the Colombians did as they diminished the FARC.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. I ask unanimous consent to be recognized for up to 20 minutes, to be followed by Senator COLLINS for 7.

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

Mr. CORKER. If the Chair will let me know when I have 2 minutes remaining.

The ACTING PRESIDENT pro tempore. The Senator will be notified.

NATIONAL DEBT

Mr. CORKER. Mr. President, I wish to talk about our Nation's indebtedness. I know very few people watch these presentations. But to my friends on the other side, before they turn their monitors off, this is not a partisan presentation. Hopefully, it is a presentation to cause us, together, to look at our Nation's indebtedness from a different viewpoint and, hopefully, when we get to real business in January, we will focus on this in a way that brings us together and does not separate us.

I wish to start by looking at where our country is today as it relates to debt to our gross domestic product. Most countries in the world look at the amount of debt they have as a country in relation to the gross domestic product the country has. That is the sum of all the output.

For a lot of businesspeople who may be tuned in today, it is not unlike a company that looks at its revenues and compares the amount of debt the company has to those revenues or gross profits. So, today, our country's debt-to-GDP is at 62 percent debt to gross domestic product.

I think most of us understand the problem we have as a country today is that we are very rapidly moving to 146 percent of debt to GDP within the next 20 years. I would like to point out the reason this dot is here. That is where Greece was when the European Union had to come in and bail it out. It was at 120 percent of GDP. I do not wish to compare our country to Greece. Greece is very different. I was just there visiting with the Prime Minister, their Finance Minister, and several bankers. There is much about their economy that is very different than ours.

But I do think it is important to look at the fact that they were at 120 percent of debt to GDP when they had to be bailed out by European Union members. We are quickly moving beyond that over the next 20 years.

This is a slide I hope everybody who may be tuned in will focus on and remember. There are three important components. It begins by looking at the revenues, which is the blue line. The spending is the red line. There are three elements of this that I would like for people to focus on, if they would.

For those people who think Republicans and Democrats cannot work together, I do wish to point out a period of time when we had a Democratic President and a Republican Congress, and the line actually passed. We had revenues that were higher than our expenditures. I do want to say that the fiscal issues during that time were far different than the ones we have today.

Where we are today, in 2010, is far different. We have a huge gap between spending and revenues. People might say: Well, during a recession, maybe there are some extraordinary things that may occur. Maybe the spending rises tremendously, maybe revenues drop. Here is the problem. Here is the part of the slide I hope almost everybody will focus on into the future; that is, that gap never goes away.

Where we are today is at 1.47 more in spending than we have in revenue. The problem is, where we are as a country is that this gap never goes away. In 2020, we still are spending $1.25 trillion more than we are taking in.

In Tennessee, the average household, in most recent data, earned about $43,000 a year. If they used the kind of logic we are using today in Washington, the average Tennessee household would spend $74,000. In other words, the average Tennessee household would borrow 40 cents for every $1 they spend. Fortunately, that is not what is happening in Tennessee, or at least not with most families.

I think when you look at a problem, you need to sort of look at trends that have taken place. If you look back at 1970, 62 percent of what we spent as a country was on what is called discretionary spending, things such as defense, highways, and education. Only 31 percent of what we spent at that time was on mandatory spending, things such as Medicare, Social Security, Medicaid and only 7 percent on interest.

But if we fast forward to today, obviously that pie chart has changed dramatically. Today, we are spending, in 2010, 56 percent of what we take in on Medicare, Medicaid, and Social Security. Only 38 percent is going to discretionary spending: defense, highways, and education and, again, 6 percent in interest payments.

However, if you fast forward on the present trend, you see mandatory spending actually becomes crowded out. It is 49 percent of what we expend in 2035. By that time, because of the large amount of borrowing that is taking place, 25 percent of what our budget will be made up of is interest payments, something that has absolutely nothing to do with making our country stronger. As you can see, only 26 percent of our spending would then be on things such as defense, highways, education, things entitled ''discretionary spending.''

This year we spent $187 billion on interest payments, which greatly dwarfs what we spent in the area of transportation, $69 billion; homeland security, $49 billion; Department of Education, $45 billion. The problem is, if you fast forward to 10 years, this is a timeframe that is not way out into the future. This is something most Americans can focus on; that is, a decade from now. In 10 years, $916 billion will be going out of the Federal coffers to pay interest; again, hugely dwarfing the expenditures on transportation, on homeland security, and education.

I used to borrow a lot of money in my business. I built and owned buildings around our country. It was always important to know whom I was borrowing money from and to have a proper relationship with them. It is also interesting to look at our country and where we are borrowing the money we are spending. If you go back and look at 1960, Americans loaned the American Government money.

Our parents—maybe some of you in the audience—loaned the money to the Federal Government by buying Treasury bonds. As a matter of fact, back in 1960, only 5 percent of the money we borrowed in this country came from foreign holders. But if you look at today, the picture is very different. As a matter of fact, today, 47 percent of the public debt we borrow is held by foreign holders.

Look, I understand about international trade and global transactions and certainly support that. I have been a part of that in the past. The reason I point this out is that, again, a big part of what we are borrowing is from others. China holds almost 10 percent of our debt.

I think most of you saw recently where they slightly depressed the amount of holdings they had in the United States, dropping it from about $870 billion to $844.

I do wish to point out something that former Treasury Secretary Paulson talked about in a book he recently wrote about the crisis. I used to talk with him sometimes on the weekends. Obviously, he was working 7 days a week, as do I and most of us in this body. I talked to him for a great deal of time.

I remember him telling me during the time of the crisis that he was concerned about China. He was concerned about China. In the book, he talks about feeling that there was a scheme that Russia was trying to get China to engage in, to get them to stop buying our securities, during the period of time that we were most destabilized, in order to put greater pressure on our country during a time of great turmoil.

Obviously, that did not happen. But all of us say, I think it is important, when you are moving into a range of having more indebtedness than you can handle, it is very important to know and understand you are borrowing money from people who may not have the same interests that we as a country have.

This is something you do not see often in this body, but I hope everybody will focus on this slide. The fact is, there is plenty of blame to go around. We do a great job in this body, especially a few weeks before an election, of pointing fingers at each other, talking about whose fault it is that our country is in the situation it is in. But as it relates to our country's indebtedness, I can assure you there is plenty of blame to go around.

What I learned in my business, where I spent most of my life, whenever we had an ox in the ditch, it did not do a lot of good to try to point fingers at how we got there. It was better to try to focus on how we solve that problem. I certainly knew that as mayor of the city of Chattanooga.

I can tell you, in this body, as soon as we begin devolving into pointing fingers, we quickly move away from solving some of the major problems we have as a country.

I think as we look at trying to deal with this issue, it is good to look at the way things have been. Over the last 50 years, our government has spent about 20.3 percent of our GDP. Over that same period, the revenues into the Federal Government have been about 18 percent. There are economists on both sides of the aisle who say as long as the economy is growing, we can continue that in perpetuity. Coming from the background I come from, this is not a comfortable situation. I would rather see us take in the same amount of money we expend, but certainly there are academicians and economists on both sides who have different points of view.

What is the right amount of spending? I think everybody is aware that President Obama has put together a deficit reduction commission. It is chaired by two individuals. One of those is Erskine Bowles, chief of staff to Bill Clinton. He is a Democrat. He ran for the Senate from North Carolina. I talk to him extensively on the phone. He certainly has a lot of sound ideas. The other is Alan Simpson, former Senator from Wyoming. They are chairing a deficit reduction commission the President has put together.

A great breakthrough occurred recently when Erskine Bowles said he believes the Federal Government ought to spend about 21 percent of our country's GDP. Our average over the last 50 years has been 20.3 percent. Our revenues over the same period have been 18 percent.

Bob Corker, because he is more conservative on that front, or would like to see balance—a balance a lot of people on both sides would like to see—my number might be 18 percent. Erskine Bowles has thrown out the number of 21. But to me, somewhere between 18 and 21, there is a deal. I want to say to everybody that I am open to negotiation. I would love for us to agree as a country as to what percentage of our gross domestic product we all agree is the right number for us in Washington to be spending. If we can focus on this first, page 1, we can move away from many of the issues that separate us.

This is something on which I hope everybody who may be tuned in will focus. The fact is, I don't think we have thought about this deficit issue as something that is anything more than academic. We have thought about it as something that will affect a Congress down the road, maybe our neighbor, but not us. In order to get to Bob Corker's number over the next decade, which is a period on which most of us can focus, we would have to cut spending by $6.7 trillion. That is a lot of money. To get to the number Erskine Bowles has thrown out—for which I am open to negotiation—over the next decade we would have to cut $3.4 trillion in spending. To get where we have been over the last 50 years over the next decade, we would have to cut $4.5 trillion in spending.

The reason I point this out is, this is a huge number. Even by Federal Government standards, these numbers are draconian.

I realize this is something that is probably not attainable. To get $6.7 trillion in cuts we would have to cut $670 billion a year over the next 10 years. To put that in perspective so people can digest it, this is more money than we spend each year on Medicare. This is more money than we spend each year on defense with two wars. The type of cuts it would take to get to where we have been as a country for the last 50 years, those cuts are draconian. I don't think we as a Congress have quite come to terms with that.

What we need to do is fundamentally change the way we do business in Washington. I don't care what side of the aisle one may sit on or what gimmicks each side of the aisle may put forth to look at trying to constrain spending. All of us know we have absolutely no construct to contain spending. We are operating this year without a budget. We have had problems with spending for decades. There is nothing

here that causes us to focus on it in the right way. Again, both sides have had great problems in this regard.

What we need to do as a body, as a Senate, is to create a construct that forces us to cap spending and incentivize growth. I plan on offering legislation later this year. I realize this is a political season and nothing serious will be taken up. What I want to do as a body is to focus on the amount of spending we deal with in Washington as a percentage of our gross domestic product, as I have been discussing, and to develop a construct that causes us over time to move to that cap. I realize we will not be able to do it overnight, but it seems to me if we can adopt that kind of thinking where we look at governmental spending as a percentage of GDP—Erskine Bowles, who is working right now as head of the deficit reduction commission, has made a major contribution by throwing out a number, and I am open for negotiation—to me, if we can focus on that kind of construct, then it is in everybody's interest to hope the gross domestic product grows.

As the gross domestic product grows, as our economy grows, and the types of issues we face as they relate to cutting spending are less difficult to deal with, we would be unified toward getting to a point that is appropriate as it relates to spending so our indebtedness does not put us in the same kind of situation in which Greece found itself. But at the same time, after we have done that, then we could agree on policies that actually incentivize growth because as the economy grows, it is easier to deal with this issue.

I will come to my conclusion. The fact is, this is becoming a cliche. I realize it is said over and over again, but we are, in fact, the first generation of Americans in a situation where we likely, if we don't change our course of action, will leave the country in lesser good shape than we found it. As a matter of fact, we will leave the country in worse shape.

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. CORKER. I appreciate the cue.

The fact is, I don't think there is anybody in this body who would consciously wake up and spend every day of their life taking lavish vacations, going to nice hotels, eating out at night, running that up on a credit card, and then leaving that for their heirs to pay. There is nobody in this body who would consider doing that. But that is exactly what we are doing right now in Washington because of the way we are handling our fiscal affairs. We are running up a tab that our grandchildren, some of the children in this audience who have come in as students, will be left to pay.

I believe in American exceptionalism. I think we are, in fact, the greatest country that ever existed and ever will. I think the role we play in this world creates all kinds of gains as it relates to citizens' ways of life throughout the world. I would hate to see us as a country end up so diminished not only because of the tremendous impact it would have on our citizens—we have seen what has happened with this financial crisis and the distortions it has created throughout the economy, the hardships it has created for so many Americans—but I would hate for us to be so diminished because of our indebtedness, so diminished so that we had to talk to lenders about those austerity measures we had to take as a country for them to continue to loan us money, for us to be so diminished that we did not continue to play the exceptional role we play in the world, the exceptional role we play in continuing to raise up Americans' dreams and wishes and continue to allow them to actually pursue.

I plan on offering legislation. I have a nine-page bill. I know there are no bills around here that get seriously considered that are nine pages. Others, I know, will weigh in. But I sure hope to work with people on both sides of the aisle. I plan on offering legislation later this year or the first of the next Congress. I hope we as a Congress will deal with this issue in an appropriate way. I am looking to work with people on both sides of the aisle.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

DEFENSE AUTHORIZATION

Ms. COLLINS. Mr. President, I come to the floor to discuss the Defense authorization bill and the don't ask, don't tell provisions included in it. Let me begin by making my position crystal clear: I agree with the Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, that the don't ask, don't tell law should be repealed. It should be repealed contingent upon the certifications of the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff that its repeal would not have an adverse impact on military readiness, recruitment, and retention. Those are exactly the provisions included in the Defense authorization bill.

My view is that our Armed Forces should welcome the service of any qualified individual who is willing and capable of serving our country. The bottom line for me is this: If an individual is willing to put on the uniform of our country, to be deployed in war zones such as Iraq and Afghanistan, to risk his or her life for our country, then we should be expressing our gratitude to those individuals, not trying to exclude them from serving or expel them from the force.

That is why during consideration of this bill in May, I supported the compromise provisions that were put forth by Senator LIEBERMAN and Senator LEVIN. At a previous Senate Armed Services Committee hearing, I asked Admiral Mullen if there was any evidence at all that allowing gay and lesbian troops to serve had harmed military readiness in those countries that allow their service now. At least 28 countries, including Great Britain, Australia, Canada, the Netherlands, and Israel allow open service by lesbian and gay troops. We have no greater allies than Great Britain, Australia, Canada, and Israel. None of these countries—not one—reports morale or recruitment problems. At least nine of these countries have deployed their forces alongside American troops in Operation Iraqi Freedom, and at least 12 of these nations are allowing open service and are currently fighting alongside U.S. troops in Afghanistan.

There is a cost involved to end our current policy. According to a 2005 GAO report, American taxpayers spend more than $30 million each year to train replacements for gay troops discharged under the don't ask, don't tell policy. The total cost reported since the statute was implemented, according to GAO, has been nearly $200 million. That doesn't count the administrative and legal costs associated with investigations and hearings, and the military schooling of gay troops such as pilot training and linguist training.

We are losing highly skilled troops to this policy. According to the GAO, 8 percent of the servicemembers let go under don't ask, don't tell held critical occupations defined as services such as interpreters. Three percent had skills in an important foreign language such as Arabic, Farsi or Korean.

More than 13,000 troops have been dismissed from the military simply because of their sexual orientation since President Clinton signed this law in 1993. Society has changed so much since 1993, and we need to change this policy as well.

But let me say that I respect the views of those who disagree with me on this issue, such as the ranking member of the Senate Armed Services Committee, Senator MCCAIN; and I will defend the right of my colleagues to offer amendments on this issue and other issues that are being brought up in connection with the Defense authorization bill.

There are many controversial issues in this bill. They deserve to have a civil, fair, and open debate on the Senate floor. That is why I am so disappointed that rather than allowing full and open debate and the opportunity for amendments from both sides of the aisle, the majority leader apparently intends to shut down the debate and exclude Republicans from offering a number of amendments.

This would be the 116th time in this Congress that the majority leader or another member of the majority has filed cloture rather than proceeding to the bill under an agreement that would allow amendments to be debated.

What concerns me even more is the practice of filling the amendment tree to prevent Republican amendments. If that is done on this bill, it will be the 40th time.

I find myself on the horns of a dilemma. I support the provisions in this bill. I debated for them. I was the sole Republican in the committee who voted for the Lieberman-Levin language on don't ask, don't tell. I think it is the right thing to do. I think it is only fair. I think we should welcome the service of these individuals who are willing and capable of serving their country. But I cannot vote to proceed to this bill under a situation that is going to shut down the debate and preclude Republican amendments. That, too, is not fair.

So I am going to make one final plea to my colleagues to enter into a fair time agreement that will allow full and open debate, full and open amendments to all the provisions of this bill, including don't ask, don't tell, even though I will vote against the amendment to strike don't ask, don't tell provisions from this bill.

Now is not the time to play politics simply because an election is looming in a few weeks. Again, I call upon the majority leader to work with the Republican leaders to negotiate an agreement on the terms of debate for this bill so that we can debate this important defense policy bill this week, including the vital issue of don't ask, don't tell.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. MERKLEY). Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3454, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (S. 3454) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we will proceed to the Defense authorization bill this afternoon. The Senator from Maine, as far as I am concerned, has raised a very legitimate question about whether amendments will be offerable to this bill, and the majority leader has spoken on that on the Record. This is what he said last Thursday. He said:

. . . in addition to issues I have talked about in the last couple days, there are many other important matters that both sides of the aisle wish to address. I am willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible, which likely will be after the recess.

So the majority leader has said he is more than willing to engage in that process.

If that process does not lead to a fair result, then—if we can get to the bill—if the Republicans feel there has not been adequate opportunity to offer amendments, the opportunity will be there to prevent the passage of the bill until those amendments are considered. This is the normal process. But to deny an opportunity to move to the bill so we can engage in a debate on amendments and so we hopefully will have an opportunity, as we should, to debate amendments on the bill, it seems to me is prejudging the outcome of the debate.

The time to determine whether there has been adequate opportunity to debate the bill is after you have had an opportunity to debate the bill. That judgment cannot be made in advance, particularly in the face of the majority leader's assurance. I agree with the Senator from Maine that it is important this assurance be there. It is there, it was there, in part, because of the issue she has raised over the last few days.

When the majority leader says let us get to the bill because he agrees—he has talked about a number of issues, but in addition to the issues which he has talked about, which include a debate on don't ask, don't tell, include a debate on the DREAM Act—in his words, ''there are many other important matters that both sides of the aisle wish to address'' and that he is ''willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible, which likely will be after the recess.''

But we need to get to the bill. We need to get to the bill so we can then begin to debate amendments. I think many Senators have amendments they want to offer. It is not unusual on a Defense authorization bill. We usually have hundreds of amendments that are offered. Last year, I believe we adopted something like 60 amendments. That process will again occur but only if we can get to the bill.

To insist in advance there be an agreement, let me tell you, as manager of the bill, I love unanimous consent agreements. I love time limits. I love time agreements. I love agreements to limit amendments. That is fine. But until you get to the bill, you are not in a position to work out such agreements. These are theoretical issues. We do not even know what amendments are going to be offered to this bill—until we get to the bill. How can you have an agreement on what amendments will be in order when we have not gotten to the bill and the amendments are not even filed?

So it is a legitimate point the Senator from Maine makes that she wants to be sure, as I hope every Senator does, that there will be adequate consideration of amendments during the debate on this bill.

The Republicans have the ability to stop a completion of consideration of this bill until—unless and until—there is an opportunity to have a debate on amendments the way we usually do on the authorization bill. That ability to stop the completion of this bill is there, but it can only be utilized if we get to the bill.

To try to figure out in advance all the amendments which might be filed and what amendments will be ordered and what time agreements will be reached is, it seems to me as a practical matter, impossible to do.

The assurance of the majority leader was there and is there. I am not going to repeat it because I have already quoted it twice—but that assurance that other amendments, besides the ones he has talked about publicly, will be in order. Again, I think everybody understands the rules of this place. Nonrelevant amendments can be offered. They have in the past on this bill, including by the Senator from Arizona, who offered a very nonrelevant amendment against the wishes of Senator WARNER, an amendment having to do with campaign finance reform not too many years ago. That amendment, although nonrelevant, was passed by this body. I supported that amendment, against the wishes of the chairman of the Armed Services Committee, Senator WARNER.

There are dozens of nonrelevant amendments which have been offered on the Defense authorization bill. To suggest somehow or other that only began last year when there was a—or on the last bill—when there was a debate on hate crimes is inaccurate. It was not a debate on the addition of the hate crimes amendment which began the consideration of nonrelevant amendments on the Defense authorization bill. As a matter of fact, it was the fourth time the hate crimes amendment was adopted on the Defense authorization bill. The first time was when Senator Thurmond was chairman of the committee, against his wishes but nonetheless adopted. There are literally dozens of other nonrelevant amendments that have been considered. Why? Because the rules of the Senate permit consideration of nonrelevant amendments on bills.

This is one of the few authorization bills that needs to be passed, not just because it supports the troops, critical not only in wartime but generally, but also because of the rules of this body requiring there be an authorization bill for defense for a number of specific matters, including military construction.

So our hope is we can begin consideration of this bill. I am going to give the reasons why we need to consider this bill in a few moments. But, again, I wish to assure colleagues there is plenty of opportunity to prevent this bill from being adopted if there is not adequate consideration of amendments

that people may want to offer—relevant amendments and, yes, nonrelevant amendments—because the rules of the Senate permit the consideration of nonrelevant amendments. So I hope we can get the votes of 60 Senators this afternoon to begin consideration of this bill.

We have enacted a Defense authorization bill every year for the last 48 years. We have done so because the bill always contains important bipartisan measures to improve the compensation and quality of life of our men and women in uniform, provides our troops the equipment and support they need in ongoing military operations around the world, and enhances the oversight and efficiency of DOD operations. Yesterday afternoon, I described in detail many such measures that are included in this year's bill.

Before I continue, I do have a parliamentary inquiry as to what the time situation is: How many minutes are there available prior to the recess for the caucuses, and what is the division of that time?

The PRESIDING OFFICER. The majority controls 36½ minutes and the minority 40 minutes.

Mr. LEVIN. So the majority has 36 minutes; is that what I understand?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. So I yield myself 10 additional minutes, Mr. President.

This bill includes a handful of contentious provisions which were adopted during the course of the markup. There always are contentious provisions in this bill, and the reason we are here is to debate those provisions. Hopefully, we will have that opportunity.

Some of the provisions in the bill I support, some of the provisions I objected to in committee and I voted against them. But we should not deny the Senate the opportunity to take up a bill which is essential for the men and women in the military because we disagree with some provisions in the bill.

These are legitimate issues for debate, and the Senate should debate them. But the only way we can debate and vote on the issue—the various issues, contentious and otherwise—is if the Senate proceeds to the bill.

It has been argued that we should not proceed to consider this bill for a number of reasons: One, because of the don't ask, don't tell provision in the bill. Another one is because there was a cut in the bill to the money requested by the administration for the Iraqi Security Forces Fund. It has been argued there is ''wasteful'' spending that was added by the Armed Services Committee. Another issue is because of the likelihood that nonrelevant amendments, such as the DREAM Act, will be offered.

First, as to don't ask, don't tell, the Secretary of Defense and the Chairman of the Joint Chiefs informed our committee in February that they support the President's decision to work with Congress to repeal the existing law. Secretary Gates said:

> The question before us is not whether the military prepares to make this change, but . . . how we best prepare for it.

The committee held two hearings on don't ask, don't tell policy and questioned numerous other witnesses in other hearings about the policy as they came before the committee. The amendment of the policy was debated on and voted on in the Armed Services Committee. It is clearly relevant to the bill because the original policy was adopted as a provision of the fiscal year 1994 Defense Authorization Act after being debated and voted in the committee 15 years ago.

The argument, then, is made that it is inappropriate for us to act on don't ask, don't tell before the Department of Defense has completed its review of the issue. But the provision that is in this bill and the provision we adopted in committee doesn't tie the military to any specific course of action. There will not be any change to the law or to the military's policy before the Department has completed its comprehensive review and considered the comprehensive survey of the force now underway. Even when that review has been completed, under our bill, no change can take place until and unless the President, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff consider the results of the review, and only if then they can certify to the Senate and the Congress that the change can be implemented in a manner that is consistent with standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention.

That certification, if it is not made, then will result in this policy not changing. Only if the President, the Secretary of Defense, and the Chairman of the Joint Chiefs, obviously in consultation, as the law provides, with the Chiefs of Staff—only then, if the certification is made that our standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention can be maintained, will this law be changed.

The Senate should debate and vote on don't ask, don't tell as we debated the original provision on that issue. As I understand it, by the way, one amendment that has been filed is a motion to strike. But amendments are not limited to that. The majority leader specifically said there may be other amendments relative to don't ask, don't tell that would also be able to be considered. But only if we can get to the bill can we consider those other amendments. We are not going to have the opportunity to debate this issue and vote unless we proceed to the bill.

As to the cut in the money requested for the Iraqi Security Forces Fund, I pointed out yesterday this decision was consistent with the previously expressed view of the Congress and the Armed Services Committee that the Government of Iraq should assume a greater responsibility for the financial burden of building Iraqi security forces as U.S. forces draw down. Iraq, according to a GAO analysis we just received, has a cumulative budget surplus of $52 billion through the end of fiscal year 2009, and as much as $5 billion in unspent security funds. It is well positioned to pay for its own military equipment instead of coming to the American taxpayers for large handouts.

This issue was debated and voted on in the committee. There was an amendment of the Senator from Arizona to strike $1 billion, which we added for our military, and provide the money, under his amendment, to the Iraqi Government instead. What we did is, we had a request for $2 billion. We reduced that to $1 billion. The Senator's amendment was to restore the $1 billion. We defeated that amendment in committee after debate by a vote of 15 to 10.

I know the Senator is disappointed in that outcome, but that is what debates are for. The Senate should debate and vote on the issue, but we are not going to be able to do that unless we proceed to the bill.

As to the ''wasteful'' funding that the Senator from Arizona says was added by the committee, yesterday I gave a detailed accounting of how the committee proposes to spend the money for added force structure, force modernization, and quality of life for our troops. The Senator responded and gave several examples of what he considered to be wasteful spending. Well, let's take a look at some of those. The Senator—by the way, we added $4 billion. We made cuts and we added. We made changes of $4 billion in that budget request for force structure, force modernization, and support of the troops. The wasteful spending list of the Senator yesterday was $28 million out of $4 billion. Apparently, $4 billion was a pretty good spending decision when questions were raised about $28 million.

Let's look at some of the $28 million that is labeled wasteful spending: $3 million because it was for a ''plant-based vaccine development.'' This effort that we are supporting, an additional $4 million, has been identified by the military as the most promising path so far to rapidly produce the millions of vaccine doses that could be needed to respond to a biological threat against our troops on the battlefield. And $8 million was pointed to by the Senator, which is going to a physical fitness center at an Air Force base. That fitness center has been identified by the Air Force as being mission essential.

These are not porkbarrel items added by Senators who just want spending in their States. These items have been identified by the military as being essential items for them. It wasn't in the budget. They could not find the money. We did.

The Senator questioned the proposed spending of $7.6 million for a quiet propulsion load house. I doubt that too

many Members of the Senate know what a quiet propulsion load house is. It is a place where we test our ships to make sure that they meet requirements for avoiding enemy detection. The Navy said it ''requires new ship propulsion technology to be sufficiently tested, evaluated, and certified to ensure that signature performance goals and objectives are met prior to fleet introduction and operational use.''

The Navy says the current equipment does not have the capability to test and evaluate either reduced or full-scale electric propulsion motors with the necessary quiet load machine to approve and certify electric propulsion technology and design. The Navy says it needs the new facility to be operational within the next 5 years.

I believe the 10 minutes I have allocated to myself is up. So I will withhold further comment on the arguments made against the bill.

My main point is the time to debate can only come if we can get to the bill. That is the issue this afternoon, not whether issues are debated—they are and there are plenty of issues to be debated, not as to whether issues will be debated. They will be, and the majority leader has said so. To try to get an agreement in advance on what amendments will be in order before the bill comes up and amendments are filed is a task that cannot be achieved. Only the intention can be stated to allow that to happen. The majority leader has stated that intention and the ways to implement it. There is plenty of leverage to stop the bill from passing if there is inadequate opportunity. We will get to the bill only if 60 Senators decide we should move to its consideration before the recess on the Defense authorization bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I believe the chairman has agreed that he and I would have 5 minutes each before the vote this afternoon; is that true?

Mr. LEVIN. Mr. President, it is my understanding there will be a modification. There is no objection on this side to the following: that the unanimous consent agreement we previously entered into would be modified so the vote would occur at 2:30, and the time between 2:15 and 2:30 would be equally divided. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, for the benefit of my colleagues on this side, we will recognize in the proper order as we go from one side to the other: On my side Senator INHOFE would be recognized for 10 minutes, Senator BROWN for 5 minutes, Senator SESSIONS for 5 minutes, Senator CHAMBLISS for 5 minutes, and Senator LEMIEUX for 5 minutes. I believe that comes out to approximately 40 minutes.

Mr. President, I want to make it clear why I am opposed to moving to the National Defense Authorization Act of fiscal year 2011 at this time.

I am not opposed in principle to bringing up this Defense bill and debating it, amending it, and voting on it. I am not opposed to having a full and informed debate on whether to repeal the don't ask, don't tell law and then allowing the Senate to legislate.

What I am opposed to is bringing up the Defense bill now, before the Defense Department has concluded its survey of our men and women in uniform, which gives them a chance to tell us their views about don't ask, don't tell. Whether you agree or disagree with this policy, whether you want to keep it or repeal it, the Senate should not be forced to make this decision now, before we have heard from our troops. We have asked for their views, and we should wait to hear from them and then give their views the fullest consideration before taking any legislative action.

This isn't just my view. This is the view of all force service chiefs: GEN George Casey, Chief of Staff of the U.S. Army; ADM Gary Roughead, Chief of Naval Operations; GEN James Conway, Commandant of the Marine Corps; GEN Norton Schwartz, Chief of Staff of the Air Force.

Let me quote from my colleague, GEN George Casey. Remember, these are the service chiefs who are responsible for the training, equipment, morale, and well-being of the men and women in uniform who serve under them. What did General Casey say? He said this:

> I remain convinced that it is critically important to get a better understanding of where our soldiers and families are on this issue, and what the impacts on readiness and unit cohesion might be, so that I can provide informed military advice to the President and the Congress. I also believe that repealing the law before the completion of the review will be seen by the men and women of the Army as a reversal of our commitment to hear their views before moving forward.

The survey is not complete and will not be complete for some time.

Admiral Gary Roughead said this:

> We need this review to fully assess our force and carefully examine potential impacts of a change in the law. My concern is that legislative changes at this point, regardless of the precise language used, may cause confusion on the status of the law and the Fleet and disrupt the review process itself by leading Sailors to question whether their input matters.

GEN James Conway, Commandant of the Marine Corps, said:

> I encourage the Congress to let the process the Secretary of Defense created to run its course. Collectively, we must make logical and pragmatic decisions about the long-term policies of our Armed Forces—which so effectively defend this great nation.

GEN Norton Schwartz, Chief of Staff of the Air Force, said:

> I believe it is important, a matter of keeping faith with those currently serving in the Armed Forces, that the Secretary of Defense commissioned review be completed before there is any legislation to repeal the Don't Ask, Don't Tell law. Such action allows me to provide the best military advice to the President, and sends an important signal to our Airmen and their families that their opinion matters. To do otherwise, in my view, would be presumptive and would reflect an intent to act before all relevant factors are assessed, digested and understood.

It could not be more clear what our uniformed service chiefs are saying: Complete this review before repealing the law.

Then the question is: Why would the chairman of the Senate Armed Services Committee and the majority leader ignore the very explicit recommendation of the four service chiefs? One can only draw one conclusion: November 2 is a few days away. The President of the United States, we all know, made a commitment to the gay and lesbian community that he would have as one of his priorities repeal of the don't ask, don't tell policy. Looking at a bleak electoral situation, they are now going to jam this legislation through—or try to—in direct contravention to the views of our service chiefs.

I spend a great deal of time with the men and women in the military. It is my job. It is my job to do so, both the Guard and Reserve in Arizona and traveling around the world to visit our men and women in places such as Kandahar, Baghdad, and other places around the world. Every place I go, the men and women are saying: Look, let's assess the impact of the repeal of this law. I get that from the senior enlisted men whose responsibilities are great. Why are we now trying to jam this through without the survey being completed and without a proper assessment of its impact?

I urge Members not to vote in favor of bringing the bill to the floor at this time so the troops can be heard. Let us hear from the men and women who are serving in the military.

I remind my colleagues that last year, they brought up the hate crimes bill and then put amendments on the hate crimes bill so there were no other amendments allowed until the hate crimes issue was resolved. That is the concern of the Senator from Maine, that the majority leader and/or the chairman will fill up the tree—in other words, make it so other amendments are not allowed until this issue is disposed of and then, of course, other issues.

In light of all the challenges that the Defense authorization bill entails—training, equipment, pay, benefits, all of the aspects of Defense authorizations that are so vital—why would the majority leader and the chairman want to bring up don't ask, don't tell, then the DREAM Act, then secret holds, and then reserve the rest of the issues for after we come back after the election?

Again, one can only draw the conclusion that this is all about elections, not about the welfare and well-being and the morale and the battle effectiveness of the men and women who are

laying it on the line in Iraq and Afghanistan today.

The most fundamental thing we could do to honor the sacrifices of our troops is to take the time to listen respectfully and carefully to what they have to say about this major change before the Senate takes any legislative action.

If the Senate goes down this path, we would be ignoring the views of the troops and casting aside the professional military advice given by each of the four service chiefs, all four of whom oppose the Senate taking any action on don't ask, don't tell before we hear from the troops.

By the way, the way the legislation is framed, the service chiefs are not involved in the final decision; only the President, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense are. Why in the world before the certification is made would not the service chiefs be required to certify that as well?

This is not about filibustering. It is not about the reasons why we are not taking up this legislation or why I am opposing this legislation. It is all about the battle effectiveness, the morale of the men and women who are serving in the military today who have volunteered to put their lives on the line so the rest of us may live in a safe and secure environment. We owe them a right to have their voices heard before we act legislatively, motivated by the upcoming election.

Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we do alternate when there are Members who wish to speak. That would be the appropriate course. So I will yield myself 5 minutes to respond to the Senator from Arizona.

Mr. President, I want to quote Admiral Mullen. Admiral Mullen reached a conclusion about the necessity to change this policy. He reached this conclusion, I hope and believe, without any regard to an election coming up. Admiral Mullen, Chairman of the Joint Chiefs of Staff, in front of our committee back in February said the following:

> It is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy that forces men and women to lie about who they are in order to defend their fellow citizens. To me personally, it comes down to integrity, theirs as individuals and ours as an institution.

To suggest that Admiral Mullen somehow or another reached his conclusion because there is an election coming up it seems to me would be totally inappropriate, and I hope no one is making that suggestion. He reached a conclusion about gays and lesbians serving in the military. He stated his conclusion. Election driven, insulting? Of course not. He reached a conclusion—so did Secretary Gates—reached a conclusion that this policy must change. Because an election is coming up, Secretary Gates, a Republican, decides this policy must change because there is an election coming up? Of course not. It is because they reached a conclusion that the policy needs to change, and the study they got underway is to determine how to implement that change.

What do we do in our bill? What we say in our bill is very explicitly there is not going to be a change in policy unless and until there is a certification from the Secretary of Defense and the Chairman of the Joint Chiefs and the President of the United States that the changes in policy, which they are going to presumably provide, will not undermine the morale, the recruiting, the retention of troops in the United States.

Our bill that is in front of us specifically says there will be no change in policy unless and until that certification comes. We want to hear from the troops also—the way the Chairman of the Joint Chiefs of Staff wants to hear from the troops, the way the Secretary of Defense wants to hear from the troops—as to how to implement a change in policy. And we go beyond that. We say there will not be a change in policy unless and until there is a certification from the Chairman of the Joint Chiefs that there will be no negative impact on morale, retention, and recruitment. That, it seems to me, is a totally appropriate way to legislate. That does pay respect to the men and women of the Armed Forces.

Unless the opponents of this language suggest that Admiral Mullen, the Chairman of the Joint Chiefs, and Secretary Gates, who have reached a conclusion that this policy must change, unless they are suggesting that their conclusion is driven by elections, it seems to me it is wrong to suggest the fight legislatively is election driven.

Was the decision to implement this policy 15 years ago election driven? No, it was based on a decision at that time that don't ask, don't tell was the right policy. I did not think it was. I voted against it. But the decision was made.

To argue now that it is all about elections misunderstands the importance of this issue, the significance of this issue, and what the people of this country have come to understand, which is the service by gays and lesbians is just as valued as the service by others. Giving their lives up for the country, being buried in Arlington Cemetery, as gays and lesbians are, who have had the uniform of this country on, is the ultimate sacrifice citizens can make for this country. Gays and lesbians have made this sacrifice, and nongays and lesbians, obviously, have made this sacrifice too.

One other point. Is my time up?

The PRESIDING OFFICER. Yes.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will stay within the time given me. We have all had to reduce our time on this side. We have many Members who wish to speak.

Let me cover a couple of points and respond to statements made by the chairman of the Armed Services Committee.

I was around in 1993. Actually, it was the last year I was serving in the House, and I was on the House Armed Services Committee. I remember very well when the gay lobby started becoming active during that time during the Clinton administration. They said: We want to change the policy. That is why they went through this policy called don't ask, don't tell, which allows people to serve regardless of what their conditions are, their preferences are, but they do not talk about it. They do not use the military as a forum to advance their liberal agenda.

It seemed to work. In the law—and it is still the law today—section 571 reads—this was passed in 1993, 17 years ago:

> The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

I was one who applauded Secretary Gates—this is back on February 10—when he said we are not going to be doing anything to change it until we study it and, most important—and this is the whole issue, I believe—we hear from those in the field, we hear from the troops in the field. These are the guys who have gone through this. They understand what it is all about. And they were told they would be heard. That is the whole idea, that we would not do anything until December 1 when all the results were in.

I am a product of the U.S. Army. I served proudly in the U.S. Army, and I can tell you right now, there are some reasons in the military why this would not work.

Senator MCCAIN covered the statements that were made by the service chiefs, but they are worth looking at again. It is very significant that these service chiefs were outspoken in their opposition to changing this policy or to repealing don't ask, don't tell. It is difficult for a general in the armed services to go against a President.

I remember in 1998 when GEN John Jumper was strong enough to stand up and say what was happening in the Clinton administration in terms of downsizing of the military. It took a lot of courage. But the other thing that is—and a lot of things have been said about Secretary Gates and Admiral Mullen, but they will be the most instrumental in this. Here is what their philosophy was. This is a statement I will read, and I want everyone to listen carefully. This is from the Secretary of Defense—Gates—and Admiral Mullen, Chairman of the Joint Chiefs of Staff. They said, jointly:

We believe, in the strongest possible terms, that the Department must, prior to any legislative action, be allowed the opportunity to conduct a thorough, objective, and systematic assessment of the impact of such a policy change.

What they are talking about is the study we said was going to take place. But then, wait a minute, something happened. Three things happened 1 month later. This statement was made April 28. Then 1 month later, on May 27, three things happened. What are those three things? First of all, Gates and Mullen agreed to this compromise and then totally reversed their position of just 1 month before. Now, the chairman of the Armed Services Committee was talking about their position. This was their position, and yet they reversed it at the same time on the same day—May 27—that the House voted to repeal don't ask, don't tell. There were a couple of conditions there, and the Senate did the same thing, with one exception—one Senator in the Senate Armed Services Committee. It was right down party lines. In other words, every Republican Senator but one opposed this idea of repealing this without going through the study. The study is the critical thing. We have to go through the study before we would be in a position to know what those in the field want to do. I think this is very critical because it is not a matter of what you want to do with this, it is a matter of hearing from the troops in the field.

Let's put up the next chart. People are saying: Well, don't worry about it. The Senator from Michigan just said: Don't worry about it because, first of all, it has to be certified that there is no negative impact on readiness. It is going to be certified by Mullen and Gates and the President.

But wait a minute—certified? They have already made up their minds.

Look, here is the most important—Admiral Mullen said:

Mr. Chairman, speaking for myself, it is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do.

He is the one who is supposed to certify this. He has already certified it. It is right here. When they say that 60 days after the first of December, that certification has to take place, it has already happened.

Secretary Gates says:

I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.

There you have it. Both of them are saying the same thing. They are saying: Well, we have already made up our minds. They are the ones certifying. And the third party, of course, is the President, and the President's position is very well known on that issue.

So I think this whole thing is so phony when they talk about this certification, but the reason I want to get in as much as I can in the limited 10 minutes is to let you know that it is not the only thing that happened on May 27. I call it black Thursday because not only did they vote to repeal the policy that has worked so well for the last 17 years in terms of gays in the military, but they also passed an abortion amendment that allows abortions in military hospitals.

Now, very quickly, this has been going on—it has been changed for many years. In 1970, an Executive order allowed abortions in DOD hospitals. In 1984, Bob Dornan—remember B–1 Bob? A lot of us remember him. He changed it and tried to limit the abortions in government hospitals. In 1988, DOD hospitals barred abortions from the military facilities. President Clinton changed that and relaxed the laws. Then in 1996 the authorization bill reversed Clinton, and therefore they were not able to have abortions in military hospitals. Now, that is the law as it is today. But there is an amendment—and we have not even talked about this amendment—that is going to open the military hospitals for abortions.

I had the honor of addressing this Values Summit last Friday, and I can tell you right now that the people there, when they heard about all of this that was in this bill, were pretty shocked. And the question came up, Why is it that we keep hearing over and over what is in this bill?

Let's get the next chart up there. Why are they so anxious to get this thing on the floor when we are not going to be able to have amendments? We all know what the rules are around here. To my knowledge, since I first came to Congress, this is the first time we will have an authorization bill where we will not have a chance to amend it, where we won't have a chance to offer amendments. Normally, there are 100 or so amendments. A lot are agreed to, and our positions are heard. Not this time.

First of all, I think this is a political mistake. It is a dumb thing to do, to try to use the Defense authorization bill in times of war to advance a liberal agenda. What is that liberal agenda? That agenda is to have open gays serving in the military, it is taxpayer-funded abortions in our military hospitals, and it is amnesty for illegals. I think they are making a mistake. I agree with the Senator from Arizona that it is totally political. It is all set up for the November 2 election. And I can assure you that all of America is watching, and they don't think the Defense authorization bill, in times of war, is the appropriate thing to do to advance a far-left liberal agenda—an open gay policy in the military, taxpayer-funded abortions, and amnesty for illegals.

With that, Mr. President, I have used my 10 minutes, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I believe by unanimous consent we have an order of speakers, and I think the next one is—well, I will let Senator MCCAIN speak.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time remains, Mr. President?

The PRESIDING OFFICER. There is 20 minutes remaining for the Republicans and 19 minutes for the Democrats.

Mr. MCCAIN. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I rise today to speak about a very important piece of legislation before this body, and that is, obviously, the Defense authorization bill—a bill that provides the tools and resources for our men and women serving in the military.

It has been my honor to serve on the Armed Services Committee with the chairman, who is sitting right here. Being the new person on the block, I have greatly enjoyed the back-and-forth of that committee process and the fair and free way we are able to debate amendments—some of which passed and some didn't. But always, at the end of the day, there was a handshake and a smile, and we would go on and do our business.

I remember a lot of us, especially the newer people, asking about our concerns, which haven't been addressed here, and I remember the chairman saying that we would be able to handle these things during the bill process when it came to the floor. That was the general consensus by Senator MCCAIN and others—don't worry, we will handle a lot of these things on the floor. So I was actually looking forward to that fair and open process, similar to what we did during the financial reform bill.

Unfortunately, what has traditionally been a very open and bipartisan process has, in fact, evolved into a dynamic display of political grand standing. My question is, What happened? I feel the majority party is using our men and women in uniform as a tactic to pass politically expedient legislation entirely unrelated to the Defense authorization bill, which, in my view, is not appropriate.

There has been much discussion by the leader about his plan to add the DREAM Act as an amendment to the Defense bill. Let me be clear: I am willing to debate the merits of the DREAM Act, and even comprehensive immigration reform, but not in a manner that exploits our men and women who are serving in the military by using legislation that is supposed to be solely focused on supporting them, and additionally not allowing for that open amendment process that I thought was promised to us during the committee process and something I have understood as being part of the very important history of this body.

As my colleague from Arizona pointed out yesterday on the floor, the extraneous legislation the leader intends to attach to the Defense authorization

bill would never, ever be referred to the Armed Services Committee if it was introduced independently. In the past, the authors of the Defense bill, led by Senator LEVIN and Senator MCCAIN, have been allowed to come to the floor and debate the process and enact necessary pieces of legislation that keep our men and women in the armed services safe and keep the military going. It is a traditional custom that, by and large, has been shunned. It has been shunned for political gamesmanship and posturing in favor of advancing the defense authorization process.

Once again, Mr. President, as the new person here—well, I guess the second newest person here now—it is an incredible but not surprising turn of events that we have suddenly decided to refuse an open debate on the things we have been working on for some time—certainly since I have been here. An amendment process would allow for everyone's ideas to be considered, as we did during the financial reform and as we did during the actual committee process itself.

Not only have the authors of the bill been effectively shut out, but so has every other Senator. Are my needs and the concerns of Massachusetts not the same as the majority leader's needs or the President's needs? We have issues that affect Massachusetts, and all the other Senators have needs that affect their States that they feel can contribute to the men and women and the way they serve and are protected. When an issue as critical as our national defense comes to the Senate floor, we should absolutely allow for an open process. This is too important an issue to cut off debate and control the process. I know it is football season, but we should not use this as a political football. It is inappropriate.

On another issue of critical importance, as I said before, we spent 4 weeks on the financial reform legislation, and we had over 30 votes on that particular bill. When the process was over, everyone was able to offer any amendments they wanted. I am disappointed that we are not having that same opportunity here. We should absolutely go through that same process.

In closing, I am hopeful that in the days ahead we will turn our focus back to jobs and the economy, where we can start listening to the American people, who are demanding we focus on reducing our Nation's debt, our out-of-control spending, lowering taxes on individuals and families, and getting our economy moving again. I believe that is the biggest national security issue we have in front of us right now—making sure we have the economic engine to not only continue with our economic strength throughout this world but obviously providing the tools and resources for our men and women who are serving.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROWN of Massachusetts. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wish to thank Senator BROWN for his service on the committee. He has been invaluable to the committee, and I very much appreciate that.

The Senator's statement that he favors an open process is one that I share. That is why I talked to the majority leader, and the majority leader made a statement last Thursday which I hope the Senator from Massachusetts would look at relative to the process. The majority leader has talked about a number of amendments which he would like to see offered and would intend to offer. That is his right, as it is the right of any Senator.

Last year, we adopted the hate crimes bill, which was a nonrelevant amendment. There was some objection to it. Many years ago, when the Senator from Arizona offered a campaign finance amendment to the Defense authorization bill—totally nonrelevant—Senator WARNER, sitting right over here, very much objected to it. He said it would sink the bill. It did not sink the bill, by the way; it was passed by the Senate—nonrelevant. And we have adopted other nonrelevant amendments on this bill and other bills because the rules of the Senate allow for nonrelevant amendments.

As to whether this process is going to be open to other amendments, I assure the Senator from Massachusetts it will be, and I will make sure I do everything in my power to see that happens. That is why the majority leader, last Thursday, assured the Senate—and these were his words:

> In addition to issues that I have talked about in the last couple of days, there are many other important matters that both sides of the aisle wish to address. I am willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible.

So Senator REID was giving the assurance that other amendments besides the three he has identified publicly are going to be in order. He is not going to try to cut off debate.

As chairman of this committee, I have, for 30 years now, fought to make sure this bill was open to amendments, and I will continue to do that. Last year, I think there were something like 60 amendments. So there is not going to be an effort to cut off debate on amendments which Members of the Senate want to offer that is different from any other time when this process is used.

We have to manage a bill. We have to get a bill passed. After there is debate on a bill, there comes a time when the majority leader says to the managers: We have to get a bill passed. You have to find some way we can get a bill passed. Then we enter into, hopefully, unanimous consent agreements, where we work out how many amendments are left on each side. That is what our intention is to do here, too—to work out these kinds of agreements as this matter unfolds.

But the issue now is whether we are going to get to debate the bill, whether we can get to the point where we can offer amendments and reach agreements on what amendments are left that would be in order and on time agreements. We can't get to that point unless we are allowed to proceed to the bill.

As far as I am concerned, it is totally inaccurate to say the men and women in uniform are being in some way not respected by proceeding to this bill. If we cannot debate this bill this year, if we cannot offer a motion to change don't ask, don't tell language, strike the language, whatever, then we are not taking up the bill which is so critical to the men and women in uniform. This bill is critical to them.

If there are Members here who want to strike or modify don't ask, don't tell, the time to do it is when we get to the bill. We cannot do it now. We cannot amend this bill now unless we get to the bill. There is no point, it seems to me, in talking about the need to amend the bill—which I happen to agree is in order—unless we get to the bill. It becomes a theoretical statement that something will or will not happen, unless we can get to the bill.

I do not know of a time when there has been a filibuster against getting to the Defense authorization bill. No matter how contentious issues have been, and they have been contentious over the years, the idea that there is a filibuster against proceeding to the bill so we cannot debate the kinds of issues which need to be debated, it seems to me, is what denies the men and women in uniform the opportunity to get a bill passed that is so important to them.

We need to get to this bill. We need to make progress on this bill. I believe, as the majority leader has said,—I believe what he said—that this is not going to be the kind of closed process which some have suggested and imputed to him.

I yield the floor.

Mr. MCCAIN. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. We are depriving the men and women in uniform from having a voice in this by short-circuiting a process by passing legislation before the study is completed. That is a fact. That is the view of all four service chiefs, and I read it and I will continue to put it in the RECORD.

Senator SESSIONS, I believe, is next?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself 30 seconds.

The Chairman of the Joint Chiefs of Staff has reached a conclusion, the Secretary of Defense has reached a conclusion—that this policy should be changed. It should be. We ought to debate it. Whether to change this policy, how it is changed—how it is implemented is what they set in motion, a

study to help them decide. That is the process they agreed to.

Have they offended or insulted the men and women of the Armed Forces by concluding that this policy should change? Has the Chairman of the Joint Chiefs, Admiral Mullen, somehow, in some way, not taken into consideration the well-being of the men and women of the Armed Forces when he concluded this policy should change? Has Secretary Gates been guided by elections coming up when he concluded that this policy should change and that the study that is underway should be taken in order to determine how to implement that change?

I don't consider that they have offended or insulted the men and women they command. This language surely protects exactly what Secretary Gates and Admiral Mullen have put into motion—a study as to how to implement a change in policy. That is what this study is all about. That is what we require be completed prior to any change in the policy.

We have gone a step beyond—a step beyond—requiring that they certify—obviously, after consultations with the Chiefs of Staff; that is required by law—that they certify that there will not be a negative impact on morale, recruitment, or retention.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, this is a policy of the President of the United States. He determined to change the policy that has been in effect for quite a number of years, and by all accounts has been working very well. All four service chiefs favor keeping that policy. He selected Admiral Mullen. He selected Secretary Gates, who has not been an enthusiastic supporter of this change, frankly. He has gone along with the Commander in Chief who appointed him. He has indicated that we ought to have a study first—made a commitment, really, to our men and women in uniform that there would be a study first, and we are not running an objective study.

So Admiral Mullen did testify he personally believed this was a change that ought to be made. But the Army Chief of Staff, General Casey; the Chief of Naval Operations, Admiral Roughead; Air Force Chief of Staff Schwartz; the Commandant of the Marine Corps, General Conway; and now General Amos—who just testified this morning will be replacing General Conway—oppose it and believe we owe it at least to the men and women in uniform to study the impact this might have. I just believe it is not necessary to ram this through this fast before we complete a study. I oppose that.

We had reports of a general—he has denied how he was quoted in the Washington Times, General Bostick, in Europe, who made statements that upset a very large group of people—he is a personnel general, three stars—about how everybody had to go along with this agenda, be on board with it, and suggested, according to the article, you would not be able to stay in the military if you were not endorsing this proposal. He said it was the equivalent of civil rights and you were being a bigot if you somehow had a different view.

I just think that is dangerous. To say this is not going to have a corrosive impact on the men and women in the military is a mistake. I think it is being raised up in importance and being raised up in the potential to damage the military by the fact that it is being rammed through before a fair and objective review of the policy is conducted.

I believe that firmly. If this is going to be changed it ought to be done respectfully, carefully, not moved through right now on this bill because of fear that the study will not be positive and it will not be able to be passed next year, maybe after the American people have sent some new Senators to this Senate. Maybe then it will not be so popular and have so much support.

I am frustrated that I would have to vote against moving to the Defense authorization bill. Last year was the first time I did that because attached to the bill was an unrelated, controversial hate crimes piece of legislation. I voted for bills that had other stuff in it I didn't agree with, but I try to be supportive. But I will not, and I urge my colleagues not to allow the Defense bill to be a train that carries through controversial, unpopular pieces of legislation. It is just not the right thing for us to do, and we are going at it again this year.

We have had a tradition of bipartisan support of Defense bills. I guess the first 12 years I was here we have always had massive bipartisan support, and I have signed them. This action is overriding that tradition. It is not helpful.

I will just note, as the ranking Republican on the Judiciary Committee, I am very disappointed that the majority leader has made clear that one of the amendments he is going to approve for us to vote on would be the controversial, unpopular DREAM Act that has not had a hearing—at least in years that I can recall—in the Judiciary Committee where it should be—to give amnesty to people who came into our country illegally.

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

Mr. SESSIONS. I urge my colleagues to vote against moving to this bill until it is cleaned up and does not have this controversial legislation on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, how much time is on this side?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. LEVIN. I ask unanimous consent that a letter from GEN John Shalikashvili, the retired Chairman of the Joint Chiefs of Staff, be printed in the RECORD.

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

GENERAL JOHN M.D. SHALIKASHVILI, USA (RETIRED),
Steilacoom, WA, September 16, 2010.

DEAR SENATORS: I am writing to urge the Senate to vote in support of the 2011 National Defense Authorization Act. Each element contained in the legislation that passed the Senate Armed Services Committee is essential to the maintenance of a strong, capable fighting force for our nation. Provisions in the bill will ensure that our soldiers have the pay they deserve and the equipment, training and support they need to conduct their critical missions. In particular, I support the DADT repeal language that passed through the Senate Armed Services Committee earlier this year and is currently part of the pending legislation.

The Pentagon is currently conducting a study on how to implement a policy of open service. Congressional repeal is vital for the Pentagon to implement their findings, whatever they may be. As I have said before, repeal strikes down the law that straitjackets military leaders' ability to craft a sensible and practical policy about open service. Most importantly, the current repeal language allows the Pentagon the time it may need to answer any questions about how to actually implement the change.

Additionally, repeal would allow military leaders to make personnel decisions based on a person's skills, experience, and overall job performance. Reflecting on my own service and experience, I am quite confident that sexual orientation does not impact a person's ability to defuse IEDs, provide medical care for someone wounded in the line of duty, or translate intercepted enemy intelligence into English.

Passing the 2011 National Defense Authorization Act, including repealing DADT, would serve the interests of our nation's security and all of its service men and women.

Sincerely,

JOHN M.D. SHALIKASHVILI.

Mr. LEVIN. Let me read just part of this letter.

I am writing to urge the Senate to vote in support of the 2001 national Defense Authorization Act. Each element contained in the legislation that passed the Senate Armed Services Committee is essential to the maintenance of a strong, capable fighting force for our nation. Provisions in the bill will ensure that our soldiers have the pay they deserve and the equipment training and support they need to conduct their critical missions. In particular, I support the don't ask, don't tell repeal language that passed through the Senate Armed Services Committee earlier this year and is currently part of the pending legislation.

He goes on:

The pentagon is currently conducting a study in how to implement a policy of open service. Congressional repeal is vital for the Pentagon to implement their findings, whatever they may be. As I have said before, repeal strikes down the law that straightjackets military leaders' ability to craft a sensible and practical policy about open service. Most importantly, the current repeal language allows the Pentagon the time it may need to answer any questions about how to actually implement the change.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I have served in the Senate for 1 year. I have watched the process of different pieces of legislation come to the floor of the Senate.

One of the most frustrating things, to the American people and certainly

frustrating to me, is that we as Senators do not have the opportunity to offer amendments on these large pieces of legislation, legislation in this case that authorizes the actions of young men and women who are fighting to protect our safety and freedom around the world, that the Senator from Florida or Senator from Arizona or Senators from other States cannot stand up and say: I have an idea. I have a proposal. I have an amendment. Let it be aired in front of this body, let it be debated, and let's see whether it rises or falls on its merits.

Instead, we get these rules that are closed where the majority leader comes down and says: I am going to fill the tree, which is Senate parlance meaning: I am going to close off all debate except for on the amendments I choose to put before the American people.

That is not right. That is why the American people are, in part, so frustrated with Congress. We are not debating the issues that any individual Senator may bring forth on behalf of their constituents on what they think is the right way to move forward. Instead, we are going to amendments on issues that should not be attached to this bill, in my opinion.

Don't ask, don't tell is a highly controversial amendment, one that has not been debated, one that is not going to have the opportunity to have the input of the military. We are supposed to be conducting a thorough examination and evaluation of the U.S. military before we make this substantial policy change—while we are fighting two wars at the same time. We are going to pass it and then see whether it is going to have an impact on military readiness? Does anybody doubt what the conclusion will be if it is passed, what the military will then say?

If, for some reason, they had the courage and were able to have the freedom to actually express their opinion, do you think this body would undo it? Instead of allowing us to have the process we are supposed to, where we are supposed to get a sense from the military about how it will impact military readiness, we are going to pass, presumably, over the opinion of the four chiefs of the different branches of the military who oppose this measure, including General Amos, who will join now as the Commandant of the Marines, this controversial measure.

Then we have the DREAM Act which, as my colleague from Alabama said, has not gone through the Judiciary Committee. Many in my State support the DREAM Act. It is a very difficult situation for kids who were brought to this country by their parents, through no fault of their own, have gone through public school, now go to a university and may not have the chance to stay and work in this country. I understand and I am sympathetic to that. But to attach that to this bill without trying to fix the broken immigration system, without first securing our borders, is disingenuous and irresponsible.

So I, too, will not support moving forward on this Defense authorization bill. This is not the way this Congress should act. This is not the way the process is supposed to work. It is unfair to the American people. It is unfair to the members of the military. What should happen is we should have an ability to bring any amendments forward that are germane to the Defense authorization bill and let them rise and fall on their merits.

What should not happen is that extraneous amendments that do not relate to this issue be stuck on and that all debate be closed.

The American people are upset. They are frustrated with their government. Their government is broken, and this is just another example of how badly it needs to be fixed.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if what the Senator from Florida said is going to occur, it indeed would be a broken system. But the majority leader has said and said publicly that there are many other important matters that both sides of the aisle wish to address other than the ones he has raised himself, and he is willing to work with Republicans on a process to permit the Senate to consider these matters and complete the bill as soon as possible.

I do not know exactly what the Senators are saying when they say this is a closed process, when the majority leader says, no, it is not. I mean, they want to debate amendments. You cannot debate amendments unless you get to the bill and offer amendments. I wish to debate amendments too. There are provisions in this bill that I do not like that I voted against in committee as chairman.

There are a number of provisions I would like to see stricken in this bill. But you cannot strike a provision or try to strike a provision before the bill is on the floor to debate. The issue here is whether this filibuster against bringing this bill to the floor so we can debate the amendments is going to succeed.

That is the issue today. Should we be able to debate amendments? You bet. I fought for that as long as I have been either chairman, ranking member or member of the Armed Services Committee and other committees. Of course, we ought to be able to debate amendments.

But the debate today is whether we can get to the point where we can debate amendments. People want to strike the language on don't ask, don't tell. The only way we can get to that point, to strike or modify that language, is if the filibuster does not succeed this afternoon; otherwise we cannot get to that point.

We are debating now whether we can bring a bill to the floor so we can do exactly what the Senator from Florida wants us to do, be able to offer amendments, be able to strike language, modify language, add language.

As to whether nonrelevant amendments should be added, if we want to change the rules of this Senate, offer an amendment to the rules. But the rules of this Senate allow nonrelevant amendments to be offered, and dozens have been offered on Defense authorization bills, including by the Senator from Arizona, who about a decade ago offered a very contentious amendment to change the campaign laws on terms of disclosure.

The Senator, who was chairman of the Armed Services Committee, John Warner, argued passionately to the Senator from Arizona: Please, do not offer that to this bill. It could sink this bill. That was the argument of the chairman. The Senator from Arizona went ahead anyway, as was his right. By the way, the chairman of the Armed Services Committee acknowledged it was the right of the Senator from Arizona to offer nonrelevant amendments, and the Senator did that, the Senator from Arizona. It was not the first time.

Senators on both sides of the aisle have offered nonrelevant amendments to the Defense authorization bill and to other bills because that is their right. What is broken around here is the determination on the part of the Republicans to not allow us to proceed to debate bills. That is what is broken, in that the filibusters are now being used over and over and over in a way that they have never been used before, at least in this quantity, to stop a bill from coming to the floor.

How do we debate the amendments which the Senator from Florida rightfully says we should debate unless we can get to the point where we can debate them. We cannot debate them now. The bill is not before us. The question this afternoon is whether we are going to allow this bill to come before us so the Senate can do exactly what the Senate should do, which is to have Senators be able to offer amendments, debate those amendments, accept or defeat those amendments. That is what the Senate should be doing.

But we cannot do that if a filibuster denying the Senate an opportunity to debate the bill succeeds. Then we cannot do that. We cannot do what the Senator from Florida wants us to do, and I want us to do, to debate amendments, to have Senators be able to offer amendments. That is the problem which we face more and more in this body, and I deeply regret it.

I do not know how to change this system without changing the rules, which we are not going to be able to do. I do not know how we can prevent a filibuster succeeding or delaying the Senate from acting for days and days and days, from being able to debate. Filibusters have their place, I believe, to protect the minority. They have their place so that the minority can be assured of extended debate. I have supported that.

But the filibusters are being used now more and more to prevent us from debating, not to guarantee the opportunity to debate for the minority,

which is a legitimate function of the filibuster, but to prevent us from debating. This filibuster, if it succeeds this afternoon, is going to prevent us from debating the very issues which need to be debated. Don't ask, don't tell, we should debate it. We cannot debate it if we do not get to the bill. The DREAM Act, should that be offered, should it not be offered? We cannot debate that unless we get to the bill.

As to the other provisions in this bill, one of the Senators mentioned the language about abortions. By the way, he said taxpayer-paid abortions, which is not in the bill, as I think the Senator from Florida knows. It only allows abortions on a voluntary basis, which are legal, if the woman pays for the abortion. These are not taxpayer-paid abortions. So putting that aside, it is a legitimate subject for debate. How do you debate it if we cannot get to the bill?

That is what this issue is about this afternoon. Will we get to a bill, which I think all of us believe is a critically important bill to the men and women of the Armed Forces? How do we get to that bill? How do we debate these issues, which I agree with the Senator from Florida need to be debated, rightfully are debated, if we are not able to get to the bill? That is the issue which we will decide this afternoon.

The PRESIDING OFFICER. The Senator from Arizona.

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

The PRESIDING OFFICER. Five minutes.

Mr. MCCAIN. How much time is remaining on both sides?

The PRESIDING OFFICER. Five minutes remain on the Republican side and 4 minutes remain on the Democratic side.

Mr. MCCAIN. Before my colleague speaks, very briefly, maybe the Senator from Michigan has forgotten what happened last year on hate crimes. The bill was brought up, then the majority leader filed, as is his right, the first amendment.

Then only amendments that the majority leader agreed to were allowed on hate crimes. So we got stuck for a week on it. I predict to you that is exactly what would happen with the DREAM Act and with this issue as well because the majority established that precedent last year.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I came over to speak on this bill and in opposition to the motion to proceed. I sit here and I listen to the distinguished chairman of the committee talk about the fact that this is an open process and that we have to get to this bill and everybody can file amendments.

Well, when it comes to filing amendments to the Defense authorization bill, the majority leader is just like me. He is a Member of the Senate. He has the right to file amendments. I have the right to file amendments. That is not the case here. That is not what we are arguing about.

What has happened is the majority leader, for political purposes, has come down and he has called up the Defense authorization bill and he has done what we call filling the tree. He has filed three Democratic amendments for his benefit and then he has filled the tree and he has not allowed me to file an amendment. He has not allowed the Senator from Florida to file an amendment.

So when the chairman stands and says: We have to get to the bill. Well, we are on the bill. Is it right for the majority leader to be able to file amendments and nobody else to file amendments? I do not think so. That is what we are arguing about today. If you believe that is a fair process and that is an open process, then you vote for the motion to proceed.

But if you believe the process ought to be that every Member of the Senate has the right to come down, whether you are a member of the Armed Services Committee or not, and file an amendment and call up your amendment and have a debate on it and a vote on it, then you need to vote against this motion to proceed. This is not the process that the Senate is used to following. It is the process this majority leader has seen fit to follow time and time again, and it is not right. It is not the way the Senate is supposed to work.

I intend to vote against the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, parliamentary inquiry: Are we on the bill now?

The PRESIDING OFFICER. The Senate is not on the bill.

Mr. LEVIN. If cloture passes this afternoon, would we then be able to be on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. How much time is remaining?

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes remaining.

Mr. MCCAIN. How much time is remaining on the other side?

The PRESIDING OFFICER. There are 2 minutes on the Republican side and 3½ minutes on the Democratic side.

Mr. MCCAIN. Well, again, I would point out again that not only do the members of the Joint Chiefs of Staff and our service chiefs object to this truncated process, being left out of the final decisionmaking process, they do not have to sign on to any conclusions that are reached as a result of this ongoing survey. But there are others, such as the incoming Commandant of the Marine Corps, who says, my personal view, the current law and associated policy have supported the unique requirements of the Marine Corps. Thus, I do not recommend its repeal. My primary concern with proposed repeal is the potential disruption to cohesion that may be caused by significant change during a period of extended combat operations.

We are in two wars, and now we are pursuing the social agenda of the Democratic Party instead of taking the priority, as it is much called for; that is, the welfare, the morale, the battle effectiveness of the men and women in the U.S. Marine Corps.

So last year there was an amendment allowed, but procedurally, when we did the hate crimes bill, there were only amendments that were agreed to by the majority leader. That is what we fear will happen in this debate, and certainly the DREAM Act, which is also on the agenda for the elections is clearly not something that should be addressed by the Armed Services Committee. By all rights, it should be done by the Judiciary Committee.

I regretfully reach this stage. But I urge my colleagues to vote in opposition to the cloture vote.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield the remainder of the time to the Senator from Connecticut.

Mr. LIEBERMAN. I regret that I have been held up in another event, that I could not get here until now. But I rise to speak in favor, of course, of the cloture motion and of taking up the National Defense Authorization Act.

This is critically important legislation. I know the debate has been mostly about a couple of parts of it or one amendment or maybe two amendments that may be offered to it.

But the National Defense Authorization Act has to be passed. It has been passed every year for more than half a century. Why? Because it authorizes increases in compensation and benefits for members of the military and their families. No matter what you think about any amendments that may or may not be put in, I do not think any of our colleagues truly want to stop that from happening, nor do they want to stop the authorization of the procurement of military equipment that our soldiers need to protect them and to continue to be the most effective fighting force in the world, nor do they want to stop the authorization for military construction in the United States and around the world that our troops and their families need to live decently.

This is a motion to proceed. It is not a vote on the bill. To me, this ought to be an easy vote, no matter what you think about don't ask, don't tell or the DREAM Act or even what you think about the procedure adopted because, let's remember, at any point once we go to proceed, if people in the Chamber do not think Senator REID has allowed enough amendments, they can begin a filibuster and stop it right there. This

bill won't come to a final vote, regardless of what is in it, until there are 60 Members of the Senate who want it to come to a final vote.

I wish to speak for a moment about don't ask, don't tell. Senator LEVIN has done an excellent job in the debate. I voted against the policy as a member of the Armed Services Committee in 1993, when it first came up. I was privileged to be an original cosponsor, with many others, of the legislation to repeal it this year, working with Senator LEVIN and others on the committee, including Senator COLLINS who, to her great credit, had the guts to join us because she believes don't ask, don't tell is un-American—my word—not fair and hurtful to military effectiveness.

More than 14,000 members of the military have been put out of the services since 1993 under don't ask, don't tell, not because they weren't good soldiers, sailors, marines or airmen, not because they violated any military code of conduct but only because of their private sexual orientation. That number is the equivalent of an entire division of warfighters we need in places such as Afghanistan and elsewhere around the world. It is also a waste of money to train those 14,000. Estimates are that taxpayers paid over $600 million. We waste that by tossing them out, not because they are bad soldiers but because of their private sexual orientation.

I know some have said repealing don't ask, don't tell doesn't belong on this bill. Don't ask, don't tell was originally adopted as part of the Defense authorization bill. It is, frankly, the best and most logical place around which to repeal the policy. I know Senator LEVIN has talked about the process. There is a fundamental judgment that the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and those of us who have sponsored the amendment to repeal don't ask, don't tell have made, which is that it ought to go. It is un-American. It is inconsistent with our best values of equal opportunity, who can get the job done, not what one's private life is about. It is hurting our military. That judgment has been made.

The study being done at the Pentagon is to determine how to implement this best without intervening in military effectiveness. Then we put in the amendment which is in the bill. This provision, as Senator LEVIN has pointed out, doesn't go into effect until 60 days after the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff certify in writing that repeal of don't ask, don't tell is consistent with standards of military readiness, military effectiveness, unity, cohesion, recruiting, and retention. We couldn't ask for more in the way of due process. We don't direct the military exactly when and how and over what timeframe they actually go about pulling apart this unjust don't ask, don't tell policy.

It will be a close vote today. It would be a shame if we don't get the 60 votes. If Members are against don't ask, don't tell being repealed, vote against it when the amendment comes up. Submit an amendment to strike it. But don't stop the whole bill which is so important to our military. If for some reason we don't get the 60 votes today, Senator REID has made clear we are coming back, and we will do this in November or December. We have to pass this bill for all the reasons I have stated, for our military effectiveness when our troops are in combat. There will come a day before the end of this year when there will be a motion to strike the repeal of don't ask, don't tell. I don't think opponents of don't ask, don't tell have the votes to accomplish that. When that day comes, we will support our military and America's best values by ending this nonsensical, unfair policy.

In America, we judge people by whether they can get the job done, not by any quality about them personally. I think we will get this job done before the end of this year. I hope we can do it beginning this afternoon. But if we don't, we will come back.

I thank Senator LEVIN for his extraordinary leadership.

I yield the floor.

RECESS

The PRESIDING OFFICER. All time has expired.

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

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and was reassembled when called to order by the Presiding Officer (Mr. BEGICH.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The time between now and 2:30 p.m. will be equally divided.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 2½ minutes to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, we are at a critical juncture in proceeding to the National Defense Authorization Act. This bill is routinely taken up every year. I want to emphasize again, we are at the first step. This is just a motion to go forward to begin to debate the bill. I would hope we could at least summon sufficient votes to agree to talk about these critical issues.

This legislation contains important programs for our military. We have a military that is at war in Iraq and Afghanistan. They need equipment, and they need support. We have included changes for the quality of life of their families. One change, significantly, is to make the TRICARE system comparable to the new health care system by allowing children who are up to 26 years old to stay on their parents' policies.

There are some controversial provisions and proposals. One is don't ask, don't tell. The other is the DREAM Act. First, the minority or anyone has the right to move an amendment to take out or change provisions with respect to don't ask, don't tell. I would disagree with that and oppose that, but that is something that can and will happen and will engender a very strong, positive debate. The other issue is the DREAM Act. I think that has a significant connection to this bill because that is one of the ways in which a youngster who came to the United States—not by his or her choice but because of a family choice—under 16 years of age who later joins the military, and who serves honorably, can be put on a path to eventually become a citizen. That has a strong nexus to this bill. But that issue has to be proposed on this legislation and voted for by a majority of Members.

So we are here simply to begin an important debate and discussion to support our men and women in uniform across the globe, and their families. To deny at least the initiation of such a debate seems to be exactly contrary to why we should be here, which is to support our military, to debate difficult issues, and then to take votes up and down to decide the policy of the United States.

With that, I urge all my colleagues to support this motion to proceed to the bill.

Mr. President, I yield any remaining time I have back to the chairman of the committee.

The PRESIDING OFFICER. Who yields time?

Time will be charged equally.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself just a minute and a half. I would ask that the Republicans have their speaker—if they are going to be using their time—to come immediately after me; otherwise, it would not be fair for us to be using up all of our time in advance.

Mr. President, this morning a number of Republican Senators stated they would support the current filibuster of this bill because they were afraid that if we take up the bill, we are going to have a closed process that would limit their ability to offer amendments. The majority leader has addressed this issue. He specifically said last Thursday that he is ''willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible.'' He is very clear on this. He is not trying to prevent other amendments from being offered. However, there are not going to be any amendments, there is not going to be any opportunity to vote on any amendments unless we get 60 votes to overcome the current filibuster and proceed to the bill. It makes no sense for Senators to

block all amendments, which is what the effect will be if we do not end this filibuster, to deny consideration of this bill so we can consider amendments. It makes no sense to do that under the guise of wanting an open amendment process. We are not going to have any amendments unless we can get to this bill, unless we end this filibuster.

Amendments are appropriate. We have always had amendments on the Defense bill. The majority leader assures we are going to do that again, and I will do everything I can as chairman to make sure that is true. So the issue today is not whether there is going to be specific amendments in order; it is whether we are going to get to the bill so we can try to consider amendments to the Defense authorization bill. There are many amendments that should be considered, and I hope we do not continue this filibuster. I hope we can get 60 votes and do the important work of the Nation, which is to get a defense authorization bill passed after it has been considered.

I reserve the remainder of my time.

Mr. MCCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes 50 seconds.

Mr. MCCAIN. Mr. President, this is, obviously, an important vote that is coming up. I repeat, I am not opposed in principle to bringing up the Defense bill and debating it, amending it, and voting on it. I am not opposed to having a full and informed debate on whether to repeal don't ask, don't tell and then allowing the Senate to legislate. What I am opposed to is bringing up the Defense bill now before the Defense Department has completed its survey because we need to know the views of the men and women who are serving in the military in uniform. Give them a chance to tell us their views. Whether you agree or disagree with the policy, whether you want to keep it or repeal it, the Senate should not be forced to make this decision now before we have heard from our troops. We have asked for their views, and we should wait to hear from them. All four service chiefs have said the same thing: Let's conduct the survey, let's get it done and then act on whether to repeal or not repeal.

There is one other aspect. This is a blatant political ploy in order to try to galvanize the political base of the other side, which is facing a losing election. That is why the majority leader said we would take up don't ask, don't tell, take up the DREAM Act, and then take up the issue of secret holds and then address the other issues after the election. I wonder why the majority leader would have those priorities—in other words, take up those that would be politically beneficial, galvanize his political base as far as the Hispanic community is concerned and the gay and lesbian community, and then take up the other issues after—after—the election is over in lameduck session.

This majority leader has filled up the tree and has not allowed debate 40 times—40 times—more than all the other majority leaders preceding him. Last year, the hate crimes bill was arranged in such a way that there were not amendments that could be proposed by my side of the aisle.

So let's vote against cloture. Let's sit down and try to reach some kind of an agreement. Let the men and women in the military be heard from. Let their leaders go to their men and women who are serving and tell them we have heard their input before we make this legislative change and stop the cynical manipulation of the men and women in the military in order to get votes on November 2.

Mr. President, I reserve the remainder of my time.

Mr. FEINGOLD. Mr. President, the Senate should have the opportunity to debate and amend this important bill. While the bill has many provisions I support, it also includes billions of dollars of earmarks and funding for the wars in Iraq and Afghanistan that will dig us deeper into debt without advancing our national security. I have a number of amendments to improve the bill, including one to require that future war funding be paid for, so it doesn't add to the deficit. I look forward to the opportunity to offer those amendments.

Mr. LEVIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. Two minutes.

Mr. LEVIN. I yield the time to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank Senator LEVIN.

I rise to oppose the filibuster of the National Defense Authorization Act and to say what is obvious—that this is a preelection campaign season. There are a lot of politics, partisan politics swirling around, everything going on here, including procedural matters such as those we are involved in right now. But there are two things I know and I believe, and I wish to express them about this vote coming up.

One is, we have to proceed to consider the National Defense Authorization Act. If we do not do it today, I hope we will do it as soon after as we can because our military needs it. They are in combat. Without this legislation passing, we will not have the authorization to increase compensation and benefits for the military and their families, we will not have authorization for critical military construction, we will not have authorization for acquisition of critical military equipment that our troops need to fight safely on our behalf and to remain what they are—the bravest, most effective fighting force in the world. So it may be today, it may not be today, but it is going to be sometime before the end of the year that we have to take up this bill. It is our national, constitutional, moral responsibility.

Second—and this is a controversial part, of course—I believe we have to repeal don't ask, don't tell, not only because it is not consistent with the American values of equal opportunity, of judging people by whether they can do a job or not, not by their nationality, their religion, their gender, their race, or their sexual orientation—can you do a job, and if you can do it, then you can get that job in America. We have thousands of Americans who are patriotic who want to serve who happen to be gay or lesbian, and we are telling them: You cannot. Not only that, we kicked out 14,000 of them in the last 17 years under don't ask, don't tell.

The PRESIDING OFFICER. The majority's time has expired.

Mr. LIEBERMAN. At some point, we are going to come to a vote on the bill and on don't ask, don't tell. I believe a majority of my colleagues in this Chamber—maybe more than that—are going to do what we need to do, which is to repeal don't ask, don't tell.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has approximately 2 minutes 45 seconds.

Mr. MCCAIN. I just wish to emphasize again the statements of the service chiefs.

GEN George Casey:

I remain convinced that it is critically important to get a better understanding of where our Soldiers and Families are on this issue, and what the impacts on readiness and unit cohesion might be, so that I can provide informed military advice to the President and the Congress. I also believe that repealing the law before the completion of the review will be seen by the men and women of the Army as a reversal of our commitment to hear their views before moving forward.

Admiral Roughead:

My concern is that legislative changes at this point, regardless of the precise language used, may cause confusion on the status of the law in the Fleet and disrupt the review process itself by leading Sailors to question whether their input matters.

General Conway:

I encourage the Congress to let the process the Secretary of Defense created to run its course.

General Schwartz:

I believe it is important, a matter of keeping faith with those currently serving in the Armed Forces, that the Secretary of Defense commissioned review be completed before there is any legislation to repeal the Don't Ask, Don't Tell law.

Let's listen to the people we place in charge of the men and women in the military. This is not the time to move forward on this issue, particularly with a political campaign at its highest.

I hope my colleagues will oppose the cloture vote and let's hear a statement in favor of the men and women serving in the military.

I yield the remainder of my time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I indicated to the majority leader that I was going to propound a unanimous consent request at this time.

I ask unanimous consent that the Senate now proceed to the consideration of the Defense authorization bill; provided further that amendments be offered in an alternating fashion between this aisle and that; that the first 20 amendments offered be Defense-related amendments within the jurisdiction of the Armed Services Committee, with no amendment related to immigration in order during the first 20 amendments.

Before the Chair rules, this is an important bill and the Senate should consider the way we have done it every year. There are many controversial issues related to the underlying bill that need to be debated and voted on by the Senate. Our view is we should start work on the bill and tackle the relevant Defense issues before we divert into unrelated measures.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object. I pride myself in being a very patient person, and I will continue to be patient now. But during this Congress, we have had to overcome so many procedural roadblocks—not one, not two, but scores. We are now over a hundred. This is in keeping with what has gone on this whole Congress. It is remarkable that we have been able to get as much done as we have, with all of the roadblocks that were thrown up.

This is an important bill. I recognize that. It is basically to take care of our military personnel. To have this consent agreement, written in the language it is written in, changes how we have done legislation for a long time.

We all know the ranking member of the Armed Services Committee has offered so many unrelated amendments to this bill. He is on record as having done so. His response to one dealing with transparency was: This is my only opportunity to do it.

For anyone to suggest that the Secretary of Defense is somehow antimilitary—he is a person who supports the DREAM Act.

I appreciate the manner in which the Republican leader offered this. He gave me plenty of warning. We don't have surprises between the two of us.

I respectfully say this is changing the way we do business in the Senate, and I object.

The PRESIDING OFFICER. Objection is heard.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 414, S. 3454, the National Defense Authorization Act for Fiscal Year 2011.

Harry Reid, Carl Levin, Tom Udall, Jack Reed, Barbara A. Mikulski, Jon Tester, Al Franken, Richard J. Durbin, Byron L. Dorgan, Jeanne Shaheen, Frank R. Lautenberg, Sheldon Whitehouse, Benjamin L. Cardin, Roland W. Burris, Jim Webb, Daniel K. Akaka, Bill Nelson.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, is it the sense of the Senate that debate on the motion to proceed to S. 3454, the Department of Defense authorization bill, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Alaska (Ms. MURKOWSKI).

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

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—56

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

NAYS—43

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Pryor
Bond	Graham	Reid
Brown (MA)	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Coburn	Isakson	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	LeMieux	Wicker
Cornyn	Lincoln	
Crapo	Lugar	

NOT VOTING—1

Murkowski

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion to reconsider is entered.

The Senator from Illinois.

Mr. DURBIN. Mr. President, for those who have been following this vote, this was an attempt to proceed to the Defense authorization bill. It is one of the most important bills we consider during the course of a year. Senator LEVIN of Michigan is chairman of the Armed Services Committee, and he was prepared to bring that bill to the floor.

There was an attempt made by the majority leader, Senator REID, to allow three amendments to be considered—three amendments which would be considered before other amendments on the bill. One of the amendments related to the don't ask, don't tell policy. There is a provision already in the bill which allows—after review by the Joint Chiefs of Staff, the President, and the Department of Defense—the possibility of removing that provision from our law. That was one of the amendments. The second amendment related to Senate procedure on secret holds. But the third amendment—and the one I rise to speak to—is the one which became the focal point of this last vote. That amendment related to a measure known as the DREAM Act.

Almost 10 years ago, I introduced this bill called the DREAM Act. The reason I introduced it was because I felt there was a serious injustice and unfairness going on in America. We have within our borders thousands of young people who were brought to the United States by their parents at an early age. I don't know what it was like in their homes, but there weren't many democratic votes when I was 5 years old as to where we were going for vacation. I went where I was told, and these children followed their parents to America. They came here and became part of America. We made certain they had an opportunity for an education and health care. We made certain they had an environment where they could grow up in this country, and for many of them, it was the only home they ever knew. But because they came to this country with undocumented parents, they were not legal. They were not documented. They couldn't be citizens.

That, to me, is a serious injustice. We do not, in this country, hold the crimes and misdeeds of parents against their children. What I have tried to do with the DREAM Act is to give these young people a chance—a chance to earn their way to legal status and become part of the only country they have ever known. The DREAM Act isn't easy. The DREAM Act says if you came here as a child, if you were raised in the United States, are of good moral character, with no criminal record, and you have graduated from high school, then we give you 6 years. In that 6-year period of time, you have a chance to do one of two things to become legal: No. 1, serve the United States of America in the military; and No. 2, complete 2 years of a college education. Then we will give you a chance to come off temporary status and become legal in

America. But you have to earn your way all the way through, subject to review, examination, and all the requirements that should be there before someone gets this chance of a lifetime.

Well, the Republican minority leader came to the floor before this vote and he offered a unanimous consent request—which Senator REID objected to—and here is what it said. Of all the amendments you can consider on the Defense authorization bill, you cannot consider any amendment that relates to immigration.

I know what that was about. The Senate knew what that was about. It was an attempt by the Republican side of the aisle to make certain the DREAM Act could never be called on the Defense authorization bill. They have made an empty argument on that side that this DREAM Act has nothing to do with the defense of the United States. It is an empty argument.

Mr. REID. Would my friend yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I ask my friend, through the Chair, is it not also true that under the terms of the DREAM Act, no one becomes a legal citizen, that they get a green card?

Mr. DURBIN. They reach legal status. They have to make application to go beyond it. In this situation, young people, undocumented in the United States, who want to voluntarily serve in our military, cannot do so. They are willing to risk their lives for America. Yet we say no.

The Secretary of Defense knows that is wrong. This morning, in a conversation I had with him in my office over the telephone, he reiterated what he had said to me before: These are the kind of young people we need in America's military—high school graduates from cultural traditions that respect the military; people who are going to make more diversity in our ranks. That is what we need. He knows, from a national defense perspective, these will be good recruits for our military and will distinguish themselves serving our country and coming up through the ranks.

That is what the DREAM Act offered to the Defense authorization bill. The Republican leadership and every Republican Senator said no.

Mr. REID. Will my friend yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. REID. I ask, through the Chair, are you telling the American people that the Secretary of Defense—a man chosen by the President of the United States, not only by this President but the last President—is in favor of our passing the DREAM Act? Is that what the Senator from Illinois is saying?

Mr. DURBIN. I would say to the Senator from Nevada exactly that. The Defense Department's fiscal year 2010–2012 strategic plan for the defense of America specifically includes the DREAM Act as a means of meeting the strategic goal of shaping and maintaining a mission-ready, all-volunteer force.

In 2007, the Deputy Under Secretary of Defense at that time said the DREAM Act is very appealing because it would apply to the cream of the crop of students and be good for readiness. Over and over again, the Department of Defense has told us this is an opportunity for young people to serve your Nation, for America to be a safer place.

I wish to relate to my friend, the Senator from Nevada, a story I told him earlier. This young man came this morning to the U.S. Capitol from the city of New York. I say to the Presiding Officer, he lives in Brooklyn. His name is Cesar Vargas. Cesar Vargas came to the United States at the age of 5, brought here by his mom and dad from Mexico. He graduated from the regular public schools of New York and then went on to graduate from college. It was more difficult for him because he is undocumented. So he couldn't get any Federal aid to education—no Pell grants, no Federal student loans. But he made it and he graduated. He said to us this morning that after 9/11, because of his deep commitment to America, he tried to enlist in the Marine Corps. He said: I wanted to defend this country after we had been attacked by terrorists. He not only tried the Marine Corps, but he tried other branches as well and repeatedly he was turned down because Cesar Vargas is undocumented.

But his dream has not died. Now he is a third-year student at the City University of New York Law School. He speaks four languages. He said he is studying a fifth—Cantonese. He is an exceptionally gifted young man. Do you know what his ambition is? Once again, to join the Marine Corps—to be in the Judge Advocate General Corps to serve America, a country he dearly loves.

Because of this Republican decision—a procedural decision that says we can't consider the DREAM Act—we will not have a chance to vote on this important measure which would give Cesar Vargas and those like him a chance to volunteer to serve America. I would say to my friends and colleagues on both sides of the aisle, where is the justice in this decision? At least have the courage to let us bring this matter to the floor and stand and vote no. But to hide behind this procedural ruse—this unanimous consent request—is totally unfair. It is inconsistent with the spirit and the history of this Chamber, where we deliberate and debate and vote. But they ran and they hid behind this procedural decision.

Mr. REID. If the Senator will yield for a brief question.

Mr. DURBIN. I will be happy to yield for a quick question.

Mr. REID. I want everyone within the sound of my voice to understand how much I appreciate—and the thousands and thousands of other people who appreciate—Senator DURBIN's advocacy of this issue. I also want everyone else within the sound of my voice to know we are going to vote on the DREAM Act. It is just a question of time. This is so fair. That is all it is about, fairness—basic fairness.

I have to say to my friend from Illinois that I feel so bad. I have a stack of letters in my office that are the most heart-wrenching stories about these dreamers. They are dreamers. But I want them to understand this isn't the end of this. We are going to continue to move on it. We know we have been blocked procedurally, but this is the first time we have had our colleagues on the other side of the aisle stand and defy basic fairness on the DREAM Act. They have gone around telling people: Yes, we like it. We like it. But here was their chance. All we wanted to do was bring it to the floor, and they wouldn't even let us do that. They didn't have the courage to allow us to have a vote on this.

So I want my friend to know how deeply appreciative I am—and speaking for thousands and thousands of other people—for what he has done on this issue.

Mr. DURBIN. I thank the Senator from Nevada, the majority leader, and I will tell him and those following this debate—some who are in the Chamber, in the galleries, who I am sure are disappointed, if not heartbroken at this point. I mentioned Cesar Vargas, who is here, but Gaby Pacheco, and so many others who have worked so hard for this chance, for this day, and my promise to them is this: As long as I can stand behind this desk and grab this microphone and use my power as a Senator, I will be pushing for this DREAM Act. It is my highest priority. It is a matter of simple American justice, and I would hope the 11 Republicans who joined us last time will stop cowering in the shadows and come forward and join us in a bipartisan effort and not stop us procedurally from even debating and deliberating this critical issue.

For those who are so sad today, take heart. Tomorrow is another day, and we will be there to fight for you, and many others will join us. Don't give up your dream to be part of this great Nation.

I yield the floor.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator from Hawaii.

Mr. INOUYE. Madam President, I wish to step back in history, if I may.

On December 7, 1941, something terrible happened in Hawaii—Pearl Harbor was bombed by the Japanese. Three weeks later, the Government of the United States declared that all Japanese Americans, citizens born in the United States or of Japanese ancestry, were to be considered enemy aliens. As a result, like these undocumented people, they could not put on the uniform of this land.

Well, I was 17 at that time, and naturally I resented this because I loved my country and I wanted to put on a uniform to show where my heart stood.

But we were denied. So we petitioned the government, and a year later they said: OK, if you wish to volunteer, go ahead.

Well, to make a long story short, the regiment I served in, made up of Japanese Americans, had the highest casualties in Europe but the most decorated in the history of the United States. I think the beneficiaries of the Senator from Illinois will do the same.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I know the Senator from Hawaii has to leave, but before he goes I just wish every American could have heard from a hero not of this body, of this Nation but of the world. Senator INOUYE did more than swim against the tide in order to put on the uniform of his country. He had to fight his way into the Army. He then became a Medal of Honor winner. The highest honor—the Medal of Valor—that can be granted was awarded to Senator INOUYE. He gave up more than just a few years of his life; he gave up part of his body for this country.

His eloquence and his passion for proper treatment of people who want to put on the uniform of this Nation is extraordinarily powerful. I only wish every American could have heard it. I thank him for that service and for that statement.

I also want to add a thank-you to the Senator from Illinois. I want to reinforce something he said by asking him a question. It had to do with that unanimous consent request to which he referred. The way this request was worded, even if—well, let me back up.

We have heard for 2 days objections from Republicans that there would be nonrelevant amendments that would be offered—which, of course, is permitted under our rules. As a matter of fact, the Senator from Arizona has on a number of occasions on this bill offered nonrelevant amendments. But even if that DREAM Act amendment of yours were modified so that it only related to young men and women who wanted to go into the Army to serve their country and the educational part of it, as important as it is, if that were left out—even if the amendment were designed so that it could be referred to the Armed Services Committee because it would be defense related, even if you could design an amendment like that, under this unanimous consent agreement no amendment related to immigration would be in order during those first amendments.

Is that not singling out immigration, saying, despite all of the protestations we heard here about wanting to make sure amendments were relevant—despite the history that is not required under the rule but that is the protestations we heard over the last few days, we want relevant amendments and the DREAM Act isn't relevant—under this unanimous consent request, even if the DREAM Act were modified so it might be within the jurisdiction of the Armed Services Committee because it would be focused on service in the Armed Forces, under this request no amendment relating to immigration would be in order; is that correct?

Mr. DURBIN. I reply to the Senator from Michigan through the Chair and thank him for this question. Just as the door was closed on DAN INOUYE of Hawaii when, as a Japanese American from Hawaii, he wanted to serve his country, the unanimous consent request from the Republican leader closed the door on anyone who wished to serve this country if it involved the issue of immigration. It had one intent: stop the DREAM Act, stop these young people from being given a chance to serve their nation. That is clearly the intent. Unfortunately, the partisan rollcall that followed is evidence that was the strategy.

Just as DAN INOUYE prevailed and persisted and not only served his country admirably but with the highest level of valor, I am convinced that many of the young people who leave heartbroken today by this vote will get their chance someday, just as the Senator did, and they will serve this country with distinction and they will serve this Nation as the Senator has led us in the Senate.

Mr. BAUCUS. Madam President, what is the present parliamentary situation?

The PRESIDING OFFICER. The Senate is considering the motion to proceed to S. 3534.

Mr. BAUCUS. I ask to speak as in morning business, and I also ask unanimous consent the Senator from California, Mrs. BOXER, be recognized immediately after my remarks and she be recognized to speak for 15 minutes.

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

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the submission of S. Res. 636 are printed in today's RECORD under ''Submitted Resolutions.'')

Mrs. BOXER. Madam President, I rise to express my deep disappointment that we were unable to proceed to the Defense authorization bill.

I have been here a while, maybe I am wrong—I am searching my memory—I don't remember any time that we voted against proceeding to the Defense bill. I am going to go back. Certainly, in the time I have been here, I don't remember that.

It is a filibuster just to go to the Defense bill. It is perplexing to me because of some of what is in this bill—including funding for the defense health program to care for our military personnel and their families, including our wounded warriors. We know these wars in Iraq and Afghanistan have taken quite a toll on our military men and women, both in seen injuries and unseen injuries—injuries to the brain.

We know some incredible work is going on. I visited some of the research universities that are finding better ways to treat our wounded warriors. They are finding better ways to treat terrible wounds that result from horrible burns to our brave men and women. Now is the time to put those new and better treatments into place and there is a filibuster and we cannot get to the bill.

We know there is a military pay raise in this bill for our servicemembers. Those voting no to proceed to this are stopping that.

This bill authorizes TRICARE coverage for eligible dependents up to age 26. In other words, just as we did in the Health Care Reform Act, in this bill we are saying if you are in the military and you have a child, you can keep them on your coverage until they are 26.

It provides $3.4 billion for Mine Resistant Ambush Protected vehicles or MRAPs, which have proven highly successful in protecting our troops from improvised explosive devices, and it requires companies to certify for all DOD contracts valued over $1 million that they are not engaged in any sanctionable activity under the Iran Sanctions Act of 1996. So we would make sure that the DOD, Department of Defense, is not involved in giving contracts to companies that are trading with Iran. This is so important, as we seek to sanction Iran for its reckless activity in moving toward a nuclear weapon.

In the bill the Republicans blocked is also a repeal of the military's don't ask, don't tell policy. The bill includes a provision stating that there will be no repeal of this policy until there is a certification from the Department of Defense that it will not have adverse consequences on our troops.

Some said: Oh, this is just ignoring the Department of Defense, ignoring the Secretary of Defense. Not at all. The way Chairman LEVIN put it together definitely has a check on it. So I do not understand a lot of my colleagues' claims that it is just a quick repeal with no checks and balances from the Secretary of Defense.

I will say it again, it is clear in there, and I will read the exact words, that there must be, as we repeal don't ask, don't tell, a certification from the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff that there will be no significant impact on ''military readiness, military effectiveness, unit cohesion and recruiting and retention of the Armed Forces.''

I think it is important to note what countries allow gays and lesbians to serve. How about 22 of our allies who have fought with our service men and women in Iraq and Afghanistan: Australia, Britain, Denmark, France, Italy, the Netherlands, Slovenia, Switzerland, Austria, Canada, Estonia, Germany, Lithuania, New Zealand, Spain, Belgium, the Czech Republic, Finland, Ireland, Luxemburg and Norway and Sweden. In addition, Israel and South

Africa also don't discriminate against gays and lesbians. I don't know who we end up with, but some of the countries I can find that still discriminate against gays and lesbians in the service are Iran, Pakistan, Cuba, North Korea, and Turkey.

For us to stand with Iran, for us to stand with Cuba, for us to stand with North Korea, Pakistan, and Turkey over Australia, Britain, Denmark, France, Italy, the Netherlands, Switzerland, Austria, Canada, Germany, et cetera—it just doesn't make sense.

The point is, because we are part of this coalition of 22 other nations, our service men and women are already fighting alongside gays and lesbians.

A majority of Americans think it is the right thing to do, to allow our qualified young men and women to serve regardless of their sexual orientation. According to a CNN poll conducted in May, 78 percent of Americans said they support allowing gays and lesbians to serve openly in the military—78 percent of Americans. We would be standing with them and we would be standing with our allies.

Don't ask, don't tell is hurting our military. It is costing our Nation—more than 14,000 service men and women have been discharged from the military under don't ask, don't tell. It has cost taxpayers between $290 million and maybe up to more than a $½ billion to replace servicemembers who were discharged under this policy.

I know many Americans have seen in their living rooms, on the TV, men and women who are our neighbors' kids, and our neighbors, who have been kicked out of the military even though they were stellar service men and women. It is most unfortunate that our friends on the other side are mischaracterizing what is in the bill.

We allowed them an amendment to strip that language, and they said, oh, well, if we pass this, then the military would be caught off guard. Not at all. The way it is written specifies that there must be a certification that a repeal would not be harmful to our military.

I am also terribly disappointed we will not have a chance to vote on the DREAM Act. The DREAM Act allows those students who have been here most of their lives an opportunity to earn legalized status if they met certain criteria. Those are kids who were brought over as kids, maybe a month or 2, or a year or 2, or 5 or 6 years old. They must have lived in the United States for 5 years. They must earn a high school diploma. After high school, they must complete 2 years of college or serve in the Armed Forces for 2 years. They must demonstrate strong moral character, and only those who pass these tests would be eligible to get on the pathway to legality. Sixty-five thousand young people a year graduate from high school, but they cannot join the military, or they cannot go to college, because of their immigrant status. It was not their fault they were brought into the country by their parents. I want to tell you that our military has said—and I will quote retired Army LTC Margaret Stock. She said: ''Potential DREAM Act beneficiaries are likely to be a military recruiter's dream candidates for enlistment.''

Let me repeat that. The military itself has said, The DREAM Act will result in a military recruiter's dream, because some of these recruits are very good with foreign language skills, foreign cultural awareness, they are in short supply, and they would be excellent recruits.

Businesses support the DREAM Act. Our economic future is something we talk about every day around here. I read a U.S.C. study that said, if we finally begin a process where people who are here, who are hard working and caring, can stay here and come out of the shadows, it will create 25,000 jobs and increase the gross domestic product of my State and of the Nation.

That is why I have the San Jose Mercury News, home paper of the Silicon Valley, writing an editorial last week in favor of the DREAM Act, saying it will boost America's economic competitiveness. So here we have the time where we have something on the floor that is directly related to the military bill, because the military is saying it is a recruiter's dream, this DREAM Act, because they are going to have so many people lining up to join. We have Silicon Valley strongly supporting this, and I will tell you, the San Jose Mercury News said: ''The high school dropout rate in this country terrifies business leaders, who fear that in the coming decades we will not produce enough college graduates with math and science ability.''

That is why the Silicon Valley Leadership Group supports the DREAM Act. That is a group made up of Republicans, Independents, and Democrats. They wrote: DREAM Act students ''deserve a chance, and the U.S. economy needs their knowledge and ability.''

Companies such as Microsoft also support the DREAM Act. They wrote: ''The DREAM Act rewards those who place high value on education, and on service to country.''

Last week the president of the University of California, the chancellor of the California State university system, and the presidents of State universities in Arizona, Washington, Minnesota, Utah, and Washington wrote in support of the DREAM Act. They write in a letter: ''In the current international economic competition, the U.S. needs all the talent it can acquire and these students represent an extraordinary resource for the country. The DREAM Act . . . is an economic imperative.''

In closing, I want to talk about a couple of stories. I think this is very important. David graduated from high school with a 3.9 grade point average. He is studying international economics and Korean at UCLA. He has served as the leader of the UCLA marching band, and he spends his free time tutoring high school students. After graduation, he hopes to enter the Air Force and some day politics. In many ways, he is a model college student and a leader in his community. But he was born in Korea. He came here when he was 9. His family spent 8 years trying to navigate their way to legalized status, only to find out that their sponsor had erred in filling out the paperwork.

So here sits David. He had nothing to do with all of this. Here is what he says:

> I will not be able to put my name down on a job application because of my status. This country is throwing away talent every second . . . but the DREAM Act can bring thousands of students out of the shadows and allow them the opportunity to work for the country they truly love right now.

I would say these students such as David did not choose to come to this country. They were brought here by their parents. The reality is, they have grown up here. This is the only country they know. I am very disappointed that we are not voting on this important bill today. I hope we can take up the DREAM Act later this year. I believe it will truly strengthen our economy, our military, and our Nation.

The very last point I want to make as we wind up this Congress is, I am so pleased that we passed the Small Business Jobs Act last week. I traveled across California. I have met with so many small businesses, and I did a conference call with about 10 of those businesses, including the Los Angeles Baking Company, the Blue Bottle Coffee Company in Oakland, biofuels manufacturer Solazyme, Capstone Turbine in Chatsworth, U.S. Hybrid in Torrance, the Back on the Beach Café in Santa Monica, and the Santa Barbara Adventure Company. These are small businesses in my State that are very strong. They could not get access to credit to expand and hire. As a result of the work we did, they will be able to get that credit. I want to thank the two Republicans who crossed over to vote with us. It shows us that we can make progress when we work together, because this has to come ahead of politics.

I went to a company called Renova. Renova is helping to make California the hub of the clean energy economy. Vincent Battaglia, the owner there, told me he has been getting no help accessing the credit he needs. He called our legislation ''the missing piece,'' the piece he has been waiting for.

Small businesses create 64 percent of our new jobs. That is what happened over the last 15 years. I believe this bill will help get them back on track. As they get back on track, our recovery will begin to have a little more energy behind it. Because it is very slow; it is agonizingly slow.

I wanted to state on the RECORD how much I appreciate the two Republicans—

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. I thank you and I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the Senators from New Hampshire, Arizona, Kansas, and I be permitted to engage in a colloquy for half an hour.

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

SENATE PROCEEDINGS

Mr. ALEXANDER. On December 3, 1996, Senator Robert C. Byrd, the late Senator Byrd, who most of us think understood this body better than any Senator in its history, told the newly arriving U.S. Senators the following:

Good afternoon and welcome to the United States Senate Chamber. You are presently occupying what I consider to be hallowed ground.

Senator Byrd went on to say:

. . . as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

In his last testimony before the Senate Rules Committee before he died—this was in May of this year—Senator Byrd said:

Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights.

If I may add to that the last paragraph of a letter from Senator COBURN, which I ask unanimous consent to have printed in the RECORD.

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

(See exhibit 1.)

Mr. ALEXANDER. Senator COBURN writes:

Too many Americans are upset, even angry, that their voices are not being heard in Washington. The majority's abusive practice of suppressing debate undermines the Senate's debate traditions . . .

We could start out by complaining that the majority leader has cut off debate, cut off amendments at a record level. I have submitted evidence of that. But I think that would look to the American people like we are kindergartners in a sandbox. Because it is not the voice of the Senator from New Hampshire, or Tennessee, or Arizona, or Kansas that is so important. The voices of the people whom we are elected to represent are the important voices.

When 39 times in the last two Congresses the majority leader, through procedural tactics, says no to amendments, and no to debate, he is causing the Senate to deteriorate to a shadow of its former self, the kind of Senate that Senator Byrd thought was important, and the kind of Senate in which we want to serve.

Our goal is to represent the voices of the American people, to let their feelings, their anger, their hopes, all be represented here. That means we have to have a chance to offer amendments and have to have a chance to debate.

What that means is if we are successful in this election year, we are going to make sure that in the new Congress we have that opportunity. We will make sure that these voices we hear across America are heard on the floor of the Senate. The Defense authorization bill, which is being debated today, is a perfect example of why I say the Senate is deteriorating to a shadow of its former self by closing off the voices of the American people and by denying their elected Senators an opportunity to have a full debate on the issues facing them.

Mr. GREGG. Would the Senator yield on that point?

Mr. ALEXANDER. Of course.

Mr. GREGG. Because I think the Senator has addressed a core issue of constitutional government. When the Founding Fathers got together in Philadelphia and created this extraordinary Nation called America, and built the Constitution upon which we were based, and upon which we govern, was it not their intent to create the Senate as a body different from the House of Representatives?

We understand in the House of Representatives amendments are not allowed if the Speaker does not want them. It is an autocracy over there. We know that. But was not it the intention of the Founding Fathers, as the Senator has pointed out, to give the American people a chance, through their Senators, to amend complex legislation? And has that not always been the tradition since the founding of our Nation? Did Washington not explain this rather accurately when he said, The Senate is the saucer into which the hot coffee is poured? The House boils the coffee, they get all charged up about an issue, they pass it without amendments, often without any debate. It comes over here, and the American people get to hear a little more subtlely about the issue, a little more discussion about the issue. Specifically, they get to amend it and address the issue.

I know the Senator from Arizona is here. Maybe he will be able to tell us—I am sure he will—how many times we have had a bill as big as the Defense authorization bill on the floor, which is spending $700 billion, and not had a chance to amend it. But was that not the purpose of the Founding Fathers, to make the Senate the place where there was debate and discussion and amendment? Has that not been basically cut off by the majority leader and the majority party's attitude that they do not want to take tough votes?

Mr. ALEXANDER. The Senator from Arizona was here when that was not the case, and the Senate functioned the way the Senate was supposed to function.

Mr. MCCAIN. Could I make a couple of comments? One is, one of the things that has disappeared that I saw in the first years I was here in the Senate is the two leaders sitting down and perhaps coming to informal agreements that are then put into unanimous consent agreements to move forward.

The other aspect of this I wonder if my colleagues would care to comment on. One of the reasons why we have these—the majority leader comes forward, as I believe he has 40 times, brings up a bill and then immediately fills up the tree—and to the uninitiated, obviously that means there will be no other amendments allowed through that kind of parliamentary procedure. A lot of times that is read by the Members saying, hey, there is going to be an amendment up that I do not want to have to vote on. I do not want to have to vote on it. So fill up the tree, have no other amendments allowed to be voted on.

It seems to me that we should have the courage to go ahead and vote. Time after time, when I have seen basically a shutout from amendments, I have said, look, I will agree to a time agreement. I am not going to filibuster it. Just give us 15 minutes either side and vote on it. But they do not want to take tough votes. I am not going to call it cowardice, but I cannot call it courage, that people will prevail and say, hey, let's fill up the tree so we can only get this done and we will not have to take a tough vote on whatever the issue is that seems to be attracting the attention of the American people.

I say to my colleague from New Hampshire, who will not be with us next January——

Mr. GREGG. I will be with you; I just will not physically be here.

Mr. MCCAIN. I certainly do not in any way indicate that there is any physical ailment that will cause you not to be a Member of the Senate next January.

If the Senator from New Hampshire could provide us with the benefit of his experience in both the House and the Senate, and also maybe he would give us at some point his view of what we need to do to fix this gridlock we have over the economy. He has done it on numerous occasions, but it comes to my mind that perhaps the Senator from New Hampshire at some time would take an hour on the floor and say: Here is what I think we need to do. I think it would be valuable. I don't think there is anybody in the Senate today who has a better grasp for the budgetary issues we have to grapple with as we face an unprecedented situation of debt and deficit.

Perhaps after this election, it may be possible for us to sit down and be included in the agenda of the Senate. That is one of the things that has been a big change. It used to be that at least the majority leader, whichever party was in the majority, would come over and say: Here is our agenda. What is your agenda? What is your input? What do you want to see happen? Most of the time nowadays, we hear what is going to happen either through reading it in the media or when the majority leader comes to the floor and says: Here is what we will take up next. It does not lead to comity.

Mr. GREGG. Those are very generous and kind comments coming from a Senator who is of huge stature not only

in the Senate but in the country. I do hope to make some comments on that. It won't take me an hour because the answer is simple: Stop spending. That is pretty much the bottom line.

The point of the Senator from Tennessee and the Senator from Arizona on the issue of shutting down the amendment process is as critical to us getting better governance as anything. We can't have good governance if we don't have discussion and different ideas brought forward. Yet we are not allowed to do that any longer because the majority leader says: We will not allow any additional amendment or any discussion.

On budgetary issues, on the spending issue, independent of the Defense bill, I think one of the reasons we haven't done a budget this year is because the other side knows that if they bring the budget to the floor, they cannot shut down amendments. Amendments have to be allowed. Under the rules, we have to be able to amend the budget resolution. I don't think they want to do that. They couldn't fill the tree on the budget.

As a practical matter, this attempt to foreclose debate on core issues of public policy, such as the defense issue and spending, by shutting down the floor through filling the tree is undermining not only the Senate and its role but the whole constitutional process and the right of the people to be heard.

Mr. MCCAIN. Doesn't it send a message to people who are having their budgets squeezed, having to make the most difficult decisions about their budget, that this body will function and continue to appropriate money for our functions without a budget of our own? What kind of a signal does that send to the American people? Doesn't that contribute to the disconnect and the frustration Americans feel and give rise to the tea party, which has had a seismic effect on the political landscape?

Mr. GREGG. Absolutely. More than that, it begs the question as to why is the majority party governing. If they are not willing to govern, what are they collecting their paychecks for? Governing means putting together a budget and deciding how to spend the money. They are not willing to do that.

Mr. MCCAIN. One of the first decisions every family has to make is what is the budget, what are they going to be able to spend. We will be going out of session sometime here before the election without even a cursory effort at a budget.

Mr. GREGG. Absolutely.

Mr. ALEXANDER. Madam President, the Senator from Kansas is here. He served with distinction not only in the Senate but in the House of Representatives.

I wish to go back to the point Senator Byrd made. He said in his address to new Senators in 1996:

[A]s long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

What we are talking about here is not the importance so much of the voice of the Senator from Kansas or the voice of the Senator from New Hampshire but the voices of the American people. And they are being suppressed.

The Senator from Kansas has seen Congress for a long time. What do we need to do to take the Senate back to the Senate that it should be?

Mr. ROBERTS. I appreciate the Senator bringing up the statements by our revered Senator Byrd. I remember when I first came to the Senate, he had, for lack of a better word, a lecture or maybe a sermon to us all about the comity of the Senate and why the Senate is different from the House. The standard example is that the House is where we pour a hot cup of coffee, and then it cools off in the Senate when we put the coffee in the saucer. And that is what we are supposed to do to protect the minority. Here is what Senator Byrd said in one of his last speeches before the Rules Committee before we lost Bob. His knowledge and love for this body were unmatched. He actually wrote the history of the Senate. He said he opposed cloture by a simple majority because ''it would immediately destroy the uniqueness of this institution. The Senate is the only place in government where the rights of a numerical minority are so protected. A minority can be right and minority views can certainly improve legislation.''

Obviously, if we go down another road—and we have—I just heard the majority leader indicate this side of the aisle is guilty of obstructionism. I guess it is in the eye of the beholder.

I might remind my friend from Arizona that the bumper sticker for the distinguished State of New Hampshire is ''Live Free or Die.'' I hope we live free, and I would hope that the distinguished Senator from New Hampshire would not take that literally, given the comments by the Senator from Arizona.

I came into public service in 1980, with my dear friend from New Hampshire. Other than some rather obstreperous incidents in regard to basketball, we have enjoyed a very good relationship. But there isn't anybody here who understands the budget process and how minority rights should be protected and how we should proceed other than JUDD GREGG. He has done an outstanding job. I know that once he leaves the Senate, he will be called upon to help us get out of this tremendous debt problem and to face the entitlements square-on.

Facts are stubborn things. I am not trying to put these facts on any individual. As the distinguished Senator from Tennessee has pointed out, what this really is about is the consent of the governed. That is what Madison was really interested in when he wrote about the Constitution. We want a strong Executive and certainly a House and a Senate to be responsive, but it is to protect the consent of the governed. The governed, as everybody knows, is extremely upset. It is because their voice is not heard. Why is their voice not heard?

In the 110th Congress in the House of Representatives, only 1 percent of the bills were brought to the floor with open amendment rules—1 percent. Ninety-nine percent of the bills reached the Senate from the House with little or no input from the minority. As of March of 2010, the House was on track to shatter its record for closed amendment rules in the 111th Congress. That is the House.

I spent 16 years in the House. I can remember very well one particular incident where there was a real controversy over a seat in Indiana. The secretary of state of Indiana declared the winner. It came back to the House Administration Committee, went back out to Indiana, recounted. When the Democrat went ahead, they called it closed, and that was it. We walked out. We said the comity of the House had been destroyed.

We are close here in the Senate. In the 110th Congress, cloture was filed 133 times, 98 of which were filed the moment the question was raised on the floor. If that isn't obstructionism, I don't know what is. Over the last 22 years, the majority leader has filled the tree roughly three times per Congress on average. However, from January 2007 to April of 2010, the majority leader filled the tree 26 times. That is a 300-percent increase in filling the tree for the 110th and 111th Congress. These numbers do not reflect the additional times this has taken place in the 5 months since the numbers were submitted to the Rules Committee, including today, with DOD authorization. From the 103rd to the 109th Congress, rule XIV to bypass the committee was used on average 24 times per Congress. This was shattered in the 110th Congress when it was used 57 times. I go over these facts to show that in regard to the definition of obstructionism, it goes both ways. That is the rest of the story.

A little bit later, if the distinguished Senator from Tennessee has time, I would like to go over this sense-of-the-Senate resolution or legislation to be introduced by the junior Senator from New Mexico declaring the rules of the Senate unconstitutional in order to rewrite the rules to favor a simple majority to pass legislation. I would like to have a discussion with him at a future time.

I know the distinguished Senator from Utah has something to say as well.

Mr. ALEXANDER. The Senator from Utah has had a distinguished career in the Senate. His father did before him. He has an unusual perspective of this body. I wonder what his reflections might be upon Senator Byrd's thought about the importance of allowing Senators to reflect the voices of people in this country and when those voices are

cut off in the Senate, they are cut off at home.

Mr. BENNETT. Madam President, I thank the Senator from Tennessee for his reference to my service. I use as my example for why I am here to join this colloquy not my long service, because it hasn't been all that long by the terms of the Senate, but my experience today. I think what we experienced today on the floor is a demonstration of what happens.

I happen to be one—perhaps a minority on my side of the aisle—who is in favor of the DREAM Act. I want to be one who will vote for the DREAM Act. The Senator from Tennessee talks about people and their concern. While I was back in Utah over the weekend, I had a demonstration of very earnest young people show up in front of the Federal building to ask me to please vote for the DREAM Act. They had compelling stories. I was identifying with what they had to say.

I had to say to them: I won't get an opportunity to vote for the DREAM Act.

Yes, they said, you will have a vote on Tuesday on the DREAM Act.

No, the vote on Tuesday is not on the DREAM Act. The vote on Tuesday is on a motion to proceed to the Defense authorization bill that has been loaded down with amendments that prevent us from having an up-or-down vote on the DREAM Act itself.

They said: Well, the DREAM Act will be one of those amendments. The DREAM Act will be added to it.

Yes, it will be added to it. But will I have an opportunity to vote on an amendment to strip out the other stuff I don't like? No. I won't have the opportunity to do that. So this was the dilemma I explained to these young people. Some of them looked too young to vote, but I am sure they are old enough to vote. It is just that everybody looks a lot younger to me now than they used to.

I said: Here is the dilemma I have. By virtue of what the majority leader has done, he has created a parliamentary situation where, in order to vote as you want me to vote, as you express your voice to me, I have to vote opposite to what a large number of my other constituents want me to vote. I have to vote in favor of Federal funding for abortions in military hospitals. Some will say it will be private funding. Yes, but it will take place in a military hospital supported by Federal funding. I have never voted for Federal funding in any form for abortions. Now, in order to support the DREAM Act by the way the tree has been filled, by the way this thing has been put together, I have no choice. If I vote the way you want me to vote, I will offend a vast majority of my other constituents who don't want me to vote that way on the question of abortions in military hospitals. If I vote to proceed, I will be voting to act precipitously, in my view, with respect to the policy of don't ask, don't tell, which President Clinton signed into law at the beginning of my service in the Senate.

I am perfectly willing to vote to repeal don't ask, don't tell if the military services complete their survey that tells us that is right and proper for military performance. But the majority wants to make that decision before they get the information from the military. So I have to cast a vote that I think is the wrong vote for the military in order to vote for the DREAM Act.

Well, they looked at me as if I were crazy.

Well, certainly you can separate these things and vote on each one on its own individual merits?

I had to say to them: No, I can't. The way this is being handled now in the Senate, I cannot vote on the merits of each of these individual items because the majority leader, exercising his right, has packaged them together—filled the tree—in such a fashion that makes it impossible for you to divide them and discuss each one on its own merits.

I was questioned by the press as I went in to lunch.

Senator, we thought you were in favor of the DREAM Act?

Yes, I am.

Well, then, aren't you going to vote for cloture on the Defense authorization bill?

Wait a minute, cloture on the Defense authorization bill becomes the key vote on an immigration issue? That is the situation we have come to as we get this kind of procedure. And it very clearly, as the Senator from Tennessee has made clear, says the voices of the people on the legislation in which they have an interest are not being heard because of this procedural activity. That is why I have joined in this colloquy to raise my voice in protest to the way this is being done.

Mr. ALEXANDER. Madam President, I thank the Senator from Utah.

Madam President, the point of our discussion is a very simple idea: This is a year above all years when there are voices in the country that seek to be heard. When through procedural means the majority suppresses those voices by suppressing their elected representatives, it only adds fuel to the fire.

Whatever the conditions after the election, I hope we Republicans come back with the notion that we intend to make sure this Senate functions with an unlimited right to amend and with an unlimited right to debate, so we can force consensus on issues and deal with jobs, deal with spending, deal with debt, and deal with the other issues that cause the American people to be turning out in droves this year in elections.

Mr. ROBERTS. I say to my friend from Tennessee, I want to ask him a question. Is it fair to characterize these attempts by the majority to change the rules—and that is what they want to do; I think it is a sense-of-the-Senate resolution in the Rules Committee—to continue favoring them, even if their majority narrows after November, in the lameduck or what I call the Daffy Duck, the lameduck now, you could characterize that as an ''arrogance of power.'' Those are pretty tough words, but that is the exact term used by then-Senator BIDEN in 2005 to describe a similar attempt to rewrite the rules to favor the majority at that time. So what goes around comes around.

Does the Senator from Tennessee find it as disconcerting as I do that the junior Senator from New Mexico has introduced a resolution declaring the rules of the Senate ''unconstitutional'' in order to rewrite the rules to favor a slimmer majority, i.e., one, one free throw. That is it.

Does any majority last forever? The answer to that is no. What goes around comes around. If the interpretation of the Constitution and the Senate rules of the junior Senator from New Mexico is accepted, I say to my friend from Tennessee, what is to prevent any majority of either party from rewriting the rules of the Senate whenever it suits them? Would such a practice not negate the whole point of having rules in the continuing body that is the Senate? Would this practice not make the Senate nearly identical to the House, where majority takes everything? Would this not neutralize the express purpose of the Senate to act as a check on the House and be directly 180 degrees opposed to what Senator Byrd was warning us about in regard to his last testimony before the Rules Committee in this distinguished body?

Again, my friend from Tennessee has hit the nail right on the head. We have a lot of challenges around here. People say ''problems'' or ''crises.'' We have a lot of challenges. The only way you meet a challenge is to work together and to represent the consent of the governed. What we have here now is we do not have the consent of the governed. We do not have the opportunity.

I remember in the health care debate staying up until the wee hours of the morning in the HELP Committee, the Finance Committee. I did not get behind closed doors to write the bill that was actually written, but I had 11 amendments on rationing. All of them were defeated on a party-line vote. Trying to be a little clever by half, I introduced a Democratic amendment, one of Senator SCHUMER's amendments. It was defeated on a party-line vote. They did not even recognize it was Senator SCHUMER's—all on rationing.

One of the biggest controversial items you hear about throughout the country in regard to the health care debate is the rationing of health care, which is going on right now. There was no consent of the governed. It was ''our way or no way.'' It did not have a chance. That is the biggest issue we face, and it seems to me it really reflects on this body and how we treat each other and, more importantly, how we treat the American people and why

we have such a fuss out there in the hinterlands.

I thank the distinguished Senator for taking this time. I think it is very valuable time. I hope we can lower the debate a little bit—a whole lot—and work together, as he has indicated, to meet the challenges we have before the country.

Mr. ALEXANDER. Madam President, I thank the distinguished Senator from Kansas for his thoughtful remarks. He is exactly right. The voices of the people are to be heard here. They can only be heard and their liberties protected if their elected officials have the right to express those voices through unlimited amendment and unlimited debate. When the majority leader closes that debate off and closes off those amendments a record number of times, that is closing off the voices of the American people.

As the Senator from Kansas said, the shoe can sometimes be on the other foot. Those who today are wanting to create a freight train running through the Senate as a freight train runs through the House may not be so eager to do that if the freight train turns out, after the election, to be the tea party express.

I thank the Presiding Officer and yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 21, 2010.

Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATOR ALEXANDER: The U.S. Senate once was considered ''the world's greatest deliberative body.'' This no longer is the case as the Majority Leader commonly abuses Senate rules and traditions to prevent debate and obstruct other Senators from offering amendments to legislation.

As you know, historically, the cloture process authorized by Senate Rule XXII has been used sparingly. According to Senate Procedure and Practice, ''Between 1917 and 1962, cloture was imposed only five times.'' Fast forward 50 years later, a report by the Congressional Research Service (CRS), reveals a clear trend by the majority of limiting debate by immediately filing cloture on nearly all legislative questions.

Under Democrat control of the Senate, 219 cloture motions were filed in the 110th and 111th Congresses combined. Perhaps most troubling, 171 of these cloture motions were filed after the Senate had considered the legislative question for one day or less. In contrast, when the Republicans were in charge in the 108th and 109th Congresses, only 84 cloture motions were filed.

Additionally, the Majority Leader has regularly abused a procedure known as ''filling the tree,'' to exclude the minority from offering amendments to bills. According to CRS, he has employed this tactic 39 times on major pieces of legislation since the start of the 110th Congress. The result of this practice was the passage of legislation spending hundreds of billions in taxpayer dollars without members of the minority having the opportunity to raise issues of importance or to improve legislation. To put this number in perspective, this represents a drastic increase from the mere fifteen occasions former Majority Leader Frist ''filled the tree'' in 108th and 109th Congresses combined.

Majority Leader Reid's use of ''filling the tree'' combined with filing cloture entirely preempts any input from the minority into legislation and destroys the two distinguishing characteristics of the Senate—the right to fully debate and amend legislation.

Too many Americans are upset, even angry, that their voices are not being heard in Washington. The majority's abusive practice of suppressing debate undermines the Senate's debate traditions as well as the cherished American rights of free speech and dissent. As a caucus, we should commit ourselves to ensuring a more open and deliberative process that protects the rights of every Senator to express the views of the taxpayers they were elected to represent.

Sincerely,

TOM A. COBURN, M.D.

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

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

Mr. FRANKEN. Mr. President, first of all, I ask unanimous consent that we not go into the quorum call.

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

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

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

Mr. FRANKEN. Mr. President, I rise to discuss two important issues we will not have the chance to debate because we are unable to take up the Defense authorization bill.

Let me start with the need for repeal of the discriminatory don't ask, don't tell policy. We are so close to making a historic accomplishment that I think we would be able to look back on with pride. It is also simply the right thing to do. This country is long past ready for it, and it is the right thing because the don't ask, don't tell policy has been costly for our military. Treating gays and lesbians unequally because of their sexual orientation just does not make sense to me. We should not be denying gay and lesbian Americans the ability to serve our Nation simply because of who they are. We should not make them lie in order to serve.

The Chairman of the Joint Chiefs of Staff, ADM Mike Mullen, endorsed the repeal of don't ask, don't tell. He put it this way:

> I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me, personally, it comes down to integrity: theirs as individuals and ours as an institution.

But as I said, this is not just about the right thing to do. The country is ready for it, and the military is ready for it. Things have changed since 1993. The country is now way ahead of us on this issue. A Washington Post/ABC News poll in February 2010 showed that 75 percent of Americans believe gay and lesbian Americans should be able to serve openly in the U.S. military—75 percent. There is almost nothing we can get 75 percent of the country to agree on these days. The country has been steadily moving in this direction for some time. In 1993, 44 percent of those surveyed favored this. It was up to 62 percent in 2001. And now we are at 75 percent. Multiple other polls reinforce this result. The country is way past being ready for this change, and so is the military.

Do we need to think carefully about how to implement repeal? Yes. That is why the Pentagon is undertaking a comprehensive review of how to implement the repeal. But is there any reason to think unit cohesion or military readiness is going to be negatively affected? No. There is simply no reason to think that. In fact, let's look to the military's own thinking on this question. A recent article in Joint Force Quarterly concluded that ''there is no scientific evidence to support the claim that unit cohesion will be negatively affected if homosexuals serve openly.'' No scientific evidence.

Let me also briefly tell you about my experience. Before I was a Senator, I did a number of USO tours over the years. On each tour, I was more and more impressed with the men and women of the military. This was between 1999 and 2006. I did seven tours. The last 4 years, I was in Iraq and Afghanistan and Kuwait. I would go with a very eclectic tour of guys and women: the Dallas Cowboys Cheerleaders, country western artists, almost all of whom are very rightwing, and we love each other because we went on these tours.

Let me tell you about one show I did. I am not going to say what base it was. I do not want to get anybody in trouble. We did a 4-hour show. This was the fourth year we did this with the sergeant major of the Army. We did a 4-hour show because we found out the troops loved the show because it was a little bit of home. During the show, I would—I was kind of the cohost with a beautiful woman named Leeann Tweeden, and we would do comedy routines, we would introduce music, and we would introduce the cheerleaders.

I would go out and do a monologue. This is something I would do and had done for a number of years. I would go out and I would say: You know, I have done now seven USO tours, and every year I am just more and more impressed with the military, except for one thing I don't get. It is this whole don't ask, don't tell policy.

Now, it was about 28 degrees where I was talking, and there were maybe a couple thousand troops. Most of them were standing, some were in the bleachers. This was like 3 hours into the show, but they were just loving the show.

I said: But there's one thing I don't understand. It is this don't ask, don't tell policy. We all know that brave gay men and women have served in our country's uniform throughout its history, and yet we have this policy. Take, for example, General Smith.

I then pointed to the commander of the base.

I said: Now, here is one of the bravest men ever in the history of our country

to don our Nation's uniform in battle, and yet he is one of the gayest men I have ever met.

And they started laughing and cheering.

I said: Now, why should General Smith have to stay in the closet when he is such a great leader? General Smith, stand up and wave.

He got up and waved, and everyone cheered. And in the bleachers there was a group of women soldiers who cheered extra loudly and waved at him, and he waved back at them.

At the very end of the show, we sang ''American Soldier'' by Toby Keith.

I don't know if you know that song. It is a beautiful song. I will always remember while doing the USO tours seeing soldiers with their arms around each other crying and singing: I don't do it for the money. I've got bills that I can't pay.

At the end of the show, the general came up and gave me this beautiful frame with an American flag that had flown over the base. He gave it to every member of our troop. When he gave it to me, he said, ''Al, keep telling those don't ask don't tell jokes. I think you may have some fans up there.'' And he pointed at those women. Later, those women came up to me and said, ''We are gay.'' And I think everybody knew it.

This was in 2006 when it was really hard for the military to recruit people, so they gave waivers out at that time. They gave waivers—moral waivers. They gave waivers for people who didn't do as well in school or didn't graduate from school. I swear, if you asked every man and woman on that base: Who would you rather have standing to your right and left, that gay man or that gay woman who has been serving with you for the last year or somebody who comes in here with a moral waiver—and many of those troops who had moral waivers served very honorably and bravely—or someone with a cognitive waiver—and many of those flourished in the military—they would say: I want that gay soldier, that lesbian soldier, who I know has been on my right and on my left.

All gay and lesbian servicemembers want is to be able to serve. Instead, people are getting kicked out of the military—people who don't need any kind of conduct waiver, people who don't need standards lowered for them in order to serve, people who are patriotic and courageous and who have vital, irreplaceable skills.

What is more, the evidence is clear from other countries that have allowed gay and lesbian citizens to serve openly in their military—and SUSAN COLLINS spoke about this today. That evidence says this will not be a problem. Ask the Israelis, ask the Canadians, and ask the British. They have all successfully implemented open service.

But it is not only that the military is ready for this change; don't ask, don't tell is just costly for the military. Thousands of willing and capable Americans with needed skills have been kicked out of the military because of this foolish policy—and this policy alone. These are soldiers, airmen, and sailors in whom we have invested time and training. We cannot afford to lose dedicated personnel with critical skills when we are engaged in two wars.

On top of that, do we want our military officers spending valuable time and resources investigating and kicking troops out of the military for being gay?

The argument offered by some opponents is that this legislation goes back on the promise to take into account the comprehensive review being conducted by the Pentagon, but that is just a canard.

Let me remind you what Secretary Gates said about the review when he testified before the Armed Services Committee back in February. Secretary Gates said:

> I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.

Not whether, but how. That process is going forward, and the provision in this bill repealing the flawed don't ask, don't tell policy does nothing to interfere with the Pentagon's process. All the provision does is repeal the existing law. It does not tell the Department of Defense how to implement the repeal.

What is more, the repeal itself doesn't even go into effect until after the Pentagon's comprehensive review is complete and the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff have certified that the Department of Defense has prepared the necessary policies and regulations for implementation. They must also certify that the implementation is consistent with military readiness and effectiveness, unit cohesion, and recruiting and retention.

To be honest, I am not fully satisfied with that compromise. I wanted a moratorium on discharges. But that is the compromise, and it doesn't undercut the Pentagon's review in any way.

Don't ask, don't tell makes no sense. It is foolish, it is unjust, and we must end it. The country is ready, the military is ready, and it is the right thing to do. I urge all of my colleagues to stand for equality and for common sense and to stand for our troops. It is long past time to end don't ask, don't tell. We will be proud that we did.

Let me turn to the DREAM Act, which also would have come up if we had been able to get cloture and move to the Defense authorization bill.

Minnesota is what it is today because we welcomed immigrants with open arms. We welcomed the Swedes, who first tilled our fields and built our railroads. We welcomed the Norwegians, who thrived in our lumber industry and founded choirs that remain the best in the world today. We welcomed the Danes, who made our State a leader in dairy farming. We welcomed the Germans, the Finns, the Poles, and the Czechs.

In fact, from the time we were admitted to the Union in 1858 until 1890, no less than one-third of Minnesotans were born abroad. Today, most of the people we welcome don't come from Europe. They don't speak Swedish or German. They speak Spanish or Hmong or Somali, and they are not one-third of our population. Just 7 percent of Minnesotans were born abroad. So there are far fewer immigrants in Minnesota by percentage. Mr. President, let me tell you, these folks work just as hard and they show just as much promise.

I rise to speak in support of the DREAM Act because just by passing this law we can do something remarkable to help those Minnesotans—at least some of them. This is a group of young people who were brought here by their parents. They were raised as Americans and, for the most part, speak English just like you and I. But because their parents made a mistake, because their parents broke the law and entered the country illegally, or overstayed a visa, these kids are stuck. They can't go to college. They can't get jobs. They can't join our military. They are out of luck, and our society is going to pay for it.

The DREAM Act would allow these students to reenter society, to come out of the shadows of society to study or to serve in our country's military.

I want to put faces to the young people of Minnesota who would benefit from the DREAM Act. I am going to change their names to protect their identity.

There is a young man named Daniel. Daniel came to the United States from Colombia when he was 8. He grew up in the suburbs, and he ran varsity track and cross-country for his high school. Since he couldn't get a driver's license, he took a 2-hour bus ride every day just to get to classes at Normandale Community College. In his second year, Daniel's father died, leaving Daniel and his mother without any income.

Daniel almost dropped out, but he didn't. Instead, he became the first member of his family to graduate from college, with dual associate degrees in education and computer science—both with honors. Daniel is now at the University of Minnesota. He is trying to get his bachelor's degree. But since he can't work, he can't afford to attend school full time. So every semester, Daniel saves up all of his money to take just one class. He is completing his bachelor's one class at a time.

There is another remarkable young Minnesotan, Javier, who came to this country at the age of 15. He enrolled in St. Paul High School and quickly learned English, and by his senior year was taking advanced placement and college courses and volunteering at the State capitol. He even started to like the weather in Minnesota.

Today, Javier is an elected leader of student government at a college in our

State. He has become a role model not just for immigrants but for all his fellow students. Javier wants to dedicate his career to improving our educational system. But because of the decision his parents made, he can't.

I get letters from students like these all the time. Many of them are just as talented, and they all ask me for the same thing: the opportunity to work hard for this country. Let me repeat that: They only ask for the opportunity to work hard for this country.

Another young woman wrote me to ask:

> We do not want welfare or any money. We are not asking for immunity to the law. We are only asking for a chance to come out to the light and live like any other person.

There are a lot of reasons we should help them. The first reason is that it is the smart thing to do. Some of my colleagues have stood here and said they couldn't believe the DREAM Act might be included in the Defense authorization bill.

In fact, the Defense Department has supported the DREAM Act since the Bush administration. This bill is actually a part of our Nation's strategic defense plan—hence, the Defense authorization bill. It will incentivize and reward students to wear our Nation's uniform, and our Nation will be safer because of it.

Here is another reason this is smart. We don't want kids like Javier doing dishes. We don't want kids like Daniel taking 10 years to get their bachelor's degree. We want them studying, contributing to our economy, and serving in our military. But there is a far more important reason we should pass the DREAM Act, and that is because it is the right thing to do.

Mr. President, there is a passage in Leviticus—a book that appears in both the Old Testament and the Torah—which I think is appropriate. Leviticus is a book of laws. It is said to describe God's covenant with the Israelites. This is chapter 19, verse 33:

> When the foreigner resides with you in your land, you shall not oppress the foreigner. The foreigner who resides with you shall be to you as the citizen among you; you shall love the foreigner as yourself, for you were foreigners in the land of Egypt.

Mr. President, these are children, and we need to help them. They have learned in our schools, they have played with our kids, and they want to serve our country. We just need to give them a chance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. WYDEN. Mr. President, it is clear from the debate on the Defense bill and the vote that was held a bit ago that this is a partisan time for our Nation. I come to the floor this afternoon to talk about an issue that is not at all partisan; that is, the question of doing public business in public.

When you say those words—''doing public business in public''—people are almost flabbergasted when they are told that, regrettably, much of the important decisionmaking in the Senate is not done with that level of public accountability and public transparency. That is because of what are known as secret holds where one Senator—just one—in a completely anonymous fashion, can block a bill or a nomination from even coming to light, from even being heard in the Senate.

For years now, there has been a bipartisan effort to change this procedure, to require that all Senators be held accountable. Senator GRASSLEY and I have been involved in this effort in a bipartisan way for over a dozen years—for a dozen years—trying every way we could. We established the principle that the Senate would do public business in public, and if a Senator wanted to object to a bill or a nomination, they would have to be publicly accountable.

For years now, the defenders of secrecy, the defenders of a system without transparency and accountability look for one dodge or another. But our bipartisan group—on the other side of the aisle, Senator GRASSLEY, of course, the champion, Senator COLLINS, Senator INHOFE, a very significant bipartisan group; over on our side of the aisle, and particularly appreciative, is Senator MCCASKILL, who has done such hard work on the principle of establishing open accountability; my colleague from the Pacific Northwest, Senator MURRAY, an influential member of the Rules Committee, want this level of public accountability. It has been a big bipartisan group, and we seek to finally change this procedure through an amendment that would have been possible under the Defense authorization bill.

It was said in the course of this discussion that a bipartisan effort to end secret holds through an amendment to the Defense authorization bill is ''a corruption of the process and procedures of the Senate if ever there was one.'' I believe the use of secret holds and not a bipartisan effort to end them is the real corruption of the procedures of the Senate.

Secret holds cannot be found anywhere in the U.S. Constitution or anywhere in the Senate rules. We have had a considerable debate over the last few months about the Constitution, our reverence for this sacred document. Secret holds are nowhere in the Constitution and nowhere in the Senate rules. Yet in this Congress alone, they have been used to block what seems to be dozens of qualified nominees. I point out, this has gone on for years and years on both sides of the aisle. That is the point Senator GRASSLEY and I have emphasized for over a decade: that this is an area of abuse where we have seen both sides of the aisle use the secret processes to the detriment of the public interest.

The real corruption of the process, in my view, is the way secret holds have been used to block the Senate from acting on numerous nominations and pieces of legislation without any accountability to the public. That is why I believe it ought to be possible to debate a bipartisan amendment, to do public business in public to end these secret holds.

The reason it needs to be done now is because past efforts to ban these secret procedures have been blocked from getting a vote. This has happened five times in just the past few months.

In the course of the debate as well, there was a discussion about what our bipartisan effort—to do public business in public—has to do with national security. The answer is: a great deal.

For example, earlier this year, one of our colleagues secretly placed a blanket hold on 70 nominations to critical positions in the Federal Government that were pending before the Senate. These nominations included nominees to positions in the Defense Department and the State Department. The Senator who secretly held up those 70 nominees said he was doing it to address national security concerns.

Let me repeat that. We had 70 nominees under a blanket hold being held up from even an open debate to address national security concerns.

It turned out that this particular Senator was concerned about a dispute about the Defense Department's contracting practices and an earmark for a counterterrorism center in the Senator's home State. This one example shows that secret holds have been used, and certainly the question of whether they have been abused, to hold up dozens of qualified nominees over defense and national security issues.

This is only one example. Even today, there is at least one nominee for a national security position whose nomination is secretly being held up. No one knows who has the hold or why it has been placed.

I come back to the connection, first, that changing these Senate procedures so public business is done in public is fundamental to all the operations of the Senate and certainly our accountability to the American people. But it has a direct link because of the examples I have cited this afternoon to the future of national security policy in our country.

The continued use of secret holds is an abuse of secrecy by the Senate, and there is no better time to end this undemocratic process than through an amendment to the Defense bill. With colleagues on both sides of the aisle determined, finally, to get this done, I believe we will get it done when we get an open debate.

Our democracy and our national security are weakened when secrecy is abused. I very much appreciate the opportunity this afternoon to highlight a number of key points in this discussion. First, this has absolutely nothing to do with partisanship. Second, it is absolutely key to the fundamental accountability of the Senate to the American people to end this process of secrecy and of all Senators held accountable. Finally, this has a direct

connection to matters of national security because in so many instances, these secret holds have kept appointments to key national security positions from being open to debate and scrutiny in the Senate.

At the end of the day, there are a lot of issues we face in the Senate that are hard to explain, that are complicated, and they are hard for folks to follow at home. What is not hard to explain is why it is so important to do public business in public.

At a time when the American people are certainly voicing considerable skepticism about the ways of Washington, this is a chance to show the American people that the Senate is listening to them, that we share their commitment to open government, to doing public business in public. I hope the Senate will be able to change this offensive, antidemocratic procedure that has been used way too long to keep the American people from seeing the way the Senate operates.

I look forward to our colleagues on both sides of the aisle having the debate on ending secret holds, doing public business in public. I believe that when we get that vote, we will get a resounding vote to finally close this dark chapter in the way the Senate does business and bring some sunshine to the decisionmaking process in the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. MENENDEZ. Madam President, I rise to talk about the vote we had a little while ago and the need to go to the Defense authorization bill. To me it is unconscionable that, at a time in which the Nation is at war, our Republican colleagues would vote lockstep, in uniformity, to oppose going to the Defense authorization bill—for whatever the reasons are, even though I do not find the reasons to be valid.

I think it is very clear that the majority leader said there would be a host of amendments that would be offered once we went to the bill and disposed of a few particular amendments that the majority leader was going to offer, that are in every way germane to the Defense authorization bill, more germane than the amendments that have been offered in the past on extraneous matters by those who oppose proceeding to the bill. They thought it was fitting and appropriate to offer it on the Defense authorization bill. Yet, when you have amendments that go to the very heart of how you recruit individuals for the Armed Forces and how you allow individuals to serve in the Armed Forces, that is not germane? Ridiculous.

What this is all about is an attempt once again to use the power of the minority to obstruct the process of making sure this Congress is moving forward and meeting its obligations to the American people, and in this particular case to the Nation's collective security. Because someone does not like an amendment to be offered doesn't mean they should use their power simply to obstruct the whole process of considering the Defense authorization bill. Clearly they would have the opportunity to vote against any amendment they believed was not, in their view, in line with their views or in the national interest, but certainly not to stop the process.

What is it? I looked at Senator MCCONNELL's consent offer. It is interesting. His consent offer basically said you have to do a whole bunch of amendments before you can do anything related to immigration. First of all, the DREAM Act is in total focus on recruiting in the United States. What does it say? It says young people who, by no fault of their own, no choice of their own, were brought to this country and do not have a legal status here, and are willing to fight and maybe die for their country—because this is the country they know, this is the country they believe is theirs, and they are willing to join the Armed Forces of the United States and serve with honor and distinction and risk their lives in defense of the country—if they did all of that, then a couple of years down the line they would have a shot at becoming a permanent resident of the United States, but their service to the Nation would precede that.

Even those who say on the campaign trail ''we are for the DREAM Act,'' even those who are cosponsors and say ''no, we are for the DREAM Act,'' could not cast a vote to allow us to go to the Defense authorization bill—which is much bigger than that—and then ultimately permit an up-or-down vote on several of those amendments before we got to a whole host of other amendments that Members are going to be able to offer, under the guise, under the cloak of saying, ''Oh, no, we opposed it because we were not going to have our opportunity, our say,'' when clearly the majority leader said there would be a whole host of amendments offered and clearly when amendments have been offered in the past under Democratic majority and Democratic rule. So the precedent there is that this particular bill has always had a wide range of amendments—the hypocrisy of saying no, you can't have an ''immigration amendment'' even though that amendment deals with recruiting people into the Armed Forces of this country.

The bottom line is we have had bill after bill debated in this Senate having nothing to do with immigration and the other side of the aisle has come forward with all types of amendments, immigration related, of all sorts. Whether it was a bill about jobs and the economy, whether it was a bill about health care, it doesn't matter—motherhood and apple pie—we had immigration amendments.

Yet, when we have the opportunity to bolster the armed services of the country and those who are willing to risk their lives to defend the country, we are told, oh, no, that is inappropriate. That clearly is so transparent that I hope the Nation understands, and particularly in communities that were looking for the opportunity of the DREAM Act, to have a vote on it, it is understood.

It is pretty amazing to me when I go to Walter Reed, and I have been there in the past, or when I visited some of our troops in my travels abroad and see young men and women there who are not citizens of the United States yet. It is pretty amazing to me when I go to Walter Reed and see them with both of their legs blown off in support of the country they call their own, wearing the uniform of the United States, that people question whether they love this country and are willing to serve it. They rejoice when, after their service, they get to take an oath and become citizens of this country. These are sacrifices which the few have been called upon to make for the many who do not have to go. There is a small universe who have gone to defend this Nation compared to the large universe of all of us as Americans who get defended by the men and women in uniform—it is a small percentage of America. Yet, many of that percentage who wear the uniform and risk their lives cannot call themselves a citizen. They are permanent residents of the United States. They aspire to become citizens. But they are not able to serve the country they call home.

It is fundamentally wrong, in my mind, to simply not allow a vote. Yet not one Republican was willing to come forth and vote to proceed to a debate and to consider amendments on the Defense authorization bill simply because of an ideological view they hold as it relates to the first two amendments that would have been up in a long line of amendments. Imagine if Democrats had lockstep voted against the Defense authorization bill at a time of war—imagine.

I see the majority leader moved to change his vote in order to be in a position to reconsider. I hope we will have that opportunity. I hope there will be some enlightenment into understanding that there will be plenty of opportunities for all amendments. There will be a robust debate. There will be the opportunity for up-or-down votes on the amendments on both the DREAM Act—which, as I have said, is about giving those young people an opportunity to serve their country, either educationally and/or in the armed services of the country, and to have to do so and perform before they get any relief—and, at the same time, to let many already in the service of their country and performing valiantly and

risking their life and limb be able to do so without hiding their own person, who they are. Then we will go on to all the other amendments.

It is amazing to me that we have a lockstep vote to stop us from proceeding to this legislation. I hope all those communities and others who both care about the defense of the Nation and those who believe in the dignity of an individual who is serving their country, who believe in the opportunity to serve their country, will rise and their voices will say no more filibustering, no more obstruction, no more ''no's,'' it is time to say yes to our country, it is time to say yes to our defense, it is time to say yes to those individuals willing to serve.

Many others may not be willing to serve and we respect their choices. But let's not stop those who are willing to serve, willing to wear the uniform of the United States, willing to risk their lives, willing to defend their country. The vote that was taken sends all the wrong messages. It is, in fact, a shame.

I hope we will have an opportunity another time and that the lights of some people will be able to turn on and we will have an opportunity to make sure we move to a Defense authorization bill. As the Nation is in the midst of winding down one war and is fully engaged in another war, I hope we will have the opportunity for those who want to serve their country to be able to do so and earn their way, in the process in serving to have an opportunity to fully call America home, and for those who are serving already, gallantly, who are serving with distinction and courage and honor, not to have to hide who they are. That is what is at stake. That is why it was so important to move forward and that is why today's vote is one that is shameful, hopefully one we can turn around.

Mr. KYL. Madam President, I had hoped we could begin consideration of the annual National Defense Authorization Act, NDAA, today but, hopefully, we will consider it as our first business when we reconvene after the election.

I filed three amendments that deserve serious consideration by the Senate, two of them dealing with the New START treaty. It is important to deal with these amendments before consideration of the treaty.

Amendments Nos. 4636 and 4638 deal with modernization of the U.S. nuclear deterrent, which is directly related to the reductions called for by the treaty; and, the Bilateral Consultative Commission, of which much has been written concerning the implications for the Senate's prerogatives in the treaty making function. Amendment No. 4637 deals with a matter of great concern, China's reckless disregard for the international nonproliferation regime. I will ask that the article, ''NSG Makes Little Headway at Meeting'' from the Arms Control Association Web site be printed in the RECORD.

Regarding amendments Nos. 4636 and 4638, I will first briefly discuss amendment No. 4636 concerning START and modernization of the U.S. nuclear deterrent. In section 1251 of the fiscal year 2010 National Defense Authorization Act, the administration was required to provide a comprehensive plan for the nuclear weapons stockpile, nuclear weapons complex and delivery platforms. The report—hereinafter the 1251 Plan—was delivered to the Senate with the new START treaty on May 13, 2010.

While the 1251 Plan identified certain administration proposals to maintain and modernize our nuclear deterrent, it became quickly apparent that the plan, prepared on a tight schedule, did not provide a fully detailed picture of what is needed to modernize the U.S. nuclear deterrent and how much it will cost. Of course, additional decisions and revised budget estimates will continue to be made over the next decade of the 1251 Plan's scope. That is why the 1251 Plan and the corresponding budget will require regular updating—a point often repeated by the Directors of the national nuclear weapons laboratories.

As Dr. George Miller, Director of Lawrence Livermore National Laboratory, testified:

> It is important to note that the nature of NNSA's work requires program flexibility because technical issues arise in the stockpile and requirements evolve. The scope of work and budgets will need to be correspondingly adjusted. Annual updates . . . could provide a mechanism to outline the program's funding requirements and projections.

My amendment No. 4636 codifies that recommendation and resolves the issues of evolving requirements and costs by requiring the President to provide a detailed update to the 1251 Plan report annually, for the duration of the new START treaty, describing revisions or adjustments to the plan as well as progress on satisfying the requirements of section 1251. Reductions in the nuclear force posture are tied to the submission of that update. As the Secretary of Defense has stated, there are 7 years to implement the treaty reductions; thus, a 1-year notice-and-wait requirement should not cause any difficulty.

Additionally, the unbiased input of the directors of the NNSA laboratories and facilities will accompany the report as validation that adequate resources are being provided by the administration in support of sustainment and modernization activities. This is quite similar to the annual stockpile assessments as those familiar with that process will recognize.

This amendment fosters improved project management, a detailed commitment to sustaining the U.S. nuclear deterrent, and reflects strong bi-partisan support for nuclear weapon complex modernization.

I appreciate the broad support expressed for modernization. As Secretary Gates stated in his October 2008 Carnegie Endowment speech:

> [t]o be blunt, there is absolutely no way we can maintain a credible deterrent and reduce the number of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

Concerning amendment No. 4638, the purpose is equally clear: to maintain the role of the Senate in treaty making. The Bilateral Consultative Commission authority is very broad. As Jack Goldsmith and Jeremy Rabkin observed in an August 4 Washington Post op-ed piece, ''New START Treaty could erode Senate's foreign policy role'':

> This treaty . . . does, however, create a Bilateral Consultative Commission with power to approve 'additional measures as may be necessary to improve the viability and effectiveness of the treaty.' The U.S. and Russian executive branches can implement these measures and thus amend U.S. treaty obligations—without returning to the U.S. Senate or the Russian Duma.

The time to deal with this concern is now. The Lugar Resolution of Ratification approved by the Senate Foreign Relations Committee makes a genuine effort to address concerns; I hope to work with the ranking member to further improve his Resolution. But more can and should be done in binding legislative language, such as my amendment. These provisions are essential if we are interested in protecting the Senate's constitutional role and our missile defense and conventional prompt global strike capabilities.

As Messrs. Goldsmith and Rabkin observed:

> If the administration does have a problem with them, the Senate should worry—about the commission's power to limit missile defense, the executive's attempt to limit the Senate's constitutional role in the treaty process, or both.

I am pleased to have the support of Senator SESSIONS, the ranking member on the Senate Judiciary Committee and a senior member of the Senate Armed Services Committee, who has cosponsored this amendment. I ask unanimous consent that the Goldsmith-Rabkin article be printed in the RECORD in addition to the article from the Arms Control Association.

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

[From Arms Control Association]

NSG MAKES LITTLE HEADWAY AT MEETING

(By Daniel Horner)

The Nuclear Suppliers Group (NSG) last month concluded its annual plenary meeting with little apparent progress on two high-profile issues, the potential sale of two reactors from China to Pakistan and the adoption of more-stringent rules for sensitive nuclear exports.

The Chinese-Pakistani deal was not on the formal agenda for the meeting in Christchurch, New Zealand, but sources from participating governments said the matter was discussed.

The group's June 25 public statement at the end of the meeting does not specifically mention the discussions, but it says that the NSG ''took note of briefings on developments concerning non-NSG states. It agreed on the value of ongoing consultation and transparency.''

The planned Chinese sale is an issue for the NSG because the group's guidelines do not

allow the sale of nuclear goods such as reactors and fuel to countries that do not accept International Atomic Energy Agency (IAEA) safeguards on all their nuclear facilities. Pakistan does not have these so-called full-scope safeguards.

When China joined the NSG in 2004, it had already built a power reactor at Pakistan's Chashma site. It claimed at the time that, under the NSG's ''grandfather'' provisions, it was entitled to build a second reactor, on the grounds that the second project was covered in its existing agreement with Pakistan. According to several accounts, the group agreed that the second reactor would be allowable under the grandfather provision but that subsequent power reactor sales would not.

In the weeks before the June 21–25 Christchurch meeting, the U.S. government said the sale of reactors beyond Chashma–1 and –2 would be ''inconsistent with NSG guidelines and China's commitments to the NSG.'' (See ACT, June 2010.)

In its public statements, China has responded to questions about the deal in general terms. At a June 24 press conference, Foreign Ministry spokesman Qin Gang said, ''China and Pakistan, following the principle of equality and mutual benefit, have been cooperating on nuclear energy for civilian use. Our cooperation is consistent with the two countries' respective international obligations, entirely for peaceful purpose[s] and subject to IAEA safeguard[s] and supervision.''

It it not clear what additional information China provided at the Christchurch meeting. According to a European diplomat, the discussion was ''not confrontational.''

CLARIFICATION SOUGHT

In a June 30 e-mail to Arms Control Today, a U.S. Department of State official said, ''We are still waiting for more information from China to clarify China's intended cooperation with Pakistan, in light of China's NSG commitments.''

According to the official, ''The United States has reiterated concern that the transfer of new reactors at Chasma appears to extend beyond cooperation that was 'grandfathered' when China was approved for membership in the NSG. If not covered by the grandfather clause, such cooperation would require a specific exception approved by consensus of the NSG.''

In 2008 the NSG, led by the United States, granted an exemption making India eligible to receive nuclear exports from NSG members. Like Pakistan, India does not have full-scope safeguards.

The NSG, which currently has 46 members, operates by consensus. It is not a formal organization, and its export guidelines are nonbinding. Before the 2008 NSG exemption, Russia made and carried out deals with India for reactors and fuel, justifying them on the basis of interpretations of the NSG guidelines that other members considered overly expansive.

ENRICHMENT AND REPROCESSING

A long-standing issue for the NSG has been its effort to adopt a more rigorous standard for exports relating to uranium enrichment and spent fuel reprocessing. Since 2004, the group has been discussing a new, so-called criteria-based set of guidelines for enrichment and reprocessing transfers, under which recipients of these proliferation-sensitive exports would have to meet a list of preset requirements. The list drafted by the group includes adherence to the nuclear Nonproliferation Treaty, full-scope safeguards, and an additional protocol, which gives the IAEA enhanced inspection authority. However, the NSG members have not been able to overcome certain states' objections to the proposal. Current NSG guidelines simply call for members to exercise ''restraint'' with respect to enrichment and reprocessing exports.

At the end of 2008, the suppliers appeared to be close to an agreement (see ACT, December 2008), but since then they have not been able to reach consensus. According to the Christchurch public statement, ''Participating Governments agreed to continue considering ways to further strengthen guidelines dealing with the transfer of enrichment and reprocessing technologies.''

In a June 27 e-mail to Arms Control Today, the European diplomat said that ''while progress was made there was no consensus'' on the matter. Before the meeting, observers said the main objections were coming from South Africa and Turkey. The diplomat declined to identify the sources of the objections at the meeting but said, ''The delegations which have had difficulties in the past continue to have problems.''

Meanwhile, at their June 25–26 meeting in Muskoka, Canada, the Group of Eight (G–8) industrialized countries extended their policy to adopt on a national basis the proposed NSG guidelines on enrichment and reprocessing transfers. The leaders of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, and the United States said in their summit communiqué, ''We reiterate our commitment as found in paragraph 8 of the L'Aquila Statement on Non-Proliferation.''

Paragraph 8 of the L'Aquila statement, issued at the July 2009 G–8 summit in Italy, said the eight countries would implement as ''national policy'' for a year the draft NSG guidelines on enrichment and reprocessing and urged the NSG ''to accelerate its work and swiftly reach consensus this year to allow for global implementation of a strengthened mechanism on transfers of enrichment and reprocessing facilities, equipment, and technology.''

[From the Washington Post, Aug. 4, 2010]

NEW START TREATY COULD ERODE SENATE'S FOREIGN POLICY ROLE

(By Jack Goldsmith and Jeremy Rabkin)

Critics of the new Strategic Arms Reduction Treaty (START) warn that it may endanger the United States' capacity to go forward with missile defense. But the treaty, Senate consideration of which has been pushed back to the fall, raises another concern. Consent to it as it stands will further erode the Senate's constitutional role in American foreign policy.

This treaty does not constrain future development of missile defense (except in a few limited ways). It does, however, create a Bilateral Consultative Commission with power to approve ''additional measures as may be necessary to improve the viability and effectiveness of the treaty.'' The U.S. and Russian executive branches can implement these measures and thus amend U.S. treaty obligations—without returning to the U.S. Senate or the Russian Duma.

Could the commission constrain missile defense? It is empowered to ''resolve questions related to the applicability of provisions of the Treaty to a new kind of strategic offensive arm.'' The treaty's preamble recognizes ''the interrelationship between strategic offensive arms and strategic defensive arms.'' The commission might have jurisdiction over missile defense through this interrelationship. Russia has already warned that it might withdraw from the treaty if the United States develops missile defenses. Limits on missile defense systems thus might be ''necessary to improve the viability and effectiveness of the Treaty.''

Supporters say the treaty allows the commission to make only changes that, in the words of one State Department official, ''do not affect substantive rights or obligations under the Treaty.'' This assurance provides little comfort. New START does not explain what counts as a ''substantive right,'' and the commission, which is given very broad power to interpret the treaty, will itself decide the issue.

It is true that the amendment procedure contemplated in the new treaty is similar to one in the original START and that amendment procedures of this sort have been embedded in arms control agreements for decades. Also, the president has long exercised an independent authority to make new international agreements that implement treaties. Why should the Senate care about this issue now?

One reason is that as treaty delegations of this sort have expanded, and as more authority for making international agreements is transferred to the executive branch and international organizations, the cumulative effect of these arrangements becomes increasingly hard to square with the Senate's constitutional role in the treaty-making process and, more generally, with separation of powers.

Some courts have begun to give credence to this concern. In 2006, the federal appellate court for the District of Columbia declined to implement the ''adjustments'' that an international organization had made to an environmental treaty even though the political branches agreed to the adjustment process. The court noted the ''significant debate over the constitutionality of assigning lawmaking functions to international bodies'' and held that treating the treaty adjustments as law ''would raise serious constitutional questions in light of the nondelegation doctrine, numerous constitutional procedural requirements for making law, and the separation of powers.''

Another reason is that courts often look to the practice between the branches of government in determining constitutional limits. If the Senate continually acquiesces in delegating international lawmaking to the president and international organizations, courts are unlikely to protect senatorial power in the end. Moreover, arms control treaties such as New START rarely come before courts.

In short, only the Senate can protect its constitutional prerogatives.

One way for the Senate to do this would be to condition its consent to the treaty on an interpretive ''understanding'' that the commission's amendment power extend only to technical treaty matters and not to limitations on missile defense. Understandings of this sort are common in U.S. treaties. The Senate could also condition consent to the treaty on a requirement that it be notified about deliberations of this commission.

Such provisions would preserve the commission's core authority while constraining it in ways that eliminate the most serious constitutional objections. They would also lay down a marker about the Senate's role in this context.

The State Department insists that ''there were no secret deals made in connection with the New START Treaty; not on missile defense or any other issue.'' If that is true, the administration should have no problem with minor Senate tweaks of this sort. If the administration does have a problem with them, the Senate should worry—about the commission's power to limit missile defense, the executive's attempt to limit the Senate's constitutional role in the treaty process, or both.

Mr. DODD. Madam President, I rise today to express my profound disappointment that we were unable to

proceed to the Defense authorization bill. First and foremost, this is an important bill that provides our men and women in uniform with the resources they so desperately require while they bravely fight overseas. Day in and day out they make sacrifices to keep us safe, and the fact that we were unable to proceed to a bill that provides them not only with the equipment they need, but also provides for their families, is extremely disheartening.

Not only does this bill provide necessary requirements for our armed services, but it also contains landmark legislation that would finally lead to the repeal of don't ask, don't tell. Today, my colleagues and I, had a historic opportunity to put a stop to this discriminatory policy, and the fact that the Republicans blocked the bill from being debated is discouraging. The current policy actively discourages a significant portion of our population that is willing, capable, and able from serving in our military at a time when our Nation is at war and needs our best and brightest to serve. We owe it to the gay and lesbian community to repeal this law. I am confident that today's military is ready for this change, and most importantly, it is the right thing to do.

Since 1993, when don't ask, don't tell was implemented, over 14,000 men and women have been discharged from the service at a cost of over $600 million to the American taxpayer. These gay and lesbian service members, who are proud to serve in our military, and are often serving in critical specialties, are being denied the opportunity to fight based solely on their sexual orientation. We cannot afford to continue to discharge these brave soldiers in whom we have invested time, resources, and training. We cannot afford this policy monetarily, but most importantly, we cannot afford this policy because it negatively affects our national defense.

It has been estimated that approximately 48,000 gay and lesbians are currently serving in today's military. That means that there are 48,000 men and women who on a daily basis are being forced to lie about who they are so they can continue to serve their Nation proudly. These are patriotic Americans who are willing to put their lives on the line in defense of our country but are unable to do so openly, simply because of who they are. Gay and lesbian service members fight, and die, alongside their fellow troops. It is time we stop asking them to live a lie.

I have travelled overseas many times and have met with our troops—all kinds of men and women—first generation Americans and those with a long family history of service, members of every race and religion, and, yes, gays and lesbians. No matter what their religious background, nationality, or sexual orientation they are all unmistakably proud to be serving the United States of America. It makes no sense to me why we would deny that right to serve to any American who is brave enough to answer the call of duty.

As we forge ahead in the coming weeks, I urge my colleagues to fully repeal don't ask, don't tell. The time to do so is now; we can afford to wait no longer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. 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. UDALL of Colorado. Madam President, like many Americans, I am frustrated with the gridlock in the Senate, and I am very concerned by our dysfunctionality, witnessed once again here today. When we were asked to lead on critical issues facing our men and women in uniform, our troops—also tied to our national security and our international leadership in the 21st century—the Senate has once again taken a pass, has once again let politics obstruct our progress.

Coloradans sent me here to lead, like they sent the Presiding Officer here from her great State of North Carolina, and to find solutions to problems however vexing. I, for one, am increasingly tired of the partisan wrangling that besets each and every issue.

This debate, like so many others we have attempted to have, was derailed by obstructionism before it even began. Now, I realize some will say they scuttled this critical Defense bill in part because the majority leader announced he expected to have a vote on the DREAM Act, which, by the way, would allow young, undocumented immigrants a chance to attend college and serve in our military. They were brought here to this country through no decision they made as very young people.

But I have to tell you, I think it was about more than just that. In my humble opinion, the issues mattered far less than the politics. There has been a concerted effort to prevent or stall debate on nearly every major bill this year, and, sadly, a bill dealing with our troops is not free from the same tactics.

There is no reason we should not have a debate on any issue, let alone a vote, and the DREAM Act is no exception. I know the Presiding Officer and I joined the Senate at the same time. We heard about how the Senate is the world's greatest deliberative body. If you do not deliberate, what does that make us?

I also know that repeal of don't ask, don't tell is a contentious subject, and it has also been used as an excuse to sink this very important bill. But, I have to tell you, I think this is an outdated, discriminatory policy that undermines the strength of our military and the basic fairness upon which our great Nation was built. At a time when we are fighting two wars, we need every skilled servicemember we have: airmen, mechanics, translators, and all the many other specialties our military serve in.

Unlike what some on the other side of the aisle have claimed, the language in this bill repealing don't ask, don't tell respects the Pentagon's timeline and gives our military leaders flexibility to implement repeal in a way that tracks with military standards and guidelines. As Admiral Mullen testified before the Senate Armed Services Committee—the Presiding Officer remembers what a powerful day that was—he said repealing don't ask, don't tell is the ''right thing to do.''

Unfortunately, political debate and disagreement has prevented us from having this important discussion on how best to support our troops, plus thwarted a serious discussion about numerous pressing national security issues. I am disappointed in the partisanship, but I have to tell you, I am even more disappointed in the disservice to the men and women in uniform that today's inaction has caused.

Our American citizens, our constituents, our friends and neighbors face difficult decisions in their lives every day, but many here in Washington bristle at the notion that they face hard choices. They say taking votes on certain issues will be too difficult, that the politics are too tough, or that they cannot stomach the thought of losing. But Americans have not run away from hard decisions in the past. What about us? This place is a forum—or it should be a forum—where we can work together.

But, today, with the Senate blocking this bill, I fear our national security and our troops will suffer. Every year for nearly a half century—I think accurately put, 49 years consecutively—Congress has taken up and passed a bill that renews, in some cases reforms, and in other cases replaces our defense policies.

This Defense authorization bill, like all those that came before it—the previous 49 Defense authorization bills—is critically important. It provides funding for operations in Afghanistan and Iraq. It supports our servicemembers who keep America safe by including fair pay and benefits for our men and women in uniform.

Preventing this debate keeps us from pushing forward with this bill's provisions to enhance our military's readiness, improve our servicemembers' training, and upgrade equipment and resources to succeed in combat. We are also leaving behind provisions in the bill to strengthen our nonproliferation programs and enable the reduction of our nuclear weapons stockpile while ensuring the stockpile has continued reliability.

We are foregoing the crucial opportunity—I know the Presiding Officer has believed this is very important as well—to increase the Pentagon's use of alternative energy technologies and

fuels to improve the Department's efficiency and energy security.

The bill also includes so many important provisions for the health and resiliency—both mental and physical—of our servicemembers and their families. Specifically, it includes a provision I authored extending health insurance for military families, enabling the children of Active-Duty servicemembers and retirees to stay on their parents' plans until the age of 26—similar to what we did in the Health Care Reform Act for the civilian sector. Importantly, the bill provides improved care for our wounded servicemembers and their families.

As part of a longer term effort to treat both the physical and the unseen mental wounds of war, I have been reviewing the Army's report on Health Promotion, Risk Reduction, and Suicide Prevention, which was published earlier this summer. One passage particularly struck me:

> In just six years, Soldiers experience the equivalent of a lifetime when compared to their civilian counterparts.

In other words, at the age of 24, the average soldier has moved multiple times, been deployed around the world, married and had children, seen death, had financial and relationship problems, is responsible for dozens of soldiers, and gets paid less than $40,000 a year.

The lives of average soldiers bear no resemblance whatsoever to ours. Their sacrifices are far beyond what many of us can imagine, and we have demanded so much of them for so long. That is why I have continued to focus my efforts on how we can help our brave service men and women suffering from mental wounds when they come home. Fort Carson in Colorado has had its share of difficulties addressing the needs of our soldiers, but we are seeing real progress. I am particularly proud of what Fort Carson has been doing in the way of providing behavioral health care to soldiers not just when they get back home but also while they are still on the battlefield.

That is the essence of Fort Carson's Mobile Behavioral Health Teams, which embed credentialed behavioral health providers within a brigade combat team, both during deployment and in garrison. Language I authored in this bill encourages the Army to replicate this successful program to help facilitate early identification and treatment of behavioral health problems.

The bad news, again, is that this provision—and so many important provisions in this bill—will not be debated today. It appears election year partisanship has prevailed over the responsibility and the need to provide for our men and women in uniform as they fight two wars.

Having said that, I do remain optimistic about our future, and I am committed to working toward a new kind of politics, where we find consensus amidst disagreement. I know Americans want their leaders to tackle challenging problems and resolve the tough issues. That is what America does. That is what Americans do. That is what we were hired to do. So in that spirit, I will continue to reach out to all my colleagues who wish to find common ground and call on others to let this debate move forward in the coming weeks so support for our troops is not held back any longer. Americans sent us here to do no less.

Madam President, I thank you for your attention. I thank you for your service on the Armed Services Committee alongside me. With that, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I just completed a visit with the Republican leader. There will be no more rollcall votes tonight.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, ever since an act of horrific violence on a bright blue morning 9 years ago, our Nation has been at war. At home and abroad, this war has tested our Nation, tested our military strength and our diplomatic skill, tested our resilience and our courage. Over the last few months, I fear our Nation has been in danger of failing one of these tests, a failure that would threaten our safety and the freedoms we hold so dear.

At issue is a plan to build an Islamic community center a few blocks away from the site of the attack on the World Trade Center and the larger question of whether our Nation will embrace diversity or choose a path of division. This is not just a question of doing the right thing, although it is that. It is not just a question of preserving the values that have made our Nation a beacon of freedom across the globe, although it is certainly that too. This is also a question of whether we will make our Nation safer by focusing on and extinguishing the flames of hatred that spawned the 9/11 attacks or, on the other hand, add fuel to the fire that threatens us.

There should be little doubt that religious intolerance has no place in a nation built on the idea, as Thomas Jefferson once wrote, ''that our civil rights have no dependence on our religious opinions.'' Our history is filled with moments in which we struggle to live up to that notion, in which Roman Catholics or Mormons or Jews or others found themselves beset by religious intolerance and wondering if the ideals set forth by our Founding Fathers would hold.

So it is in this case. American Muslims have built homes, raised families, and run successful businesses in communities across our country. They have been drawn here because of the belief, as one prominent member of Michigan's Arab-American community recently wrote, ''that there is room in America for all cultural and religious backgrounds.''

Well, that is the America in which they chose to build their lives. It is the America we aspire to be, that we claim to be. We should ask ourselves, if we would not object to a church or synagogue at that location in Manhattan, how can we object to a Muslim place of worship and remain true to our most fundamental principles?

Upholding the promise of our founding values should be reason enough to resist anti-Muslim sentiment. But there are equally powerful reasons that rely not on values but on simple common sense. The war that began on September 11, 2001, is not only a war against terrorists but a war to isolate those terrorists from broader Muslim society. We have seen time and time again that when we stray from our values, it is not just a moral failure but a national security failure. Our troops work every day to keep weapons out of the hands of al-Qaida and its terrorists. Yet, by indulging in intolerance, we hand al-Qaida a powerful propaganda weapon, one to use to stoke hatred of us and to recruit the terrorists who threaten our troops abroad and our citizens at home. We have already seen in the violent and even deadly protests in Afghanistan how anger can spawn anger and hatred and can inspire hatred.

By threatening to burn holy texts or by holding an entire faith as somehow responsible for the actions of its most fanatic members, Osama bin Laden and his kind are given precisely the kind of clash of civilizations they so desperately seek to create.

I was heartened by the words of Mayor Michael Bloomberg, who said:

> We would be untrue to the best part of ourselves—and who we are as New Yorkers and Americans—if we said ''no'' to a mosque in Lower Manhattan.

I am also encouraged by the religious leaders of many faiths across our country who have stood up and said:

> We support the rights of all Americans to worship in their chosen place, through a climate of respect, dignity and peace.

I am encouraged by the words of our commander in Afghanistan, GEN David Petraeus, who powerfully pointed out that the acts of religious intolerance are ''precisely the kind of action the Taliban uses'' to direct hatred at our brave troops.

I am encouraged by the words of our President:

This is America and our commitment to religious freedom must be unshakeable.

I am heartened, too, by the reaction in my home State, which is home to a large, thriving, and valued community of Muslim Americans. The Grand Rapids Press has editorialized that ''[a] Manhattan mosque would be a powerful statement that the terrorists did not—and cannot—win.'' A columnist in the Detroit News wrote:

Ground zero would seem to be the perfect place to demonstrate that religious tolerance is why so many flocked to our shores in the first place, and remains a key block in the foundation of our freedom.

A Detroit Free Press editorial reads:

It's not just about this being a mosque, but about the religious freedom that we all hold dear, and that was such a critical part of this country's founding.

Michigan civil and religious leaders of many faiths and backgrounds have invoked our most closely held beliefs and called on the Nation to speak and act in harmony with those beliefs. The power of those beliefs represents a powerful tool against the hatred that inspired 9/11.

The founding principles of our Nation call on us to stand with voices of tolerance and reason. Those who have given their all in the defense of those principles would surely hope that we would resist the calls to hatred and violence. Our moral authority depends on that. Preservation of the freedom that defines us depends on that. Our safety depends on that. I commend those who have spoken for tolerance and diversity, who have resisted anger and intolerance, and who in doing so have upheld our most important values and have made our Nation safer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Mr. FRANKEN. 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. FRANKEN. Mr. President, I ask unanimous consent to speak for up to 6 minutes as in morning business.

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

WORLD ALZHEIMER'S DAY

Mr. FRANKEN. Mr. President, I rise today to honor the Minnesotans and their families affected by Alzheimer's disease and recognize September 21 as World Alzheimer's Day. Today, over 94,000 Minnesotans and 5 million Americans are living with Alzheimer's disease. These are epidemic numbers, and the toll on our families and communities is devastating. Alzheimer's is the seventh leading cause of death and costs our Nation $172 billion a year.

But today, on World Alzheimer's Day, we have reason to be hopeful. On this day, Alzheimer's is getting the attention it deserves. Take the first ever Alzheimer's Breakthrough Ride as an example. For the last 66 days, Alzheimer's researchers from across the country biked hundreds of miles to spread awareness about Alzheimer's. Today, these researchers arrived in Washington to demand that the fight against Alzheimer's be made a national priority.

I am proud to say that among the researchers on the ride is Minnesota doctor Michael Walters of the University of Minnesota's Grossman Center for Memory Research and Care. Dr. Walters rode from Madison, WI, to Chicago, IL, to raise awareness about Alzheimer's. He is here in Washington to demand that we in Congress provide the funding needed to make real progress against this disease. And we need real progress. After decades of research, there is still no effective treatment and no way to prevent or cure Alzheimer's. That is why my colleague from Maryland, Senator MIKULSKI, has put forth a bill to make Alzheimer's research a national priority. S. 1492, the Alzheimer's Breakthrough Act, would dramatically increase funding for Alzheimer's research at the National Institutes of Health. Under this bill, the NIH would also focus on prevention and early detection of the disease—two understudied areas that could drastically improve the health of millions of Americans. That is why I am proud to have cosponsored the Alzheimer's Breakthrough Act.

The bill puts us one step closer to finding a cure and gives hope to families affected by Alzheimer's. One such family is the Shapiros of Edina, MN. In 2006, Alan Shapiro was diagnosed with Alzheimer's disease. Alan's father, uncle, and grandfather have all died of Alzheimer's, and Alan's brother Robert is currently living with the disease as well. Right now, Alan is in the midstage of his disease and needs round-the-clock supervision. His wife Carol spends her days caring for him so they can continue to live at home together. In addition to caregiving, Carol also takes care of all the things Alan used to do, such as maintaining the house. While Carol is involved with local sport groups, she struggles just to stay afloat.

Like the Shapiros, many families affected by Alzheimer's will tell you that their needs are not being met. It is not always clear where to turn for help. Sometimes a doctor can tell you about a clinical trial or a friend can offer to do the grocery shopping, but unfortunately it is never really enough. Families such as the Shapiros need help planning for the future, they need help navigating complicated insurance policies, and they need help finding high-quality, long-term care services and respite care. Fortunately for families in need of this kind of help, there is a Federal law called the Older Americans Act. The Older Americans Act provides seniors and families affected by Alzheimer's with tools to create a long-term care plan, and it can help caregivers, such as Carol Shapiro, find services for their loved ones. For example, in Minnesota, the Older Americans Act funds the Senior Linkage Line. Families can call the line and get information about services for people with Alzheimer's available in their community.

Because of limited funding, even resources such as the Senior Linkage Line are not always well known or able to serve everyone who needs them the most. That is why it is important to take a close look at the Older Americans Act when it is up for reauthorization next year. It is critical that the Older Americans Act receive robust funding so families affected by Alzheimer's know about the resources that are available to them. It is also important that we strengthen the law to ensure that people with Alzheimer's have access to high-quality, long-term care services and that States have the resources to protect people with Alzheimer's who receive care at home.

Today, on World Alzheimer's Day, I am committed to making support for families affected by Alzheimer's a national priority. As a member of the HELP Committee and the Special Committee on Aging, I will be fighting for the needs of Minnesotans affected by Alzheimer's disease during the reauthorization of the Older Americans Act. I will be a strong supporter of Alzheimer's research so real progress can be made to stop this disease. I urge my colleagues to do the same. I ask that they take this important day to remember the families, such as the Shapiros, living in their home States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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

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

IN PRAISE OF MICHELLE O'NEILL

Mr. KAUFMAN. Mr. President, I rise again to honor one of our Nation's great Federal employees. As my colleagues know, I have been coming to the floor since last May to deliver a series of weekly speeches recognizing Federal employees' contributions to this country in some small way. When I was appointed to the Senate, I saw this as an opportunity to draw attention to the important work performed each day by some of America's hardest workers. They work for all of us. They choose careers in public service not because they will be paid more, because they will not, or because it is an easy job, because it certainly is not; they do it for love of their country and for a sense of duty. They do it because there are inherently government tasks we as a nation expect to be performed and because every one of us deserves the most highly skilled and hardest working public servants to carry them out.

I have been honoring great Federal employees from this desk for the past 16 months. It has been one of the highlights of my time in the Senate. Now I rise to honor a great Federal employee

for the last time. I am proud to share that my honoree today is my 100th great Federal employee, a talented individual who spent two decades reducing trade barriers for American goods.

Michelle O'Neill has served as Deputy Under Secretary of Commerce for International Trade since 2005. In this role, Michelle supervises the day-to-day operations of the International Trade Administration, or ITA. The ITA has over 2,400 employees and an operating budget of over $400 million. Its mission is to promote American exports and ensure fair access to overseas markets for our businesses.

Michelle, who holds a bachelor's degree from Sweet Briar College in Virginia and a master's degree from the Lyndon B. Johnson School of Public Affairs at the University of Texas, first came to the Department of Commerce in 1983 as an intern. Over the course of her career, she has served under 5 administrations and 11 Secretaries of Commerce. She has traveled to over 40 countries to carry out her work.

From a family with a long history of public service, Michelle knew very early that she wanted to pursue a career in government. Born on a military base, Michelle has said that ''public service is part of my DNA; I have always found helping others, being part of something bigger than myself, to be very rewarding.'' Throughout her career at the ITA, she has done just that—helping Americans trade fairly across borders and pursue commerce, which has always been a vehicle for achieving the American dream. Michelle has consistently placed her work above her own advancement and taken risks for the sake of carrying out the ITA's core mission.

Michelle served oversees from 1995 to 1998 as the commercial attache to our mission to the Organization for Economic Cooperation and Development, OECD. Before that assignment, she worked as executive assistant to the Deputy Under Secretary for International Trade—the position Michelle now holds. In 1995, she served as a Brookings legislative fellow with the Ways and Means Subcommittee on Trade in the House of Representatives and from 1990 to 1991 was detailed to the Office of Policy Development in the White House.

One of her major achievements at the ITA has been resolving a major China market access barrier, for which she won the Department's Silver Medal. She also has been praised for her role in developing an online portal for government export assistance, called export.gov. Michelle was also awarded the William A. Jump Award for exemplary service in public administration. This June, she was honored as Outstanding Woman of the Year by the Association of Women in International Trade.

Today, Michelle is part of the ITA's leadership team. The American people are fortunate to have her talents and experience at work for them. She joins the 99 other outstanding public servants whom I have honored weekly throughout my term. Together, they are my 100 great Federal employees—not that these are all the great employees, but I think you see a mosaic which represents all of our Federal employees.

I hope to come to the floor next week to speak about a special group of outstanding Federal employees, but this week's honoree, Michelle O'Neill, is the final individual whose story I will share in this series. I hope my colleagues in the Senate and all Americans will join me in thanking her and all those who work at the International Trade Administration for their service to our Nation. They are all truly great Federal employees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. KAUFMAN. 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.

U.S. PUBLIC HEALTH SERVICE

Mr. INOUYE. Mr. President, on August 5, 2010, I was presented with the flag of the United States Public Health Service by the Commissioned Officers Association, COA, of the U.S. Public Health Service, PHS, and its affiliated PHS Commissioned Officers Foundation. The Public Health Service Commissioned Corps is one of our Nation's seven uniformed services. When the COA was kind enough to present me with their Health Leader of the Year Award several weeks ago, it was noted that, while I had the flags of the five armed services displayed in my office on Capitol Hill, there was no PHS flag to complete the display.

The first thing I noticed when presented with the PHS flag was its color—a bright yellow field with dark blue crest and inscription. The PHS flag reveals the history of our Nation's Public Health Service. The Public Health Service traces its origins to 1798 with the passage of an ''Act for the Relief of Sick and Disabled Seamen.'' The economic survival of our young country was almost totally dependent on maritime commerce and this law was aimed at protecting the health of merchant seaman, without whose labors the young nation would not long survive, much less prosper.

Medical quarantine of ships found to be carriers of disease was an essential tool in protecting the commercial interests of the United States. The PHS flag is the same yellow color as the maritime ''quebec'' signal flag which is the international signal for a ship under quarantine.

Emblazoned on the yellow field of the PHS flag is a crossed ''fouled'' anchor and caduceus. The fouled anchor—an anchor wrapped by its chain and thus unusable—is the symbol of a ship or sailor in distress. Interestingly, the caduceus in the PHS crest is the mark of Hermes, the Greek god of commerce—later the Roman god Mercury—and consists of a staff with two entwined serpents. The caduceus, emblem of commerce, is often confused with the ancient Greek Rod of Asclepius—a staff entwined by a single serpent—which represents the healing arts.

So the crest of the Public Health Service signifies the importance of protecting the Nation's commercial interests by ensuring we have a healthy workforce. This is as critical to the United States today as it was in 1798—and we are faced in the 21st century with perhaps more threats to the health of our workforce than ever before.

Leadership in the protection of our Nation's public health originates within the Public Health Service whose origins can be traced to that 1798 law passed by Congress. And leadership within the Public Health Service is embodied by the Office of the Surgeon General and the officers of the PHS Commissioned Corps. These uniformed health professionals are essential defenders of our national security which is dependent on a healthy population—the bedrock upon which is built our commerce and our national defense.

We all owe these PHS Commissioned Corps officers our support for their often unheralded efforts in protecting and promoting the Nation's security. I am proud to honor their service by displaying the PHS flag in my personal office on Capitol Hill.

DEFENSE TRADE COOPERATION TREATIES

Mr. FEINGOLD. Mr. President, today, the Senate Foreign Relations Committee approved the Defense Trade Cooperation Treaties with the U.K. and Australia and their implementing legislation. These treaties would exempt these two countries—two of our most important allies—from our arms export licensing regime.

Though I am confident our allies will use these treaties as intended, I am very concerned that these treaties may make it easier for arms dealers to divert weapons to illicit purposes. The Government Accountability Office has reported that diversion of weapons from the United States, including through the U.K. and Australia, is a major source of weapons for countries of concern to the U.S., including Iran. It has also documented how arms smugglers have relied on previous licensing exemption regimes as a cover

for the diversion of arms. Finally, it has reported that U.S. officials charged with enforcing our arms export controls are concerned that licensing exemptions reduce the evidentiary trail they use to detect and prosecute the diversion of weapons.

While this implementing legislation will enhance reporting to Congress, it does nothing to address the problem of not having an evidentiary trail. That is a mistake. I will carefully monitor the implementation of these treaties to ensure that they are not used by arms dealers as cover to divert weapons to illegal end users. If we have trouble prosecuting violations of the treaties, Congress may need to enact additional legislation requiring licenses in certain cases.

In an age of terrorism, it is more important than ever that we control the proliferation of weapons that can be diverted to adversaries of the United States and feed regional conflicts around the world. Our licensing regime is a critical component of our effort to ensure that these weapons do not end up in the hands of our enemies. It should be strengthened, not weakened. Unfortunately, the administration appears to be moving in the opposite direction with a larger effort to decontrol the export of sensitive military equipment.

In addition, I am concerned that these agreements were negotiated as treaties largely as a means to avoid congressional scrutiny. The House Foreign Affairs Committee has carefully investigated our arms export control regime and expressed concern about early attempts to provide a statutory waiver in these cases. In response to these concerns, the Bush administration sought to do an end run around the House of Representatives by negotiating the waivers as treaties. Further, it sought to limit Senate oversight by arguing that no implementation legislation was needed to ensure that these treaties are enforceable. I regret that the Obama administration took the same position.

I was pleased that Senator LUGAR took the time to carefully draft implementing legislation that will ensure some bicameral oversight of these treaties. However, while this addresses some of my concerns, it leaves many questions unanswered. This approach should not become the norm. I urge the administration to rely on the regular legislative process to address any future, perceived deficiencies in our arms export regime.

ADDITIONAL STATEMENTS

RECOGNIZING DOLLE'S CANDYLAND

● Mr. CARDIN. Mr. President, today I would like to pay special tribute to the Dolle family on the occasion of the 100th anniversary of Dolle's Candyland of Ocean City, MD. For the past century, Dolle's has been one of the jewels of Ocean City's famous boardwalk, helping thousands of vacationing families build warm summer memories and providing treats for lucky relatives and co-workers back home.

For its entire history, this Eastern Shore landmark has been presided over by men named Rudolph Dolle. The first of the line, the grandfather of the current proprietor, left his home in New York in 1910 to install an old-fashioned hand-made carousel on what was then the small Ocean City boardwalk at the corner of Wicomico Street. Soon after the Dolles built their carousel, the man who sold saltwater taffy next door fell upon hard times and offered to sell his business to Rudolph and his wife Amelia. Sales of salt water taffy quickly became the family's main livelihood and were followed by homemade fudge and caramel popcorn.

The original merry-go-round burned to the ground in 1925 but the candy business continued to flourish. In 1910, shop hands cooked the saltwater taffy in small copper kettles before it was cut and wrapped piece by piece by the store's employees. Today, the copper kettles can cook 150 pounds of taffy at once, and the pulling, cutting, and wrapping is now performed by machines that can produce 650 pieces of taffy every minute, allowing Dolle's to sell an average of almost 3,000 pounds of taffy per day during the busy summer season.

The flagship store has been enlarged but remains on the original site at Wicomico Street and the boardwalk. A second store further north in Ocean City is now open, and Dolle's now offers other homemade candy treats, including caramels, gummy bears, and seasonal chocolates for the holidays.

Four generations of the Dolle family have worked behind the counter and in the kitchen. They take great pride in their customer service and civic engagement and provide free shipping to all orders sent to military addresses.

I urge my colleagues to join me today in honoring the Dolle family on the occasion of the 100th anniversary of the founding of Dolle's Candyland, and in sending along best wishes for many more generations of the Dolle family who will continue the family business and tradition on the boardwalk in Ocean City, MD.●

REMEMBERING DOUG M. ANDRUS, JR.

● Mr. CRAPO. Mr. President, today I honor the life of a very good friend and neighbor, Doug M. Andrus Jr. I join with his family in mourning his passing. He had the love and faith of the entire community and will be greatly missed. He was faithful, reliable and committed to his family, his church and his community. He set a tremendous example in everything that he did, and I am honored to have counted him among my friends.

Doug was a successful Idaho Falls businessman—a loving son, brother, husband, father, and grandfather. He was born on April 29, 1941, the second of six children, and grew up in Idaho Falls. Doug served a mission for The Church of Jesus Christ of Latter-Day Saints and attended Ricks College and Brigham Young University, where he graduated with honors. He was married to his wife Deanna for 47 years; together, they had 13 children and 56 grandchildren. Doug and his brother, Heber, coowned a family business, Doug Andrus Distributing, started by his parents in 1937. Through hard work and ingenuity, Doug and Heber grew the trucking company expanding business throughout the United States and western Canada, established Dad's Travel Center truck stops and have the Andco Leasing real estate development company. Doug has been recognized for his principled business practices, receiving the Granite Pillar Award in 2009 for business ethics.

Doug was also widely respected for his active involvement in the community and church. He was a great humanitarian whose giving included contributions to the Hurricane Katrina relief effort and local food banks, and he dedicated substantial time and resources to the Boy Scouts of America, through which he earned the one of the highest recognitions given—Silver Beaver Award. Doug was also a devoted missionary and member of The Church of Jesus Christ of Latter-Day Saints. He served in many central roles in the church, including elders quorum presidency, stake president, mission president in the Nevada Las Vegas West mission and sealer in the Idaho Falls Temple. We worked closely together when he served with me in the stake presidency of the Eagle Rock Stake.

Through all that he did, Doug was a good, humble, gregarious, gracious, faithful, committed, reliable man of integrity. He was very kind and giving and served as a great model of how best to carry oneself and treat others. His family and friends loved and trusted him immensely, and he provided sound counsel to many throughout the community. I will deeply miss my good friend, Doug Andrus.●

2010 GOVERNOR'S AWARDS IN THE ARTS

● Mr. CRAPO. Mr. President, today I recognize the artistic achievements of the recipients of Idaho's 2010 Governor's Awards in the Arts.

The Idaho Commission on the Arts, a State agency committed to making the arts available to all Idahoans, established the biennial Governor's Awards in the Arts in 1970 to advance the recognition of Idaho arts and artists. Artists play a vital role in enhancing the quality of cultural and educational life throughout America. It is important to honor the significant contribution of Idaho artists to Idaho's rich artistic culture. I join in recognition of the achievements of the following recipients of the 2010 Governor's Awards in

the Arts and thank them for their contribution to Idaho and the Nation: David Giese; Alma Gomez; George Halsell; Cary Schwarz; Randy Priest; Dwight Towell; Lisa Myers; Ruth Pratt; Lynn J. Skinner; Richard E. Bird; Christine Hatch; Tom Tomkins; Arthur Hart; Henry T. Hopkins; and Senator James A. McClure and Mrs. Louise McClure.

David Giese, of Moscow, ID, is a recipient of an ''Excellence in the Arts'' award for his distinguished 33-year career as a professor of art and design at the University of Idaho. He is also being recognized for his remarkable record of 24 one-person exhibitions and many more juried, invitational group shows. Additionally, the originality of his mixed-media art forms is exemplary. David's lasting and noteworthy career and contribution to artistic development is admirable. He has enhanced the visual art form and motivated budding artists.

Alma Gomez of Boise also received an ''Excellence in the Arts'' award. Alma has achieved significant accomplishments as a visual artist and adjunct professor of art at Boise State University. She is also being honored for painting exceptional murals at Boise State University, the Hispanic Cultural Center of Idaho, and Terry Reilly Health Services in Nampa. Alma is a very talented painter who has contributed to the aesthetic appearance of many important facilities and has helped foster artistic growth in other artists through her work at the university. This award is well deserved.

Musician George Halsell, of Twin Falls has been honored through an ''Excellence in the Arts'' award for his more than 20 years of distinguished accomplishments as a musician, composer, conductor, and music educator. George most recently introduced his ''Symphony in Five Episodes'' through a performance by the Magic Valley Symphony. George Halsell's sustained musical achievement and ability to channel his musical talents to reach others is remarkable. George has earned his place among great Idaho artists.

Cary Schwarz, a Salmon area saddlemaker, has been honored with the ''Excellence in Folk and Traditional Arts'' award. Cary, a founding member of the Traditional Cowboy Arts Association, has set an outstanding standard in saddlemaking for more than 25 years. For many years, Cary has also taught the art to aspiring saddlemakers. Cary has contributed greatly to the saddlemaking craft and advanced the craft through furthering the skill in others. Cary's involvement to further this traditional art form is admirable.

Randy Priest of Donnelly received an ''Excellence in Folk and Traditional Arts'' award for his 35 years as a premier western hatter. For many years, Randy has served as a hat maker for local Donnelly residents. He has also made hats for national celebrities. Randy is also being honored for passing down his skills to apprentices. Hat making is often a challenging art that requires extreme skill, especially in teaching others the trade. Randy's gift and effort to teach others merit this recognition.

Custom knifemaker Dwight Towell of Midvale is a recipient of an ''Excellence in Folk and Traditional Arts'' award for his more than 30 years of custom knifemaking and status as one of the best knifemakers in the world. Dwight is a widely respected member of the Knifemakers Guild. Dwight's talents have also been consistently showcased in the Art Knife Invitational Show, and he has received the Beretta Award for Outstanding Achievement in Handcrafted Cutlery. The precision and skill Dwight has demonstrated in honing his craft is exemplary and rightly being recognized.

Lisa Myers of Nampa has been recognized through a ''Support of the Arts'' award for her 17 years of support for local visual and performing artists and hosting the Valentines for AIDS exhibition that has raised $250,000 for the Safety Net for AIDS Program. Lisa also initiated the HIP Holiday Market and Project Reconstruct Fashion Show benefiting the Dress for Success program. Lisa's leadership in advancing the arts and her singular vision, determination, and commitment are highly commendable. Lisa's exemplary dedication to the arts and the community is remarkable. Her commitment and support are truly inspirational.

Ruth Pratt of Coeur d'Alene is also a recipient of a ''Support of the Arts'' award. Ruth has served as executive director of the Coeur d'Alene Library Foundation for 7 years, where she led a public/private partnership with the city to build a new $7 million library enhanced with commissioned art. Ruth is also being recognized for her support of a local jazz concert series, training nonprofits to attract investors, and for her service on the board of directors for the Idaho Nonprofit Center, Spokane Public Radio, Coeur d'Alene Summer Theatre, and Arts & Culture Alliance of Coeur d'Alene. Ruth has contributed considerable time and effort to growing the arts throughout the area. Ruth's thoughtfulness and dedication are ensuring that more Idahoans have access to inspiring art.

Lynn J. Skinner of Moscow has achieved a ''Support of Arts Education'' award for serving as executive director of the Lionel Hampton International Jazz Festival from 1976 to 2007 and encouraging thousands of young jazz enthusiasts. Lynn has dedicated considerable time and talent to advancing jazz music. Lynn's lifetime of teaching and sharing his love of music with young people, serving as a jazz clinician and adjudicator in the United States and Canada, and his selection for the Downbeat Jazz Educator Lifetime Achievement Award are also being honored through this recognition. Lynn's admirable enthusiasm is motivational and commendable.

Richard E. Bird of Rexburg is also the recipient of a ''Support of Arts Education'' award for his more than three decades as a teaching member of the art department faculty at Ricks College and his exceptional mastery of oil and watercolor painting, calligraphy, graphic design, and ceramics. Richard has also being honored for his service as a charter member of the Idaho Watercolor Society and founder and president of the Upper Valley Art Gallery, Rexburg. Richard's substantial skill and dedication to the craft are outstanding. His considerable commitment is award worthy.

Christine Hatch of Idaho Falls received an ''Excellence in Arts Administration Award'' for her 8 years of service as executive director of the present Art Museum of Eastern Idaho and establishing museum programs in a variety of media and art forms that reach nearly 12,000 students, teachers and families. Christine has also been honored for making the museum an essential part of the community; opening the museum to youth programs, such as art classes, poetry readings and musical events and for serving as the former president of the Idaho Falls Symphony. I am very proud of my sister who has contributed significantly to the strength of our community and fostered the growth of the arts. Her dedication is inspiring, and I join all of our family and friends in commending her achievement.

Tom Tompkins of Boise is also the recipient of an ''Excellence in Arts Administration Award'' for his years of exemplary representation of the Esther Simplot Performing Arts Academy and serving as Boise's ambassador to music and to all groups and organizations in the arts, professional and amateur. Tom has also served a key role in the Ensembles in the Schools educational program, and he has also been honored for performing as principal viola for the Boise Philharmonic for 25 years, as viola in the outstanding Boise String Quartet, and as a string player with the nationally recognized music group Onamatopoeia. Tom's expertise and commitment to the performing arts is renowned. His musical abilities, music advocacy and advancement of musical education have touched many lives and are praiseworthy.

A ''Special Commendations'' award went to historian Arthur Hart for beginning the art department at The College of Idaho in 1948. Arthur has also been recognized for his distinguished publications concerning Idaho history and architecture and his Honorary Membership in the American Institute of Architects. Arthur has led the way in broadening artistic opportunity for students. Through his strong achievements, others have had the chance to grow artistically. Idahoans have benefited greatly from Arthur's foresight and fortitude.

The late Henry T. Hopkins of Idaho Falls is a recipient of a ''Special Commendations'' award. Henry Hopkins'

achievements as a cofounder and director of the Sun Valley Center for the Arts and service as director of the Fort Worth Art Center Museum, the San Francisco Museum of Modern Art, the Wright Art Gallery at UCLA, Armand Hammer Museum of Art and Cultural Center and on the National Advisory Board of the Boise Art Museum are commendable. Henry has also been honored for his unparalleled influence and impact on the arts in Idaho. Henry Hopkins forged a legacy of accomplishments in the arts. His inspiration has helped fuel the expansion of the arts and artistic achievement.

The Honorable Senator James A. McClure and Mrs. Louise McClure are the recipients of the ''Lifetime Achievement'' award for their substantial support of the arts. Louise and Jim have dedicated significant time and effort to fostering the arts and are being recognized for Louise's service on the National Council on the Arts and Jim's service on the board of the John F. Kennedy Center for the Performing Arts. They have also been long-time supporters of the University of Idaho Lionel Hampton International Jazz Festival and have demonstrated tireless support of the arts in Idaho and throughout the Nation. The McClures' commitment to Idaho and the arts is inspirational and commendable, and it is an honor to join in recognizing the contribution of these two great Idahoans.

All of those being honored through the 2010 Governor's Awards in the Arts are making our communities stronger through their participation in and encouragement of artistic expression. They add fresh perspective and deepen our understanding of each other and the world around us. It is a great privilege to help recognize the immense artistic talent throughout Idaho. These recipients, who are utilizing a variety of art forms, are not only contributing to their crafts, but also they are fostering the growth of artistic achievement through teaching others. For this, I thank all of the award recipients and commend Governor Otter and the Idaho Commission on the Arts for the 40th anniversary of the awards and their roles in these achievements.●

TRIBUTE TO DR. ALBERT STARR

● Mr. WYDEN. Mr. President, this week marks the 50th anniversary of one of the most remarkable innovations in modern medicine. On September 21, 1960, at the University of Oregon Medical School, Dr. Albert Starr successfully implanted the first prosthetic mechanical heart valve. In 1958, Lowell Edwards, a retired mechanical engineer, approached Dr. Starr about the possibility of creating an artificial heart. Believing artificial heart technology to be a bit premature, Starr encouraged Edwards to consider valve replacement surgery. The valve they designed—a ball and cage mechanical valve—was successfully implanted in its first patient just 2 years later. For this achievement, Dr. Starr was the corecipient of the Albert Lasker Award, for Clinical Medical Research in 2007.

Dr. Starr continues to contribute to the development of medical science as the director emeritus of Providence Heart and Vascular Institute, medical director of the Albert Starr Academic Center, and director of bioscience research and development for Providence Health & Services in Oregon.

Since the valve's first use in 1960, heart valve replacement surgery has saved millions of lives, giving hope to those with heart disease. Today, life saving heart valve replacement surgery is performed 300,000 times each year around the globe, with more than 90,000 of those operations taking place in the U.S.

Dr. Starr says he considers his legacy to be about the people he has trained and his patients. For him, the human interaction has been the most important aspect of his lifetime of achievements. I am grateful for his passion to help people and to help advance medical science.

It is an honor for me to recognize Dr. Albert Starr for his contributions to medical innovation and I am proud to have him call Oregon his home.●

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 3813. A bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes.

S. 3815. A bill to amend the Internal Revenue Code of 1986 to reduce oil consumption and improve energy security, and for other purposes.

S. 3816. A bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on September 21, 2010, she had presented to the President of the United States the following enrolled bill:

S. 3656. An act to amend the Agricultural Marketing Act of 1946 to improve the reporting on sales of livestock and dairy products, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7405. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–076, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–7406. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–058, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–7407. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–064, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–7408. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 10–095, of the proposed sale or export of defense articles, including technical data, and defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–7409. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, a report relative to Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC–7410. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General John F. Kimmons, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–7411. A communication from the Principal Deputy Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department's purchases from foreign entities for Fiscal Year 2009; to the Committee on Armed Services.

EC–7412. A communication from the Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE: TRICARE Delivery of Health Care in Alaska'' (RIN0720–AB29) received in the Office of the President of the Senate on September 15, 2010; to the Committee on Armed Services.

EC–7413. A communication from the Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE: Transitional Assistance Management Program (TAMP)'' (RIN0720–AB34) received in the Office of the President of the Senate on September 15, 2010; to the Committee on Armed Services.

EC–7414. A communication from the Federal Register Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE: Non-Physician Referrals for Physical Therapy, Occupational Therapy, and Speech Therapy'' (RIN0720–AB36) received in the Office of the President of the Senate on September 15, 2010; to the Committee on Armed Services.

EC–7415. A communication from the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, a report entitled ''Annual Report to

Congress on Initiatives to Address Management Deficiencies Identified in the Audit of FHA's Financial Statements for Fiscal Years 2009 and 2008''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7416. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((44 CFR Part 64)(Internal Agency Docket No. FEMA–8149)) received in the Office of the President of the Senate on September 15, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–7417. A communication from the Associate General Counsel for Legislation and Regulations, Office of Housing-Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Federal Housing Administration Risk Management Initiatives: New Loan-to-Value and Credit Score Requirements'' (FR–5404–N–02) received in the Office of the President of the Senate on September 15, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–7418. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more to the Royal Guard of Oman; to the Committee on Foreign Relations.

EC–7419. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more to Taiwan; to the Committee on Foreign Relations.

EC–7420. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services to the United Arab Emirates for the sale of six C–17A Globemaster III transport aircraft in the amount of $14,000,000 or more; to the Committee on Foreign Relations.

EC–7421. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services to the Republic of Korea for the assembly, integration and maintenance of the Rolling Airframe Missile (RAM) Guided Missile Weapon System in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7422. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, to include technical data, and defense services for installation in various vehicles and dismounted applications to support the Australian Government Department of Defence for Communications in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7423. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, to include technical data, and defense services to Japan for the post-production support of the AN/ALQ–131(V) Electronic Countermeasures (''ECM'') in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7424. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to the United Kingdom and Greece for the manufacture of Lightweight 30mm (LW 30mm) TP projectile and the LW 30mm cartridge case as well as the LAP of TP and HEDP LW 30mm ammunition; to the Committee on Foreign Relations.

EC–7425. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to the United Arab Emirates for the establishment of a maintenance service center for the Ministry of Defense's fleet of H–60 and S–70 model helicopters in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–7426. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture of Patriot PAC–3 Missile Segment Canister Assemblies and Components in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7427. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services for the manufacture of MJU–68/B Decoy Flares for end use by the Joint Strike Fighter Partner Nations for the Joint Strike Fighter (F35) in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7428. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, to include technical data, and defense services to Japan for the manufacture of Patriot PAC–3 Missile Segment Command and Launch System in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–7429. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010–0134 – 2010–0136); to the Committee on Foreign Relations.

EC–7430. A communication from the General Counsel, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a report relative to a vacancy in the position of Director, Pension Benefit Guaranty Corporation; to the Committee on Health, Education, Labor, and Pensions.

EC–7431. A communication from the General Counsel and Senior Policy Advisor, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, (2) reports relative to vacancies in the positions of Director and Deputy Director in the Office of Management and Budget; to the Committee on Homeland Security and Governmental Affairs.

EC–7432. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Letter Report: Fiscal Year 2009 District of Columbia Agency Compliance with Small Business Enterprise Goals''; to the Committee on Homeland Security and Governmental Affairs.

EC–7433. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report entitled ''Report of the Proceedings of the Judicial Conference of the United States'' for the March 2010 session; to the Committee on the Judiciary.

EC–7434. A communication from the President, American Academy of Arts and Letters, transmitting, pursuant to law, a report relative to the Academy's activities during the year ending December 31, 2009; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

Jacob J. Lew, of New York, to be Director of the Office of Management and Budget.

By Mr. KERRY for the Committee on Foreign Relations.

*Edward W. Brehm, of Minnesota, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2011.

*Johnnie Carson, an Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 27, 2015.

*Mimi E. Alemayehou, Executive Vice President of the Overseas Private Investment Corporation, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2015.

*Duane E. Woerth, of Nebraska, for the rank of Ambassador during his tenure of service as Representative of the United States of America on the Council of the International Civil Aviation Organization.

*Norman L. Eisen, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

Nominee: Norman L. Eisen.

Post: Ambassador to the Czech Republic.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $28,500, 7/31/2008, Obama Victory Fund (Distributed $1,150 to OFA, $27,350 to DNC); $2,300, 6/25/2008, Kissell for Congress; $500, 6/18/2008, Friends of Jay Rockefeller; $1,000, 6/12/2008, Pennsylvanians for Kanjorski; $250, 3/27/2008, Al Franken for Senate; $1,000, 3/15/2008, Berkowitz for Congress; $1,000, 2/1/2008, Warner for Senate; $1,150, 12/18/2007, Donna Edwards for Congress; $1,150, 4/6/2007, Obama for America; $2,300, 3/26/2007,

Biden for President, Inc.; $2,300, 3/6/2007, Obama for America; $1,000, 9/25/2006, Veterans' Alliance for Security and Democracy Political Action Committee (VETPAC); $500, 9/8/2006, Ben Cardin for Senate; $2,100, 6/7/2006, Donna Edwards for Congress; $2,000, 3/30/2006, David Yassky for Congress; $1,000, 1/31/2006, Forward Together PAC; $2,100, 3/3/2005, Friends of Hillary; $2,100, 3/3/2005, Friends of Hillary.

2. Spouse: M. Lindsay Kaplan: $2,300, 6/25/2008, Kissell for Congress; $2,000, 9/10/2008, Moveon.org Political Action; $1,150, 2/5/2008, Donna Edwards for Congress; $1,000, 6/30/2007, Biden for President, Inc.; $1,150, 4/6/2007, Obama for America; $2,300, 3/6/2007, Obama for America.

3. Children and Spouses: Tamar Y. Eisen: (none).

4. Parents: Frieda Eisen: (none); Irvin Eisen: (deceased).

5. Grandparents: All of my grandparents have been deceased for over 40 years.

6. Brothers and Spouses: Robert B. Eisen: (none); Steven H. Eisen: (none).

7. Sisters and Spouses: N/A.

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*Alexander A. Arvizu, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

Nominee: Alexander A. Arvizu.

Post: U.S. Ambassador to Albania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $500, 10/17/2008, Obama for America.

2. Spouse: $500, 07/21/2004, John Kerry for President, Inc.

3. Children and Spouses: none.

4. Parents: none.

5. Grandparents: none.

6. Brothers and Spouses: none.

7. Sisters and Spouses: none.

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*Joseph A. Mussomeli, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

Nominee: Joseph Adamo Mussomeli.

Post: Slovenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $0.

2. Spouse: $0.

Children and Spouses: $0.

4. Parents:

5. Grandparents:

6. Brothers and Spouses: $0.

7. Sisters and Spouses: $0.

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*Matthew J. Bryza, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Azerbaijan.

Nominee: Bryza, Matthew James.

Post: Baku, Azerbaijan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self: $0.

2. Spouse: $0.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mrs. GILLIBRAND:

S. 3808. A bill to amend the Consolidated Farm and Rural Development Act to expand eligibility for Farm Service Agency loans; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND:

S. 3809. A bill to amend the Food Security Act of 1985 to require the Secretary of Agriculture to carry out a conservation program under which the Secretary shall make payments to assist owners and operators of muck land to conserve and improve the soil, water, and wildlife resources of the land; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. GILLIBRAND (for herself and Mr. CARDIN):

S. 3810. A bill to restrict participation in offshore oil and gas leasing by a person who engages in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996, to require the lessee under an offshore oil and gas lease to disclose any participation by the lessee in certain energy-related joint ventures, investments, or partnerships located outside Iran, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 3811. A bill to establish the Military Family-Friendly Employer Award for employers that have developed and implemented workplace flexibility policies to assist the working spouses and caregivers of service members, and returning service members, in addressing family and home needs during deployments; to the Committee on Armed Services.

By Mr. VITTER (for himself and Mr. MCCAIN):

S. 3812. A bill to prohibit trade in billfish and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. BROWNBACK, Mr. DORGAN, Ms. COLLINS, Mr. UDALL of New Mexico, Mr. ENSIGN, Mr. UDALL of Colorado, Ms. CANTWELL, Mr. JOHNSON, Mrs. SHAHEEN, Mr. HARKIN, Mr. REID, Mr. BENNET, Mrs. MURRAY, Mr. BEGICH, Mr. FRANKEN, Mr. BURRIS, Mr. KAUFMAN, Mrs. FEINSTEIN, Mr. KERRY, and Mr. DURBIN):

S. 3813. A bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes; read the first time.

By Mr. VITTER (for himself, Mr. CHAMBLISS, Mr. ISAKSON, Mrs. HUTCHISON, Mr. ALEXANDER, Ms. LANDRIEU, and Mr. NELSON of Florida):

S. 3814. A bill to extend the National Flood Insurance Program until September 30, 2011; considered and passed.

By Mr. REID:

S. 3815. A bill to amend the Internal Revenue Code of 1986 to reduce oil consumption and improve energy security, and for other purposes; read the first time.

By Mr. DURBIN (for himself, Mr. REID, Mr. SCHUMER, and Mr. DORGAN):

S. 3816. A bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; read the first time.

By Mr. ENZI:

S.J. Res. 39. A joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule relating to status as a grandfathered health plan under the Patient Protection and Affordable Care Act; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. BROWN of Ohio, Mr. BEGICH, and Mr. FEINGOLD):

S. Res. 631. A resolution designating the week beginning on November 8, 2010, as National School Psychology Week; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 632. A resolution honoring the work of the United Service Organizations and congratulating the United Service Organizations on the sending of their 2 millionth troop care package; considered and agreed to.

By Mr. KOHL (for himself, Ms. MIKULSKI, Mr. CASEY, Mr. FEINGOLD, and Mr. LEMIEUX):

S. Res. 633. A resolution designating September 23, 2010, as ''National Falls Prevention Awareness Day'' to raise awareness and encourage the prevention of falls among older adults; considered and agreed to.

By Mrs. MCCASKILL (for herself and Mr. BOND):

S. Res. 634. A resolution commemorating the 100th anniversary of the founding of the Saint Louis Zoo; considered and agreed to.

By Mr. MENENDEZ (for himself, Mr. CORNYN, Mr. LAUTENBERG, Mr. UDALL of New Mexico, Mrs. MURRAY, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. UDALL of Colorado, Mrs. BOXER, Mrs. FEINSTEIN, Mr. ENSIGN, and Mr. WARNER):

S. Res. 635. A resolution designating the week beginning September 19 , 2010, as ''National Hispanic-Serving Institutions Week''; considered and agreed to.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. Res. 636. A resolution congratulating Walter Breuning on the occasion of his 114th birthday; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. Res. 637. A resolution commending the Seattle Storm for winning the 2010 Women's National Basketball Association Championship; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 510

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 510, a bill to amend the

Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of 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.

S. 833

At the request of Mr. SCHUMER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 833, a bill to amend title XIX of the Social Security Act to permit States the option to provide Medicaid coverage for low-income individuals infected with HIV.

S. 987

At the request of Mr. DURBIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1153

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 1153, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 1183

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1183, a bill to authorize the Secretary of Agriculture to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1617

At the request of Mr. BROWN of Ohio, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1617, a bill to require the Secretary of Commerce to establish a program for the award of grants to States to establish revolving loan funds for small and medium-sized manufacturers to improve energy efficiency and produce clean energy technology, and for other purposes.

S. 1652

At the request of Mr. HARKIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1652, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 1695

At the request of Mr. BURRIS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1695, a bill to authorize the award of a Congressional gold medal to the Montford Point Marines of World War II.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2814

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2814, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 2896

At the request of Mr. FRANKEN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2896, a bill to recruit, support, and prepare principals to improve student academic achievement at high-need schools.

S. 2982

At the request of Mr. KERRY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2982, a bill to combat international violence against women and girls.

S. 3107

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3107, a bill to amend title 38, United States Code, to provide for an increase, effective December 1, 2010, in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

S. 3184

At the request of Mrs. BOXER, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the names of the Senator from Rhode Island (Mr. REED) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3424

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3424, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 3510

At the request of Mr. CONRAD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3510, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 3572

At the request of Mrs. LINCOLN, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 3572, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 225th anniversary of the establishment of the Nation's first law enforcement agency, the United States Marshals Service.

S. 3574

At the request of Mr. BROWN of Ohio, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 3574, a bill to amend title II of the Social Security Act to prohibit the inclusion of Social Security account numbers on Medicare cards.

S. 3693

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 3693, a bill to provide funding for the settlement of lawsuits against the Federal Government for discrimination against Black Farmers.

S. 3735

At the request of Mrs. LINCOLN, the names of the Senator from Utah (Mr. HATCH), the Senator from Kansas (Mr. ROBERTS), the Senator from Nebraska (Mr. JOHANNS), the Senator from Idaho (Mr. CRAPO), the Senator from Iowa (Mr. GRASSLEY), the Senator from Idaho (Mr. RISCH) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 3735, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to improve the use of certain registered pesticides.

S. 3748

At the request of Mr. WYDEN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3748, a bill to amend title 10, United States Code, to provide for the retention of members of the reserve components on active duty for a period of 45 days following an extended deployment in contingency operations of homeland defense missions to support their reintegration into civilian life, and for other purposes.

S. 3766

At the request of Mr. SPECTER, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3766, a bill to amend the Public Health Service Act to provide for human stem cell research, including

human embryonic stem cell research, and for other purposes.

S. 3774

At the request of Mr. CORNYN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3774, a bill to extend the deadline for Social Services Block Grant expenditures of supplemental funds appropriated following disasters occurring in 2008.

S. 3786

At the request of Mr. KERRY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3786, a bill to amend the Internal Revenue Code of 1986 to permit the Secretary of the Treasury to issue prospective guidance clarifying the employment status of individuals for purposes of employment taxes and to prevent retroactive assessments with respect to such clarifications.

S. 3804

At the request of Mr. LEAHY, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Maryland (Mr. CARDIN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 3804, a bill to combat online infringement, and for other purposes.

S. RES. 593

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. BROWN) was added as a cosponsor of S. Res. 593, a resolution expressing support for designation of October 7, 2010, as ''Jumpstart's Read for the Record Day''.

S. RES. 603

At the request of Mr. SPECTER, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 603, a resolution commemorating the 50th anniversary of the National Council for International Visitors, and designating February 16, 2011, as ''Citizen Diplomacy Day''.

AMENDMENT NO. 4618

At the request of Mr. NELSON of Florida, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 4618 intended to be proposed to S. 3454, an original bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 3815. A bill to amend the Internal Revenue Code of 1986 to reduce oil consumption and improve energy security, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3815

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 ''Promoting Natural Gas and Electric Vehicles Act of 2010''.

TITLE I—NATURAL GAS VEHICLE AND INFRASTRUCTURE DEVELOPMENT

SEC. 1001. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INCREMENTAL COST.—The term ''incremental cost'' means the difference between—

(A) the suggested retail price of a manufacturer for a qualified alternative fuel vehicle; and

(B) the suggested retail price of a manufacturer for a vehicle that is—

(i) powered solely by a gasoline or diesel internal combustion engine; and

(ii) comparable in weight, size, and use to the vehicle.

(3) MIXED-FUEL VEHICLE.—The term ''mixed-fuel vehicle'' means a mixed-fuel vehicle (as defined in section 30B(e)(5)(B) of the Internal Revenue Code of 1986) (including vehicles with a gross vehicle weight rating of 14,000 pounds or less) that uses a fuel mix that is comprised of at least 75 percent compressed natural gas or liquefied natural gas.

(4) NATURAL GAS REFUELING PROPERTY.—The term ''natural gas refueling property'' means units that dispense at least 85 percent by volume of natural gas, compressed natural gas, or liquefied natural gas as a transportation fuel.

(5) QUALIFIED ALTERNATIVE FUEL VEHICLE.—The term ''qualified alternative fuel vehicle'' means a vehicle manufactured for use in the United States that is—

(A) a new compressed natural gas- or liquefied natural gas-fueled vehicle that is only capable of operating on natural gas;

(B) a vehicle that is capable of operating for more than 175 miles on 1 fueling of compressed or liquefied natural gas and is capable of operating on gasoline or diesel fuel, including vehicles with a gross vehicle weight rating of 14,000 pounds or less.

(6) QUALIFIED MANUFACTURER.—The term ''qualified manufacturer'' means a manufacturer of qualified alternative fuel vehicles or any component designed specifically for use in a qualified alternative fuel vehicle.

(7) QUALIFIED OWNER.—The term ''qualified owner'' means an individual that purchases a qualified alternative fuel vehicle for use or lease in the United States but not for resale.

(8) QUALIFIED REFUELER.—The term ''qualified refueler'' means the owner or operator of natural gas refueling property.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 1002. PROGRAM ESTABLISHMENT.

(a) IN GENERAL.—There is established within the Department a Natural Gas Vehicle and Infrastructure Development Program for the purpose of facilitating the use of natural gas in the United States as an alternative transportation fuel, in order to achieve the maximum feasible reduction in domestic oil use.

(b) CONVERSION OR REPOWERING OF VEHICLES.—The Secretary shall establish a rebate program under this title for qualified owners who convert or repower a conventionally fueled vehicle to operate on compressed natural gas or liquefied natural gas, or to a mixed-fuel vehicle or a bi-fuel vehicle.

SEC. 1003. REBATES.

(a) INTERIM FINAL RULE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing regulations that the Secretary considers necessary to administer the rebates required under this section.

(2) ADMINISTRATION.—The interim final rule shall establish a program that provides—

(A) rebates to qualified owners for the purchase of qualified alternative fuel vehicles; and

(B) priority to those vehicles that the Secretary determines are most likely to achieve the shortest payback time on investment and the greatest market penetration for natural gas vehicles.

(3) ALLOCATION.—Of the amount allocated for rebates under this section, not more than 25 percent shall be used to provide rebates to qualified owners for the purchase of qualified alternative fuel vehicles that have a gross vehicle rating of not more than 8,500 pounds.

(b) REBATES.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide rebates for 90 percent of the incremental cost of a qualified alternative fuel vehicle to a qualified owner for the purchase of a qualified alternative fuel vehicles.

(2) MAXIMUM VALUES.—

(A) NATURAL GAS VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner who places a qualified alternative fuel vehicle into service by 2013 shall be—

(i) $8,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of not more than 8,500 pounds;

(ii) $16,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 8,500 but not more than 14,000 pounds;

(iii) $40,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds; and

(iv) $64,000 for each qualified alternative fuel vehicle with a gross vehicle weight rating of more than 26,000 pounds.

(B) MIXED–FUEL VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner who places a qualified alternative fuel vehicle that is a mixed-fuel vehicle into service by 2015 shall be 75 percent of the amount provided for rebates under this section for vehicles that are only capable of operating on natural gas.

(C) BI-FUEL VEHICLES.—The maximum value of a rebate under this section provided to a qualified owner of a vehicle described in section 2001(5)(B) shall be 50 percent of the amount provided for rebates under this section for vehicles that are only capable of operating on natural gas.

(c) TREATMENT OF REBATES.—For purposes of the Internal Revenue Code of 1986, rebates received for qualified alternative fuel vehicles under this section—

(1) shall not be considered taxable income to a qualified owner;

(2) shall prohibit the qualified owner from applying for any tax credit allowed under that Code for the same qualified alternative fuel vehicle; and

(3) shall be considered a credit described in paragraph (2) for purposes of any limitation on the amount of the credit.

(d) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $3,800,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section

the funds transferred under paragraph (1), without further appropriation.

SEC. 1004. INFRASTRUCTURE AND DEVELOPMENT GRANTS.

(a) INTERIM FINAL RULE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing an infrastructure deployment program and a manufacturing development program, and any implementing regulations that the Secretary considers necessary, to achieve the maximum practicable cost-effective program to provide grants under this section.

(b) GRANTS.—The Secretary shall provide—

(1) grants of up to $50,000 per unit to qualified refuelers for the installation of natural gas refueling property placed in service between 2011 and 2015; and

(2) grants in amounts determined to be appropriate by the Secretary to qualified manufacturers for research, development, and demonstration projects on engines with reduced emissions, improved performance, and lower cost.

(c) COST SHARING.—Grants under this section shall be subject to the cost-sharing requirements of section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(d) MONITORING.—The Secretary shall—

(1) require regular reporting of such information as the Secretary considers necessary to effectively administer the program from grant recipients under this section; and

(2) conduct on-site and off-site monitoring to ensure compliance with grant terms.

(e) FUNDING.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this section $500,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

SEC. 1005. LOAN PROGRAM TO ENHANCE DOMESTIC MANUFACTURING.

(a) INTERIM FINAL RULE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate an interim final rule establishing a direct loan program to provide loans to qualified manufacturers to pay not more than 80 percent of the cost of reequipping, expanding, or establishing a facility in the United States that will be used for the purpose of producing any new qualified alternative fuel motor vehicle or any eligible component.

(b) OVERALL COMMITMENT LIMIT.—Commitments for direct loans under this section shall not exceed $2,000,000,000 in total loan principal.

(c) COST OF DIRECT LOANS.—The cost of direct loans under this section (including the cost of modifying the loans) shall be determined in accordance with section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(d) ADDITIONAL FINANCIAL AND TECHNICAL PERSONNEL.—Section 621(d) of the Department of Energy Organization Act (42 U.S.C. 7231(d)) is amended by striking ''two hundred'' and inserting ''250''.

(e) FUNDING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, on October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary for the cost of loans to carry out this section $200,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

TITLE II—PROMOTING ELECTRIC VEHICLES

SEC. 2001. DEFINITIONS.

In this title:

(1) AGENCY.—The term ''agency'' has the meaning given the term ''Executive agency'' in section 105 of title 5, United States Code.

(2) CHARGING INFRASTRUCTURE.—The term ''charging infrastructure'' means any property (not including a building) if the property is used for the recharging of plug-in electric drive vehicles, including electrical panel upgrades, wiring, conduit, trenching, pedestals, and related equipment.

(3) COMMITTEE.—The term ''Committee'' means the Plug-in Electric Drive Vehicle Technical Advisory Committee established by section 2034.

(4) DEPLOYMENT COMMUNITY.—The term ''deployment community'' means a community selected by the Secretary to be part of the targeted plug-in electric drive vehicles deployment communities program under section 2016.

(5) ELECTRIC UTILITY.—The term ''electric utility'' has the meaning given the term in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(6) FEDERAL-AID SYSTEM OF HIGHWAYS.—The term ''Federal-aid system of highways'' means a highway system described in section 103 of title 23, United States Code.

(7) PLUG-IN ELECTRIC DRIVE VEHICLE.—

(A) IN GENERAL.—The term ''plug-in electric drive vehicle'' has the meaning given the term in section 131(a)(5) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011(a)(5)).

(B) INCLUSIONS.—The term ''plug-in electric drive vehicle'' includes—

(i) low speed plug-in electric drive vehicles that meet the Federal Motor Vehicle Safety Standards described in section 571.500 of title 49, Code of Federal Regulations (or successor regulations); and

(ii) any other electric drive motor vehicle that can be recharged from an external source of motive power and that is authorized to travel on the Federal-aid system of highways.

(8) PRIZE.—The term ''Prize'' means the Advanced Batteries for Tomorrow Prize established by section 2022.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) TASK FORCE.—The term ''Task Force'' means the Plug-in Electric Drive Vehicle Interagency Task Force established by section 2035.

Subtitle A—National Plug-in Electric Drive Vehicle Deployment Program.

SEC. 2011. NATIONAL PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT PROGRAM.

(a) IN GENERAL.—There is established within the Department of Energy a national plug-in electric drive vehicle deployment program for the purpose of assisting in the deployment of plug-in electric drive vehicles.

(b) GOALS.—The goals of the national program described in subsection (a) include—

(1) the reduction and displacement of petroleum use by accelerating the deployment of plug-in electric drive vehicles in the United States;

(2) the reduction of greenhouse gas emissions by accelerating the deployment of plug-in electric drive vehicles in the United States;

(3) the facilitation of the rapid deployment of plug-in electric drive vehicles;

(4) the achievement of significant market penetrations by plug-in electric drive vehicles nationally;

(5) the establishment of models for the rapid deployment of plug-in electric drive vehicles nationally, including models for the deployment of residential, private, and publicly available charging infrastructure;

(6) the increase of consumer knowledge and acceptance of plug-in electric drive vehicles;

(7) the encouragement of the innovation and investment necessary to achieve mass market deployment of plug-in electric drive vehicles;

(8) the facilitation of the integration of plug-in electric drive vehicles into electricity distribution systems and the larger electric grid while maintaining grid system performance and reliability;

(9) the provision of technical assistance to communities across the United States to prepare for plug-in electric drive vehicles; and

(10) the support of workforce training across the United States relating to plug-in electric drive vehicles.

(c) DUTIES.—In carrying out this subtitle, the Secretary shall—

(1) provide technical assistance to State, local, and tribal governments that want to create deployment programs for plug-in electric drive vehicles in the communities over which the governments have jurisdiction;

(2) perform national assessments of the potential deployment of plug-in electric drive vehicles under section 2012;

(3) synthesize and disseminate data from the deployment of plug-in electric drive vehicles;

(4) develop best practices for the successful deployment of plug-in electric drive vehicles;

(5) carry out workforce training under section 2014;

(6) establish the targeted plug-in electric drive vehicle deployment communities program under section 2016; and

(7) in conjunction with the Task Force, make recommendations to Congress and the President on methods to reduce the barriers to plug-in electric drive vehicle deployment.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the progress made in implementing the national program described in subsection (a) that includes—

(1) a description of the progress made by—

(A) the technical assistance program under section 2013; and

(B) the workforce training program under section 2014; and

(2) any updated recommendations of the Secretary for changes in Federal programs to promote the purposes of this subtitle.

(e) NATIONAL INFORMATION CLEARINGHOUSE.—The Secretary shall make available to the public, in a timely manner, information regarding—

(1) the cost, performance, usage data, and technical data regarding plug-in electric drive vehicles and associated infrastructure, including information from the deployment communities established under section 2016; and

(2) any other educational information that the Secretary determines to be appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out sections 2011 through 2013 $100,000,000 for the period of fiscal years 2011 through 2016.

SEC. 2012. NATIONAL ASSESSMENT AND PLAN.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall carry out a national assessment and develop a national plan for plug-in electric drive vehicle deployment that includes—

(1) an assessment of the maximum feasible deployment of plug-in electric drive vehicles by 2020 and 2030;

(2) the establishment of national goals for market penetration of plug-in electric drive vehicles by 2020 and 2030;

(3) a plan for integrating the successes and barriers to deployment identified by the deployment communities program established under section 2016 to prepare communities across the Nation for the rapid deployment of plug-in electric drive vehicles;

(4) a plan for providing technical assistance to communities across the United States to prepare for plug-in electric drive vehicle deployment;

(5) a plan for quantifying the reduction in petroleum consumption and the net impact on greenhouse gas emissions due to the deployment of plug-in electric drive vehicles; and

(6) in consultation with the Task Force, any recommendations to the President and to Congress for changes in Federal programs (including laws, regulations, and guidelines)—

(A) to better promote the deployment of plug-in electric drive vehicles; and

(B) to reduce barriers to the deployment of plug-in electric drive vehicles.

(b) UPDATES.—Not later than 2 years after the date of development of the plan described in subsection (a), and not less frequently than once every 2 years thereafter, the Secretary shall use market data and information from the targeted plug-in electric drive vehicle deployment communities program established under section 2016 and other relevant data to update the plan to reflect real world market conditions.

SEC. 2013. TECHNICAL ASSISTANCE.

(a) TECHNICAL ASSISTANCE TO STATE, LOCAL, AND TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—In carrying out this subtitle, the Secretary shall provide, at the request of the Governor, Mayor, county executive, or the designee of such an official, technical assistance to State, local, and tribal governments to assist with the deployment of plug-in electric drive vehicles.

(2) REQUIREMENTS.—The technical assistance described in paragraph (1) shall include—

(A) training on codes and standards for building and safety inspectors;

(B) training on best practices for expediting permits and inspections;

(C) education and outreach on frequently asked questions relating to the various types of plug-in electric drive vehicles and associated infrastructure, battery technology, and disposal; and

(D) the dissemination of information regarding best practices for the deployment of plug-in electric drive vehicles.

(3) PRIORITY.—In providing technical assistance under this subsection, the Secretary shall give priority to—

(A) communities that have established public and private partnerships, including partnerships comprised of—

(i) elected and appointed officials from each of the participating State, local, and tribal governments;

(ii) relevant generators and distributors of electricity;

(iii) public utility commissions;

(iv) departments of public works and transportation;

(v) owners and operators of property that will be essential to the deployment of a sufficient level of publicly available charging infrastructure (including privately owned parking lots or structures and commercial entities with public access locations);

(vi) plug-in electric drive vehicle manufacturers or retailers;

(vii) third-party providers of charging infrastructure or services;

(viii) owners of any major fleet that will participate in the program;

(ix) as appropriate, owners and operators of regional electric power distribution and transmission facilities; and

(x) other existing community coalitions recognized by the Department of Energy;

(B) communities that, as determined by the Secretary, have best demonstrated that the public is likely to embrace plug-in electric drive vehicles, giving particular consideration to communities that—

(i) have documented waiting lists to purchase plug-in electric drive vehicles;

(ii) have developed projections of the quantity of plug-in electric drive vehicles supplied to dealers; and

(iii) have assessed the quantity of charging infrastructure installed or for which permits have been issued;

(C) communities that have shown a commitment to serving diverse consumer charging infrastructure needs, including the charging infrastructure needs for single- and multi-family housing and public and privately owned commercial infrastructure; and

(D) communities that have established regulatory and educational efforts to facilitate consumer acceptance of plug-in electric drive vehicles, including by—

(i) adopting (or being in the process of adopting) streamlined permitting and inspections processes for residential charging infrastructure; and

(ii) providing customer informational resources, including providing plug-in electric drive information on community or other websites.

(4) BEST PRACTICES.—The Secretary shall collect and disseminate information to State, local, and tribal governments creating plans to deploy plug-in electric drive vehicles on best practices (including codes and standards) that uses data from—

(A) the program established by section 2016;

(B) the activities carried out by the Task Force; and

(C) existing academic and industry studies of the factors that contribute to the successful deployment of new technologies, particularly studies relating to alternative fueled vehicles.

(5) GRANTS.—

(A) IN GENERAL.—The Secretary shall establish a program to provide grants to State, local, and tribal governments or to partnerships of government and private entities to assist the governments and partnerships—

(i) in preparing a community deployment plan under section 2016; and

(ii) in preparing and implementing programs that support the deployment of plug-in electric drive vehicles.

(B) APPLICATION.—A State, local, or tribal government that seeks to receive a grant under this paragraph shall submit to the Secretary an application for the grant at such time, in such form, and containing such information as the Secretary may prescribe.

(C) USE OF FUNDS.—A State, local, or tribal government receiving a grant under this paragraph shall use the funds—

(i) to develop a community deployment plan that shall be submitted to the next available competition under section 2016; and

(ii) to carry out activities that encourage the deployment of plug-in electric drive vehicles including—

(I) planning for and installing charging infrastructure, particularly to develop and demonstrate diverse and cost-effective planning, installation, and operations options for deployment of single family and multifamily residential, workplace, and publicly available charging infrastructure;

(II) updating building, zoning, or parking codes and permitting or inspection processes;

(III) workforce training, including the training of permitting officials;

(IV) public education described in the proposed marketing plan;

(V) shifting State, local, or tribal government fleets to plug-in electric drive vehicles, at a rate in excess of the existing alternative fueled fleet vehicles acquisition requirements for Federal fleets under section 303(b)(1)(D) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)(D)); and

(VI) any other activities, as determined to be necessary by the Secretary.

(D) CRITERIA.—The Secretary shall develop and publish criteria for the selection of technical assistance grants, including requirements for the submission of applications under this paragraph.

(E) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph.

(b) UPDATING MODEL BUILDING CODES, PERMITTING AND INSPECTION PROCESSES, AND ZONING OR PARKING RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the American Society of Heating, Refrigerating and Air-Conditioning Engineers, the International Code Council, and any other organizations that the Secretary determines to be appropriate, shall develop and publish guidance for—

(A) model building codes for the inclusion of separate circuits for charging infrastructure, as appropriate, in new construction and major renovations of private residences, buildings, or other structures that could provide publicly available charging infrastructure;

(B) model construction permitting or inspection processes that allow for the expedited installation of charging infrastructure for purchasers of plug-in electric drive vehicles (including a permitting process that allows a vehicle purchaser to have charging infrastructure installed not later than 1 week after a request); and

(C) model zoning, parking rules, or other local ordinances that—

(i) facilitate the installation of publicly available charging infrastructure, including commercial entities that provide public access to infrastructure; and

(ii) allow for access to publicly available charging infrastructure.

(2) OPTIONAL ADOPTION.—An applicant for selection for technical assistance under this section or as a deployment community under section 2016 shall not be required to use the model building codes, permitting and inspection processes, or zoning, parking rules, or other ordinances included in the report under paragraph (1).

(3) SMART GRID INTEGRATION.—In developing the model codes or ordinances described in paragraph (1), the Secretary shall consider smart grid integration.

SEC. 2014. WORKFORCE TRAINING.

(a) MAINTENANCE AND SUPPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee and the Task Force, shall award grants to institutions of higher education and other qualified training and education institutions for the establishment of programs to provide training and education for vocational workforce development through centers of excellence.

(2) PURPOSE.—Training funded under this subsection shall be intended to ensure that the workforce has the necessary skills needed to work on and maintain plug-in electric drive vehicles and the infrastructure required to support plug-in electric drive vehicles.

(3) SCOPE.—Training funded under this subsection shall include training for—

(A) first responders;

(B) electricians and contractors who will be installing infrastructure;
(C) engineers;
(D) code inspection officials; and
(E) dealers and mechanics.
(b) DESIGN.—The Secretary shall award grants to institutions of higher education and other qualified training and education institutions for the establishment of programs to provide training and education in designing plug-in electric drive vehicles and associated components and infrastructure to ensure that the United States can lead the world in this field.
(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $150,000,000.

SEC. 2015. FEDERAL FLEETS.

(a) IN GENERAL.—Electricity consumed by Federal agencies to fuel plug-in electric drive vehicles—
(1) is an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13218)); and
(2) shall be accounted for under Federal fleet management reporting requirements, not under Federal building management reporting requirements.
(b) ASSESSMENT AND REPORT.—Not later than 180 days after the date of enactment of this Act and every 3 years thereafter, the Federal Energy Management Program and the General Services Administration, in consultation with the Task Force, shall complete an assessment of Federal Government fleets, including the Postal Service and the Department of Defense, and submit a report to Congress that describes—
(1) for each Federal agency, which types of vehicles the agency uses that would or would not be suitable for near-term and medium-term conversion to plug-in electric drive vehicles, taking into account the types of vehicles for which plug-in electric drive vehicles could provide comparable functionality and lifecycle costs;
(2) how many plug-in electric drive vehicles could be deployed by the Federal Government in 5 years and in 10 years, assuming that plug-in electric drive vehicles are available and are purchased when new vehicles are needed or existing vehicles are replaced;
(3) the estimated cost to the Federal Government for vehicle purchases under paragraph (2); and
(4) a description of any updates to the assessment based on new market data.
(c) INVENTORY AND DATA COLLECTION.—
(1) IN GENERAL.—In carrying out the assessment and report under subsection (b), the Federal Energy Management Program, in consultation with the General Services Administration, shall—
(A) develop an information request for each agency that operates a fleet of at least 20 motor vehicles; and
(B) establish guidelines for each agency to use in developing a plan to deploy plug-in electric drive vehicles.
(2) AGENCY RESPONSES.—Each agency that operates a fleet of at least 20 motor vehicles shall—
(A) collect information on the vehicle fleet of the agency in response to the information request described in paragraph (1); and
(B) develop a plan to deploy plug-in electric drive vehicles.
(3) ANALYSIS OF RESPONSES.—The Federal Energy Management Program shall—
(A) analyze the information submitted by each agency under paragraph (2);
(B) approve or suggest amendments to the plan of each agency to ensure that the plan is consistent with the goals and requirements of this title; and
(C) submit a plan to Congress and the General Services Administration to be used in developing the pilot program described in subsection (e).
(d) BUDGET REQUEST.—Each agency of the Federal Government shall include plug-in electric drive vehicle purchases identified in the report under subsection (b) in the budget of the agency to be included in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.
(e) PILOT PROGRAM TO DEPLOY PLUG-IN ELECTRIC DRIVE VEHICLES IN THE FEDERAL FLEET.—
(1) PROGRAM.—
(A) IN GENERAL.—The Administrator of General Services shall acquire plug-in electric drive vehicles and the requisite charging infrastructure to be deployed in a range of locations in Federal Government fleets, which may include the United States Postal Service and the Department of Defense, during the 5-year period beginning on the date of enactment of this Act.
(B) EXPENDITURES.—To the maximum extent practicable, expenditures under this paragraph should make a contribution to the advancement of manufacturing of electric drive components and vehicles in the United States.
(2) DATA COLLECTION.—The Administrator of General Services shall collect data regarding—
(A) the cost, performance, and use of plug-in electric drive vehicles in the Federal fleet;
(B) the deployment and integration of plug-in electric drive vehicles in the Federal fleet; and
(C) the contribution of plug-in electric drive vehicles in the Federal fleet toward reducing the use of fossil fuels and greenhouse gas emissions.
(3) REPORT.—Not later than 6 years after the date of enactment of this Act, the Administrator of General Services shall submit to the appropriate committees of Congress a report that—
(A) describes the status of plug-in electric drive vehicles in the Federal fleet; and
(B) includes an analysis of the data collected under this subsection.
(4) PUBLIC WEB SITE.—The Federal Energy Management Program shall maintain and regularly update a publicly available Web site that provides information on the status of plug-in electric drive vehicles in the Federal fleet.
(f) ACQUISITION PRIORITY.—Section 507(g) of the Energy Policy Act of 1992 (42 U.S.C. 13257(g)) is amended by adding at the end the following:
''(5) PRIORITY.—The Secretary shall, to the maximum extent practicable, prioritize the acquisition of plug-in electric drive vehicles (as defined in section 131(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011(a)) over nonelectric alternative fueled vehicles.''.
(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for use by the Federal Government in paying incremental costs to purchase or lease plug-in electric drive vehicles and the requisite charging infrastructure for Federal fleets $25,000,000.

SEC. 2016. TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT COMMUNITIES PROGRAM.

(a) ESTABLISHMENT.—
(1) IN GENERAL.—There is established within the national plug-in electric drive deployment program established under section 2011 a targeted plug-in electric drive vehicle deployment communities program (referred to in this section as the ''Program'').
(2) EXISTING ACTIVITIES.—In carrying out the Program, the Secretary shall coordinate and supplement, not supplant, any ongoing plug-in electric drive deployment activities under section 131 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011).
(3) PHASE 1.—
(A) IN GENERAL.—The Secretary shall establish a competitive process to select phase 1 deployment communities for the Program.
(B) ELIGIBLE ENTITIES.—In selecting participants for the Program under paragraph (1), the Secretary shall only consider applications submitted by State, tribal, or local government entities (or groups of State, tribal, or local government entities).
(C) SELECTION.—Not later than 1 year after the date of enactment of this Act and not later than 1 year after the date on which any subsequent amounts are appropriated for the Program, the Secretary shall select the phase 1 deployment communities under this paragraph.
(D) TERMINATION.—Phase 1 of the Program shall be carried out for a 3-year period beginning on the date funding under this title is first provided to the deployment community.
(4) PHASE 2.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that analyzes the lessons learned in phase I and, if, based on the phase I analysis, the Secretary determines that a phase II program is warranted, makes recommendations and describes a plan for phase II, including—
(A) recommendations regarding—
(i) options for the number of additional deployment communities that should be selected;
(ii) the manner in which criteria for selection should be updated;
(iii) the manner in which incentive structures for phase 2 deployment should be changed; and
(iv) whether other forms of onboard energy storage for electric drive vehicles, such as fuel cells, should be included in phase 2; and
(B) a request for appropriations to implement phase 2 of the Program.

(b) GOALS.—The goals of the Program are—
(1) to facilitate the rapid deployment of plug-in electric drive vehicles, including—
(A) the deployment of 400,000 plug-in electric drive vehicles in phase 1 in the deployment communities selected under paragraph (2);
(B) the near-term achievement of significant market penetration in deployment communities; and
(C) supporting the achievement of significant market penetration nationally;
(2) to establish models for the rapid deployment of plug-in electric drive vehicles nationally, including for the deployment of single-family and multifamily residential, workplace, and publicly available charging infrastructure;
(3) to increase consumer knowledge and acceptance of, and exposure to, plug-in electric drive vehicles;
(4) to encourage the innovation and investment necessary to achieve mass market deployment of plug-in electric drive vehicles;
(5) to demonstrate the integration of plug-in electric drive vehicles into electricity distribution systems and the larger electric grid while maintaining or improving grid system performance and reliability;
(6) to demonstrate protocols and communication standards that facilitate vehicle integration into the grid and provide seamless charging for consumers traveling through multiple utility distribution systems;
(7) to investigate differences among deployment communities and to develop best practices for implementing vehicle electrification in various communities, including best practices for planning for and facilitating the construction of residential, workplace, and publicly available infrastructure to support plug-in electric drive vehicles;

(8) to collect comprehensive data on the purchase and use of plug-in electric drive vehicles, including charging profile data at unit and aggregate levels, to inform best practices for rapidly deploying plug-in electric drive vehicles in other locations, including for the installation of charging infrastructure;

(9) to reduce and displace petroleum use and reduce greenhouse gas emissions by accelerating the deployment of plug-in electric drive vehicles in the United States; and

(10) to increase domestic manufacturing capacity and commercialization in a manner that will establish the United States as a world leader in plug-in electric drive vehicle technologies.

(c) PHASE 1 DEPLOYMENT COMMUNITY SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that selected deployment communities in phase 1 serve as models of deployment for various communities across the United States.

(2) SELECTION.—In selecting communities under this section, the Secretary—

(A) shall ensure, to the maximum extent practicable, that—

(i) the combination of selected communities is diverse in population density, demographics, urban and suburban composition, typical commuting patterns, climate, and type of utility (including investor-owned, publicly-owned, cooperatively-owned, distribution-only, and vertically integrated utilities);

(ii) the combination of selected communities is diverse in geographic distribution, and at least 1 deployment community is located in each Petroleum Administration for Defense District;

(iii) at least 1 community selected has a population of less than 125,000;

(iv) grants are of a sufficient amount such that each deployment community will achieve significant market penetration; and

(v) the deployment communities are representative of other communities across the United States;

(B) is encouraged to select a combination of deployment communities that includes multiple models or approaches for deploying plug-in electric drive vehicles that the Secretary believes are reasonably likely to be effective, including multiple approaches to the deployment of charging infrastructure;

(C) in addition to the criteria described in subparagraph (A), may give preference to applicants proposing a greater non-Federal cost share; and

(D) when considering deployment community plans, shall take into account previous Department of Energy and other Federal investments to ensure that the maximum domestic benefit from Federal investments is realized.

(3) CRITERIA.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and not later than 90 days after the date on which any subsequent amounts are appropriated for the Program, the Secretary shall publish criteria for the selection of deployment communities that include requirements that applications be submitted by a State, tribal, or local government entity (or groups of State, tribal, or local government entities).

(B) APPLICATION REQUIREMENTS.—The criteria published by the Secretary under subparagraph (A) shall include application requirements that, at a minimum, include—

(i) goals for—

(I) the number of plug-in electric drive vehicles to be deployed in the community;

(II) the expected percentage of light-duty vehicle sales that would be sales of plug-in electric drive vehicles; and

(III) the adoption of plug-in electric drive vehicles (including medium- or heavy-duty vehicles) in private and public fleets during the 3-year duration of the Program;

(ii) data that demonstrate that—

(I) the public is likely to embrace plug-in electric drive vehicles, which may include—

(aa) the quantity of plug-in electric drive vehicles purchased;

(bb) the number of individuals on a waiting list to purchase a plug-in electric drive vehicle;

(cc) projections of the quantity of plug-in electric drive vehicles supplied to dealers; and

(dd) any assessment of the quantity of charging infrastructure installed or for which permits have been issued; and

(II) automobile manufacturers and dealers will be able to provide and service the targeted number of plug-in electric drive vehicles in the community for the duration of the program;

(iii) clearly defined geographic boundaries of the proposed deployment area;

(iv) a community deployment plan for the deployment of plug-in electric drive vehicles, charging infrastructure, and services in the deployment community;

(v) assurances that a majority of the vehicle deployments anticipated in the plan will be personal vehicles authorized to travel on the United States Federal-aid system of highways, and secondarily, private or public sector plug-in electric drive fleet vehicles, but may also include—

(I) medium- and heavy-duty plug-in hybrid vehicles;

(II) low speed plug-in electric drive vehicles that meet Federal Motor Vehicle Safety Standards described in section 571.500 of title 49, Code of Federal Regulations; and

(III) any other plug-in electric drive vehicle authorized to travel on the United States Federal-aid system of highways; and

(vi) any other merit-based criteria, as determined by the Secretary.

(4) COMMUNITY DEPLOYMENT PLANS.—Plans for the deployment of plug-in electric drive vehicles shall include—

(A) a proposed level of cost sharing in accordance with subsection (d)(2)(C);

(B) documentation demonstrating a substantial partnership with relevant stakeholders, including—

(i) a list of stakeholders that includes—

(I) elected and appointed officials from each of the participating State, local, and tribal governments;

(II) all relevant generators and distributors of electricity;

(III) State utility regulatory authorities;

(IV) departments of public works and transportation;

(V) owners and operators of property that will be essential to the deployment of a sufficient level of publicly available charging infrastructure (including privately owned parking lots or structures and commercial entities with public access locations);

(VI) plug-in electric drive vehicle manufacturers or retailers;

(VII) third-party providers of residential, workplace, private, and publicly available charging infrastructure or services;

(VIII) owners of any major fleet that will participate in the program;

(IX) as appropriate, owners and operators of regional electric power distribution and transmission facilities; and

(X) as appropriate, other existing community coalitions recognized by the Department of Energy;

(ii) evidence of the commitment of the stakeholders to participate in the partnership;

(iii) a clear description of the role and responsibilities of each stakeholder; and

(iv) a plan for continuing the engagement and participation of the stakeholders, as appropriate, throughout the implementation of the deployment plan;

(C) a description of the number of plug-in electric drive vehicles anticipated to be plug-in electric drive personal vehicles and the number of plug-in electric drive vehicles anticipated to be privately owned fleet or public fleet vehicles;

(D) a plan for deploying residential, workplace, private, and publicly available charging infrastructure, including—

(i) an assessment of the number of consumers who will have access to private residential charging infrastructure in single-family or multifamily residences;

(ii) options for accommodating plug-in electric drive vehicle owners who are not able to charge vehicles at their place of residence;

(iii) an assessment of the number of consumers who will have access to workplace charging infrastructure;

(iv) a plan for ensuring that the charging infrastructure or plug-in electric drive vehicle be able to send and receive the information needed to interact with the grid and be compatible with smart grid technologies to the extent feasible;

(v) an estimate of the number and dispersion of publicly and privately owned charging stations that will be publicly or commercially available;

(vi) an estimate of the quantity of charging infrastructure that will be privately funded or located on private property; and

(vii) a description of equipment to be deployed, including assurances that, to the maximum extent practicable, equipment to be deployed will meet open, nonproprietary standards for connecting to plug-in electric drive vehicles that are either—

(I) commonly accepted by industry at the time the equipment is being acquired; or

(II) meet the standards developed by the Director of the National Institute of Standards and Technology under section 1305 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17385);

(E) a plan for effective marketing of and consumer education relating to plug-in electric drive vehicles, charging services, and infrastructure;

(F) descriptions of updated building codes (or a plan to update building codes before or during the grant period) to include charging infrastructure or dedicated circuits for charging infrastructure, as appropriate, in new construction and major renovations;

(G) descriptions of updated construction permitting or inspection processes (or a plan to update construction permitting or inspection processes) to allow for expedited installation of charging infrastructure for purchasers of plug-in electric drive vehicles, including a permitting process that allows a vehicle purchaser to have charging infrastructure installed in a timely manner;

(H) descriptions of updated zoning, parking rules, or other local ordinances as are necessary to facilitate the installation of publicly available charging infrastructure and to allow for access to publicly available charging infrastructure, as appropriate;

(I) a plan to ensure that each resident in a deployment community who purchases and registers a new plug-in electric drive vehicle throughout the duration of the deployment community receives, in addition to any Federal incentives, consumer benefits that may include—

(i) a rebate of part of the purchase price of the vehicle;

(ii) reductions in sales taxes or registration fees;

(iii) rebates or reductions in the costs of permitting, purchasing, or installing home plug-in electric drive vehicle charging infrastructure; and

(iv) rebates or reductions in State or local toll road access charges;

(J) additional consumer benefits, such as preferred parking spaces or single-rider access to high-occupancy vehicle lanes for plug-in electric drive vehicles;

(K) a proposed plan for making necessary utility and grid upgrades, including economically sound and cybersecure information technology upgrades and employee training, and a plan for recovering the cost of the upgrades;

(L) a description of utility, grid operator, or third-party charging service provider, policies and plans for accommodating the deployment of plug-in electric drive vehicles, including—

(i) rate structures or provisions and billing protocols for the charging of plug-in electric drive vehicles;

(ii) analysis of potential impacts to the grid;

(iii) plans for using information technology or third-party aggregators—

(I) to minimize the effects of charging on peak loads;

(II) to enhance reliability; and

(III) to provide other grid benefits;

(iv) plans for working with smart grid technologies or third-party aggregators for the purposes of smart charging and for allowing 2-way communication;

(M) a deployment timeline;

(N) a plan for monitoring and evaluating the implementation of the plan, including metrics for assessing the success of the deployment and an approach to updating the plan, as appropriate; and

(O) a description of the manner in which any grant funds applied for under subsection (d) will be used and the proposed local cost share for the funds.

(d) PHASE 1 APPLICATIONS AND GRANTS.—

(1) APPLICATIONS.—

(A) IN GENERAL.—Not later than 150 days after the date of publication by the Secretary of selection criteria described in subsection (c)(3), any State, tribal, or local government, or group of State, tribal, or local governments may apply to the Secretary to become a deployment community.

(B) JOINT SPONSORSHIP.—

(i) IN GENERAL.—An application submitted under subparagraph (A) may be jointly sponsored by electric utilities, automobile manufacturers, technology providers, carsharing companies or organizations, third-party plug-in electric drive vehicle service providers, or other appropriated entities.

(ii) DISBURSEMENT OF GRANTS.—A grant provided under this subsection shall only be disbursed to a State, tribal, or local government, or group of State, tribal, or local governments, regardless of whether the application is jointly sponsored under clause (i).

(2) GRANTS.—

(A) IN GENERAL.—In each application, the applicant may request up to $100,000,000 in financial assistance from the Secretary to fund projects in the deployment community.

(B) USE OF FUNDS.—Funds provided through a grant under this paragraph may be used to help implement the plan for the deployment of plug-in electric drive vehicles included in the application, including—

(i) planning for and installing charging infrastructure, including offering additional incentives as described in subsection (c)(4)(I);

(ii) updating building codes, zoning or parking rules, or permitting or inspection processes as described in subparagraphs (F), (G), and (H) of subsection (c)(4);

(iii) reducing the cost and increasing the consumer adoption of plug-in electric drive vehicles through incentives as described in subsection (c)(4)(I);

(iv) workforce training, including training of permitting officials;

(v) public education and marketing described in the proposed marketing plan;

(vi) shifting State, tribal, or local government fleets to plug-in electric drive vehicles, at a rate in excess of the existing alternative fueled fleet vehicle acquisition requirements for Federal fleets under section 303(b)(1)(D) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(1)(D)); and

(vii) necessary utility and grid upgrades as described in subsection (c)(4)(K).

(C) COST-SHARING.—

(i) IN GENERAL.—A grant provided under this paragraph shall be subject to a minimum non-Federal cost-sharing requirement of 20 percent.

(ii) NON-FEDERAL SOURCES.—The Secretary shall—

(I) determine the appropriate cost share for each selected applicant; and

(II) require that the Federal contribution to total expenditures on activities described in clauses (ii), (iv), (v), and (vi) of subparagraph (B) not exceed 30 percent.

(iii) REDUCTION.—The Secretary may reduce or eliminate the cost-sharing requirement described in clause (i), as the Secretary determines to be necessary.

(iv) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal share under this section, the Secretary—

(I) may include allowable costs in accordance with the applicable cost principles, including—

(aa) cash;

(bb) personnel costs;

(cc) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(dd) indirect costs or facilities and administrative costs; or

(ee) any funds received under the power program of the Tennessee Valley Authority or any Power Marketing Administration (except to the extent that such funds are made available under an annual appropriation Act);

(II) shall include contributions made by State, tribal, or local government entities and private entities; and

(III) shall not include—

(aa) revenues or royalties from the prospective operation of an activity beyond the time considered in the grant;

(bb) proceeds from the prospective sale of an asset of an activity; or

(cc) other appropriated Federal funds.

(v) REPAYMENT OF FEDERAL SHARE.—The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of providing a grant.

(vi) TITLE TO PROPERTY.—The Secretary may vest title or other property interests acquired under projects funded under this title in any entity, including the United States.

(3) SELECTION.—Not later than 120 days after an application deadline has been established under paragraph (1), the Secretary shall announce the names of the deployment communities selected under this subsection.

(e) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall—

(A) determine what data will be required to be collected by participants in deployment communities and submitted to the Department to allow for analysis of the deployment communities;

(B) provide for the protection of consumer privacy, as appropriate; and

(C) develop metrics to evaluate the performance of the deployment communities.

(2) PROVISION OF DATA.—As a condition of participation in the Program, a deployment community shall provide any data identified by the Secretary under paragraph (1).

(3) REPORTS.—Not later than 3 years after the date of enactment of this Act and again after the completion of the Program, the Secretary shall submit to Congress a report that contains—

(A) a description of the status of—

(i) the deployment communities and the implementation of the deployment plan of each deployment community;

(ii) the rate of vehicle deployment and market penetration of plug-in electric drive vehicles; and

(iii) the deployment of residential and publicly available infrastructure;

(B) a description of the challenges experienced and lessons learned from the program to date, including the activities described in subparagraph (A); and

(C) an analysis of the data collected under this subsection.

(f) PROPRIETARY INFORMATION.—The Secretary shall, as appropriate, provide for the protection of proprietary information and intellectual property rights.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000,000.

(h) CONFORMING AMENDMENT.—Section 166(b)(5) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking ''Before September 30, 2009, the State'' and inserting ''The State''; and

(2) in subparagraph (B), by striking ''Before September 30, 2009, the State'' and inserting ''The State''.

SEC. 2017. FUNDING.

(a) TARGETED PLUG-IN ELECTRIC DRIVE VEHICLE DEPLOYMENT COMMUNITIES PROGRAM.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out section 2016 $400,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out section 2016 the funds transferred under paragraph (1), without further appropriation.

(b) OTHER PROVISIONS.—

(1) IN GENERAL.—On October 1, 2010, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subtitle (other than section 2016) $100,000,000, to remain available until expended.

(2) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subtitle (other than section 2016) the funds transferred under paragraph (1), without further appropriation.

Subtitle B—Research and Development

SEC. 2021. RESEARCH AND DEVELOPMENT PROGRAM.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall establish a program to fund research and development in advanced batteries, plug-in electric drive vehicle components, plug-in electric drive infrastructure, and other technologies

supporting the development, manufacture, and deployment of plug-in electric drive vehicles and charging infrastructure.

(2) USE OF FUNDS.—The program may include funding for—

(A) the development of low-cost, smart-charging and vehicle-to-grid connectivity technology;

(B) the benchmarking and assessment of open software systems using nationally established evaluation criteria; and

(C) new technologies in electricity storage or electric drive components for vehicles.

(3) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the status of the program described in paragraph (1).

(b) SECONDARY USE APPLICATIONS PROGRAM.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall carry out a research, development, and demonstration program that builds upon any work carried out under section 915 of the Energy Policy Act of 2005 (42 U.S.C. 16195) and—

(A) identifies possible uses of a vehicle battery after the useful life of the battery in a vehicle has been exhausted;

(B) assesses the potential for markets for uses described in subparagraph (A) to develop, as well as any barriers to the development of the markets;

(C) identifies the infrastructure, technology, and equipment needed to manage the charging activity of the batteries used in stationary sources; and

(D) identifies the potential uses of a vehicle battery—

(i) with the most promise for market development; and

(ii) for which market development would be aided by a demonstration project.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress an initial report on the findings of the program described in paragraph (1), including recommendations for stationary energy storage and other potential applications for batteries used in plug-in electric drive vehicles.

(c) SECONDARY USE DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Based on the results of the program described in subsection (b), the Secretary, in consultation with the Committee, shall develop guidelines for projects that demonstrate the secondary uses of vehicle batteries.

(2) PUBLICATION OF GUIDELINES.—Not later than 30 months after the date of enactment of this Act, the Secretary shall—

(A) publish the guidelines described in paragraph (1); and

(B) solicit applications for funding for demonstration projects.

(3) GRANT PROGRAM.—Not later than 38 months after the date of enactment of this Act, the Secretary shall select proposals for grant funding under this section, based on an assessment of which proposals are mostly likely to contribute to the development of a secondary market for batteries.

(d) MATERIALS RECYCLING STUDY.—

(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall carry out a study on the recycling of materials from plug-in electric drive vehicles and the batteries used in plug-in electric drive vehicles.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report on the findings of the study described in paragraph (1).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,535,000,000, including—

(1) $1,500,000,000 for use in conducting the program described in subsection (a) for fiscal years 2011 through 2020;

(2) $5,000,000 for use in conducting the program described in subsection (b) for fiscal years 2011 through 2016;

(3) $25,000,000 for use in providing grants described in subsection (c) for fiscal years 2011 through 2020; and

(4) $5,000,000 for use in conducting the study described in subsection (d) for fiscal years 2011 through 2013.

SEC. 2022. ADVANCED BATTERIES FOR TOMORROW PRIZE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, as part of the program described in section 1008 of the Energy Policy Act of 2005 (42 U.S.C. 16396), the Secretary shall establish the Advanced Batteries for Tomorrow Prize to competitively award cash prizes in accordance with this section to advance the research, development, demonstration, and commercial application of a 500-mile vehicle battery.

(b) BATTERY SPECIFICATIONS.—

(1) IN GENERAL.—To be eligible for the Prize, a battery submitted by an entrant shall be—

(A) able to power a plug-in electric drive vehicle authorized to travel on the United States Federal-aid system of highways for at least 500 miles before recharging;

(B) of a size that would not be cost-prohibitive or create space constraints, if mass-produced; and

(C) cost-effective (measured in cost per kilowatt hour), if mass-produced.

(2) ADDITIONAL REQUIREMENTS.—The Secretary, in consultation with the Committee, shall establish any additional battery specifications that the Secretary and the Committee determine to be necessary.

(c) PRIVATE FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding section 3302 of title 31, United States Code, the Secretary may accept, retain, and use funds contributed by any person, government entity, or organization for purposes of carrying out this subsection—

(A) without further appropriation; and

(B) without fiscal year limitation.

(2) RESTRICTION ON PARTICIPATION.—An entity providing private funds for the Prize may not participate in the competition for the Prize.

(d) TECHNICAL REVIEW.—The Secretary, in consultation with the Committee, shall establish a technical review committee composed of non-Federal officers to review data submitted by Prize entrants under this section and determine whether the data meets the prize specifications described in subsection (b).

(e) THIRD PARTY ADMINISTRATION.—The Secretary may select, on a competitive basis, a third party to administer awards provided under this section.

(f) ELIGIBILITY.—To be eligible for an award under this section—

(1) in the case of a private entity, the entity shall be incorporated in and maintain a primary place of business in the United States; and

(2) in the case of an individual (whether participating as a single individual or in a group), the individual shall be a citizen or lawful permanent resident of the United States.

(g) AWARD AMOUNTS.—

(1) IN GENERAL.—Subject to the availability of funds to carry out this section, the amount of the Prize shall be $10,000,000.

(2) BREAKTHROUGH ACHIEVEMENT AWARDS.—In addition to the award described in paragraph (1), the Secretary, in consultation with the technical review committee established under subsection (d), may award cash prizes, in amounts determined by the Secretary, in recognition of breakthrough achievements in research, development, demonstration, and commercial application of—

(A) activities described in subsection (b); or

(B) advances in battery durability, energy density, and power density.

(h) 500-MILE BATTERY AWARD FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''500-mile Battery Fund'' (referred to in this section as the ''Fund''), to be administered by the Secretary, to be available without fiscal year limitation and subject to appropriation, to award amounts under this section.

(2) TRANSFERS TO FUND.—The Fund shall consist of—

(A) such amounts as are appropriated to the Fund under subsection (i); and

(B) such amounts as are described in subsection (c) and that are provided for the Fund.

(3) PROHIBITION.—Amounts in the Fund may not be made available for any purpose other than a purposes described in subsection (a).

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2012, the Secretary shall submit a report on the operation of the Fund during the fiscal year to—

(i) the Committees on Appropriations of the House of Representatives and of the Senate;

(ii) the Committee on Energy and Natural Resources of the Senate; and

(iii) the Committee on Energy and Commerce of the House of Representatives.

(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

(i) A statement of the amounts deposited into the Fund.

(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.

(5) SEPARATE APPROPRIATIONS ACCOUNT.—Section 1105(a) of title 31, United States Code, is amended—

(A) by redesignating paragraphs (35) and (36) as paragraphs (36) and (37), respectively;

(B) by redesignating the second paragraph (33) (relating to obligational authority and outlays requested for homeland security) as paragraph (35); and

(C) by adding at the end the following:

''(38) a separate statement for the 500-mile Battery Fund established under section 2022(h) of the Promoting Natural Gas and Electric Vehicles Act of 2010, which shall include the estimated amount of deposits into the Fund, obligations, and outlays from the Fund.''.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(1) $10,000,000 to carry out subsection (g)(1); and

(2) $1,000,000 to carry out subsection (g)(2).

SEC. 2023. STUDY ON THE SUPPLY OF RAW MATERIALS.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary and the Task Force, shall conduct a study that—

(1) identifies the raw materials needed for the manufacture of plug-in electric drive

vehicles, batteries, and other components for plug-in electric drive vehicles, and for the infrastructure needed to support plug-in electric drive vehicles;

(2) describes the primary or original sources and known reserves and resources of those raw materials;

(3) assesses, in consultation with the National Academy of Sciences, the degree of risk to the manufacture, maintenance, deployment, and use of plug-in electric drive vehicles associated with the supply of those raw materials; and

(4) identifies pathways to securing reliable and resilient supplies of those raw materials.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that describes the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 2024. STUDY ON THE COLLECTION AND PRESERVATION OF DATA COLLECTED FROM PLUG-IN ELECTRIC DRIVE VEHICLES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Committee, shall enter into an agreement with the National Academy of Sciences under which the Academy shall conduct a study that—

(1) identifies—

(A) the data that may be collected from plug-in electric drive vehicles, including data on the location, charging patterns, and usage of plug-in electric drive vehicles;

(B) the scientific, economic, commercial, security, and historic potential of the data described in subparagraph (A); and

(C) any laws or regulations that relate to the data described in subparagraph (A); and

(2) analyzes and provides recommendations on matters that include procedures, technologies, and rules relating to the collection, storage, and preservation of the data described in paragraph (1)(A).

(b) REPORT.—Not later than 15 months after the date of an agreement between the Secretary and the Academy under subsection (a), the National Academy of Sciences shall submit to the appropriate committees of Congress a report that describes the results of the study under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000.

Subtitle C—Miscellaneous

SEC. 2031. UTILITY PLANNING FOR PLUG-IN ELECTRIC DRIVE VEHICLES.

(a) IN GENERAL.—The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended—

(1) in section 111(d) (16 U.S.C. 2621(d)), by adding at the end the following:

''(20) PLUG-IN ELECTRIC DRIVE VEHICLE PLANNING.—

''(A) UTILITY PLAN FOR PLUG-IN ELECTRIC DRIVE VEHICLES.—

''(i) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, each electric utility shall develop a plan to support the use of plug-in electric drive vehicles, including medium- and heavy-duty hybrid electric vehicles in the service area of the electric utility.

''(ii) REQUIREMENTS.—A plan under clause (i) shall investigate—

''(I) various levels of potential penetration of plug-in electric drive vehicles in the utility service area;

''(II) the potential impacts that the various levels of penetration and charging scenarios (including charging rates and daily hours of charging) would have on generation, distribution infrastructure, and the operation of the transmission grid; and

''(III) the role of third parties in providing reliable and economical charging services.

''(iii) WAIVER.—

''(I) IN GENERAL.—An electric utility that determines that the electric utility will not be impacted by plug-in electric drive vehicles during the 5-year period beginning on the date of enactment of this paragraph may petition the Secretary to waive clause (i) for 5 years.

''(II) APPROVAL.—Approval of a waiver under subclause (I) shall be in the sole discretion of the Secretary.

''(iv) UPDATES.—

''(I) IN GENERAL.—Each electric utility shall update the plan of the electric utility every 5 years.

''(II) RESUBMISSION OF WAIVER.—An electric utility that received a waiver under clause (iii) and wants the waiver to continue after the expiration of the waiver shall be required to resubmit the waiver.

''(v) EXEMPTION.—If the Secretary determines that a plan required by a State regulatory authority meets the requirements of this paragraph, the Secretary may accept that plan and exempt the electric utility submitting the plan from the requirements of clause (i).

''(B) SUPPORT REQUIREMENTS.—Each State regulatory authority (in the case of each electric utility for which the authority has ratemaking authority) and each municipal and cooperative utility shall—

''(i) participate in any local plan for the deployment of recharging infrastructure in communities located in the footprint of the authority or utility;

''(ii) require that charging infrastructure deployed is interoperable with products of all auto manufacturers to the maximum extent practicable; and

''(iii) consider adopting minimum requirements for deployment of electrical charging infrastructure and other appropriate requirements necessary to support the use of plug-in electric drive vehicles.

''(C) COST RECOVERY.—Each State regulatory authority (in the case of each electric utility for which the authority has ratemaking authority) and each municipal and cooperative utility may consider whether, and to what extent, to allow cost recovery for plans and implementation of plans.

''(D) DETERMINATION.—Not later than 3 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), and each municipal and cooperative electric utility, shall complete the consideration, and shall make the determination, referred to in subsection (a) with respect to the standard established by this paragraph.'';

(2) in section 112(c) (16 U.S.C. 2622(c))—

(A) in the first sentence, by striking ''Each State'' and inserting the following:

''(1) IN GENERAL.—Each State'';

(B) in the second sentence, by striking ''In the case'' and inserting the following:

''(2) SPECIFIC STANDARDS.—

''(A) NET METERING AND FOSSIL FUEL GENERATION EFFICIENCY.—In the case'';

(C) in the third sentence, by striking ''In the case'' and inserting the following:

''(B) TIME-BASED METERING AND COMMUNICATIONS.—In the case'';

(D) in the fourth sentence—

(i) by striking ''In the case'' and inserting the following:

''(C) INTERCONNECTION.—In the case''; and

(ii) by striking ''paragraph (15)'' and inserting ''paragraph (15) of section 111(d)'';

(E) in the fifth sentence, by striking ''In the case'' and inserting the following:

''(D) INTEGRATED RESOURCE PLANNING, RATE DESIGN MODIFICATIONS, SMART GRID INVESTMENTS, SMART GRID INFORMATION.—In the case''; and

(F) by adding at the end the following:

''(E) PLUG-IN ELECTRIC DRIVE VEHICLE PLANNING.—In the case of the standards established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph.''; and

(3) in section 112(d) (16 U.S.C. 2622(d)), in the matter preceding paragraph (1), by striking ''(19)'' and inserting ''(20)''.

(b) REPORT.—

(1) IN GENERAL.—The Secretary, in consultation with the Technical Advisory Committee, shall convene a group of utility stakeholders, charging infrastructure providers, third party aggregators, and others, as appropriate, to discuss and determine the potential models for the technically and logistically challenging issues involved in using electricity as a fuel for vehicles, including—

(A) accommodation for billing for charging a plug-in electric drive vehicle, both at home and at publicly available charging infrastructure;

(B) plans for anticipating vehicle to grid applications that will allow batteries in cars as well as banks of batteries to be used for grid storage, ancillary services provision, and backup power;

(C) integration of plug-in electric drive vehicles with smart grid, including protocols and standards, necessary equipment, and information technology systems; and

(D) any other barriers to installing sufficient and appropriate charging infrastructure.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to the appropriate committees of Congress a report that includes—

(A) the issues and model solutions described in paragraph (1); and

(B) any other issues that the Task Force and Secretary determine to be appropriate.

SEC. 2032. LOAN GUARANTEES.

(a) LOAN GUARANTEES FOR ADVANCED BATTERY PURCHASES FOR USE IN STATIONARY APPLICATIONS.—Subtitle B of title I of the Energy Independence and Security Act of 2007 (42 U.S.C. 17011 et seq.) is amended by adding at the end the following:

''SEC. 137. LOAN GUARANTEES FOR ADVANCED BATTERY PURCHASES.

''(a) DEFINITIONS.—In this section:

''(1) QUALIFIED AUTOMOTIVE BATTERY.—The term 'qualified automotive battery' means a battery that—

''(A) has at least 4 kilowatt hours of battery capacity; and

''(B) is designed for use in qualified plug-in electric drive motor vehicles but is purchased for nonautomotive applications.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) an original equipment manufacturer;

''(B) an electric utility;

''(C) any provider of range extension infrastructure; or

''(D) any other qualified entity, as determined by the Secretary.

''(b) LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary shall guarantee loans made to eligible entities for the aggregate purchase of not less than 200 qualified automotive batteries in a calendar year that have a total minimum power rating of 1 megawatt and use advanced battery technology.

''(2) RESTRICTION.—As a condition of receiving a loan guarantee under this section, an entity purchasing qualified automotive batteries with loan funds guaranteed under this section shall comply with the provisions of the Buy American Act (41 U.S.C. 10a et seq.).

''(c) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000.''.

(b) LOAN GUARANTEES FOR CHARGING INFRASTRUCTURE.—Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Charging infrastructure and networks of charging infrastructure for plug-in drive electric vehicles, if the charging infrastructure will be operational prior to December 31, 2016.''.

SEC. 2033. PROHIBITION ON DISPOSING OF ADVANCED BATTERIES IN LANDFILLS.

(a) DEFINITION OF ADVANCED BATTERY.—

(1) IN GENERAL.—In this section, the term ''advanced battery'' means a battery that is a secondary (rechargeable) electrochemical energy storage device that has enhanced energy capacity.

(2) EXCLUSIONS.—The term ''advanced battery'' does not include—

(A) a primary (nonrechargeable) battery; or

(B) a lead-acid battery that is used to start or serve as the principal electrical power source for a plug-in electric drive vehicle.

(b) REQUIREMENT.—An advanced battery from a plug-in electric drive vehicle shall be disposed of in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the ''Resource Conservation and Recovery Act of 1976'').

SEC. 2034. PLUG-IN ELECTRIC DRIVE VEHICLE TECHNICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—There is established the Plug-in Electric Drive Vehicle Technical Advisory Committee to advise the Secretary on the programs and activities under this title.

(b) MISSION.—The mission of the Committee shall be to advise the Secretary on technical matters, including—

(1) the priorities for research and development;

(2) means of accelerating the deployment of safe, economical, and efficient plug-in electric drive vehicles for mass market adoption;

(3) the development and deployment of charging infrastructure;

(4) the development of uniform codes, standards, and safety protocols for plug-in electric drive vehicles and charging infrastructure; and

(5) reporting on the competitiveness of the United States in plug-in electric drive vehicle and infrastructure research, manufacturing, and deployment.

(c) MEMBERSHIP.—

(1) MEMBERS.—

(A) IN GENERAL.—The Committee shall consist of not less than 12, but not more than 25, members.

(B) REPRESENTATION.—The Secretary shall appoint the members to Committee from among representatives of—

(i) domestic industry;

(ii) institutions of higher education;

(iii) professional societies;

(iv) Federal, State, and local governmental agencies (including the National Laboratories); and

(v) financial, transportation, labor, environmental, electric utility, or other appropriate organizations or individuals with direct experience in deploying and marketing plug-in electric drive vehicles, as the Secretary determines to be necessary.

(2) TERMS.—

(A) IN GENERAL.—The term of a Committee member shall not be longer than 3 years.

(B) STAGGERED TERMS.—The Secretary may appoint members to the Committee for differing term lengths to ensure continuity in the functioning of the Committee.

(C) REAPPOINTMENTS.—A member of the Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Committee shall have a chairperson, who shall be elected by and from the members.

(d) REVIEW.—The Committee shall review and make recommendations to the Secretary on the implementation of programs and activities under this title.

(e) RESPONSE.—

(1) IN GENERAL.—The Secretary shall consider and may adopt any recommendation of the Committee under subsection (c).

(2) BIENNIAL REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report describing any new recommendations of the Committee.

(B) CONTENTS.—The report shall include—

(i) a description of the manner in which the Secretary has implemented or plans to implement the recommendations of the Committee; or

(ii) an explanation of the reason that a recommendation of the Committee has not been implemented.

(C) TIMING.—The report described in this paragraph shall be submitted by the Secretary at the same time the President submits the budget proposal for the Department of Energy to Congress.

(f) COORDINATION.—The Committee shall—

(1) hold joint annual meetings with the Hydrogen and Fuel Cell Technical Advisory Committee established by section 807 of the Energy Policy Act of 2005 (42 U.S.C. 16156) to help coordinate the work and recommendations of the Committees; and

(2) coordinate efforts, to the maximum extent practicable, with all existing independent, departmental, and other advisory Committees, as determined to be appropriate by the Secretary.

(g) SUPPORT.—The Secretary shall provide to the Committee the resources necessary to carry out this section, as determined to be necessary by the Secretary.

SEC. 2035. PLUG-IN ELECTRIC DRIVE VEHICLE INTERAGENCY TASK FORCE.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the President shall establish the Plug-in Electric Drive Vehicle Interagency Task Force, to be chaired by the Secretary and which shall consist of at least 1 representative from each of—

(1) the Office of Science and Technology Policy;

(2) the Council on Environmental Quality;

(3) the Department of Energy;

(4) the Department of Transportation;

(5) the Department of Defense;

(6) the Department of Commerce (including the National Institute of Standards and Technology);

(7) the Environmental Protection Agency;

(8) the General Services Administration; and

(9) any other Federal agencies that the President determines to be appropriate.

(b) MISSION.—The mission of the Task Force shall be to ensure awareness, coordination, and integration of the activities of the Federal Government relating to plug-in electric drive vehicles, including—

(1) plug-in electric drive vehicle research and development (including necessary components);

(2) the development of widely accepted smart-grid standards and protocols for charging infrastructure;

(3) the relationship of plug-in electric drive vehicle charging practices to electric utility regulation;

(4) the relationship of plug-in electric drive vehicle deployment to system reliability and security;

(5) the general deployment of plug-in electric drive vehicles in the Federal, State, and local governments and for private use;

(6) the development of uniform codes, standards, and safety protocols for plug-in electric drive vehicles and charging infrastructure; and

(7) the alignment of international plug-in electric drive vehicle standards.

(c) ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section, the Task Force may—

(A) organize workshops and conferences;

(B) issue publications; and

(C) create databases.

(2) MANDATORY ACTIVITIES.—In carrying out this section, the Task Force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and the Federal Government;

(B) integrate and disseminate technical and other information made available as a result of the programs and activities under this title;

(C) support education about plug-in electric drive vehicles;

(D) monitor, analyze, and report on the effects of plug-in electric drive vehicle deployment on the environment and public health, including air emissions from vehicles and electricity generating units; and

(E) review and report on—

(i) opportunities to use Federal programs (including laws, regulations, and guidelines) to promote the deployment of plug-in electric drive vehicles; and

(ii) any barriers to the deployment of plug-in electric drive vehicles, including barriers that are attributable to Federal programs (including laws, regulations, and guidelines).

(d) AGENCY COOPERATION.—A Federal agency—

(1) shall cooperate with the Task Force; and

(2) provide, on request of the Task Force, appropriate assistance in carrying out this section, in accordance with applicable Federal laws (including regulations).

TITLE III—OIL SPILL LIABILITY TRUST FUND

SEC. 3001. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.

(a) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) the Oil Spill Liability Trust Fund financing rate is 21 cents a barrel.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

By Mr. DURBIN (for himself, Mr. REID, Mr. SCHUMER, and Mr. DORGAN):

S. 3816. A bill to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas; read the first time.

Mr. DURBIN. 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. 3816

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 ''Creating American Jobs and Ending Offshoring Act''.

TITLE I—INCENTIVES TO CREATE AMERICAN JOBS

SEC. 101. PAYROLL TAX HOLIDAY FOR EMPLOYERS MOVING JOBS TO THE UNITED STATES FROM OVERSEAS.

(a) IN GENERAL.—Section 3111 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(e) SPECIAL EXEMPTION FOR CERTAIN INDIVIDUALS HIRED TO REPLACE EMPLOYEES WHOSE JOBS WERE OVERSEAS.—

''(1) IN GENERAL.—Subsection (a) shall not apply to wages paid by a qualified employer with respect to employment during the applicable 24-month period with respect to any qualified replacement individual for services performed—

''(A) in a trade or business of such qualified employer, or

''(B) in the case of a qualified employer exempt from tax under section 501(a), in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501.

''(2) QUALIFIED EMPLOYER.—For purposes of this subsection, the term 'qualified employer' has the meaning given such term by subsection (d)(2).

''(3) QUALIFIED REPLACEMENT INDIVIDUAL.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified replacement individual' means any individual—

''(i) who begins employment with a qualified employer after September 21, 2010, and before September 22, 2013,

''(ii) with respect to whom the qualified employer certifies that such individual has been employed by the qualified employer to replace another employee—

''(I) who was not a citizen or lawfully present resident of the United States, and

''(II) substantially all of whose services for the employer were performed outside of the United States,

''(iii) with respect to whom the qualified employer certifies that substantially all of the services the individual will perform for the employer will be performed within the United States, and

''(iv) who is not an individual described in section 51(i)(1) (applied by substituting qualified employer for taxpayer each place it appears).

For purposes of this paragraph, only 1 individual may be treated as a qualified replacement individual with respect to any employee described in clause (ii) being replaced by the qualified employer. Any certification under clause (ii) or (iii) shall be made by signed affidavit, under penalties of perjury.

''(B) EMPLOYER.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of subparagraph (A)(ii), except that section 1563(b)(2)(C) shall be disregarded in applying section 1563 for purposes of such section.

''(4) APPLICABLE 24-MONTH PERIOD.—For purposes of this subsection, the term 'applicable 24-month period' means, with respect to any qualified replacement individual of a qualified employer, the 24-month period beginning on the hiring date of such individual by the employer.

''(5) ELECTION.—A qualified employer may elect to have this subsection not apply. Such election shall be made in such manner as the Secretary may require.

''(6) SPECIAL RULE FOR THIRD CALENDAR QUARTER OF 2010.—

''(A) NONAPPLICATION OF EXEMPTION DURING THIRD QUARTER.—Paragraph (1) shall not apply with respect to wages paid during the third calendar quarter of 2010.

''(B) CREDITING OF FIRST QUARTER EXEMPTION DURING FOURTH QUARTER.—The amount by which the tax imposed under subsection (a) would (but for subparagraph (A)) have been reduced with respect to wages paid by a qualified employer during the third calendar quarter of 2010 shall be treated as a payment against the tax imposed under subsection (a) with respect to the qualified employer for the fourth calendar quarter of 2010 which is made on the date that such tax is due.

''(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations necessary to prevent the avoidance of such purposes through the transfer and retransfer of employees within and without the United States or otherwise.''.

(b) COORDINATION WITH WORK OPPORTUNITY CREDIT.—Section 51(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH PAYROLL TAX FORGIVENESS OF QUALIFIED REPLACEMENT INDIVIDUALS.—The term 'wages' shall not include any amount paid or incurred to a qualified replacement individual (as defined in section 3111(e)(3)) during the 2-year period beginning on the hiring date of such individual by an employer unless such employer makes an election not to have section 3111(e) apply.''.

(c) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after September 21, 2010.

TITLE II—DISINCENTIVES TO MOVING AMERICAN JOBS OVERSEAS

SEC. 201. DISALLOWANCE OF DEDUCTION, LOSS, OR CREDIT FOR CERTAIN ITEMS INCURRED IN MOVING AMERICAN JOBS OFFSHORE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 280I. EXPENDITURES INCURRED IN MOVING AMERICAN JOBS OFFSHORE.

''(a) DISALLOWANCE.—No deduction, loss, or credit shall be allowed under this title for any taxable year for any disallowed amount.

''(b) DISALLOWED AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'disallowed amount' means any amount which is paid or incurred during the taxable year which is properly allocable to an American jobs offshoring transaction.

''(2) LOSSES.—Such term shall include any loss from any sale, exchange, abandonment, or other disposition of property in connection with an American jobs offshoring transaction.

''(3) EXCEPTION FOR COSTS RELATED TO DISPLACED WORKERS.—Such term shall not include any amount paid or incurred for assistance to employees within the United States whose jobs are being lost as part of an American jobs offshoring transaction, including any severance pay, outplacement services, or employee retraining.

''(c) AMERICAN JOBS OFFSHORING TRANSACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'American jobs offshoring transaction' means any transaction (or series of transactions) in which the taxpayer reduces or eliminates the operation of a trade or business (or line of business) within the United States in connection with the start up or expansion of such trade or business (or such line of business) by the taxpayer outside of the United States.

''(2) EXCEPTION.—A transaction (or series of transactions) shall not be treated as an American jobs offshoring transaction if the taxpayer establishes to the satisfaction of the Secretary that such transaction (or series of transactions) will not result in the loss of employment for employees of the taxpayer within the United States.

''(d) AGGREGATION RULE.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer for purposes of this section, except that section 1563(b)(2)(C) shall be disregarded in applying section 1563 for purposes of section 52.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations necessary to prevent the avoidance of such purposes and the application of this section in the case of mergers, acquisitions, and dispositions and in the case of contract employees.''.

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 280I. Expenditures incurred in moving American jobs offshore.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) EXCEPTION FOR EXISTING TRANSACTIONS.—The amendments made by this section shall not apply to transactions occurring after the date of the enactment of this Act if the taxpayer establishes to the satisfaction of the Secretary of the Treasury or the Secretary's delegate that on or before such date the taxpayer publicly identified the transaction in sufficient detail that the nature and scope of the transaction could be identified.

SEC. 202. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY PRODUCED BY EMPLOYEES IN AMERICAN JOBS MOVED OFFSHORE.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property offshored income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY OFFSHORED INCOME.—Section 954 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY OFFSHORED INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property offshored income' means offshored income (whether in the form of profits, commissions, fees, or otherwise) received from a controlled foreign corporation and derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the offshored controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the offshored controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) OFFSHORED INCOME.—For purposes of this section, the term 'offshored income' means income described in paragraph (1) that is directly or indirectly derived from the operation of a trade or business (or line of business) which was started or expanded outside the United States as part of an American jobs offshoring transaction (as defined in section 280I(c)) to which the provisions of section 280I apply.

''(4) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY OFFSHORED INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of the Internal Revenue Code of 1986 (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property offshored income, and''.

(2) IMPORTED PROPERTY OFFSHORED INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and (L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY OFFSHORED INCOME.—The term 'imported property offshored income' means any income received or accrued by any person which is of a kind which would be imported property offshored income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) of such Code is amended by inserting ''or imported property offshored income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of the Internal Revenue Code of 1986 (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property offshored income,''.

(2) The last sentence of paragraph (4) of section 954(b) of such Code (relating to exception for certain income subject to high foreign taxes) is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property offshored income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 631—DESIGNATING THE WEEK BEGINNING ON NOVEMBER 8, 2010, AS NATIONAL SCHOOL PSYCHOLOGY WEEK

Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. BROWN of Ohio, Mr. BEGICH, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 631

Whereas all children and youth learn best when they are healthy, supported, and receive an education that meets their individual needs;

Whereas schools can more effectively ensure that all students are ready and able to learn if schools meet all the needs of each student;

Whereas learning and development are directly linked to the mental health of children, and a supportive learning environment is an optimal place to promote mental health;

Whereas sound psychological principles are critical to proper instruction and learning, social and emotional development, prevention and early intervention, and support for a culturally diverse student population;

Whereas school psychologists are specially trained to deliver mental health services and academic support that lower barriers to learning and allow teachers to teach more effectively;

Whereas school psychologists facilitate collaboration that helps parents and educators identify and reduce risk factors, promote protective factors, create safe schools, and access community resources;

Whereas school psychologists are trained to assess barriers to learning, utilize data-based decision making, implement research-driven prevention and intervention strategies, evaluate outcomes, and improve accountability;

Whereas State educational agencies and other State entities credential more than 35,000 school psychologists who practice in schools in the United States as key professionals that promote the learning and mental health of all children;

Whereas the National Association of School Psychologists establishes and maintains high standards for training, practice, and school psychologist credentialing, in collaboration with organizations such as the American Psychological Association, that promote effective and ethical services by school psychologists to children, families, and schools;

Whereas the National Association of School Psychologists has a Model for Comprehensive and Integrated School Psychological Services that promotes standards for the consistent delivery of school psychological services to all students in need; and

Whereas the people of the United States should recognize the vital role school psychologists play in the personal and academic development of children in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning on November 8, 2010, as National School Psychology Week;

(2) honors and recognizes the contributions of school psychologists to the success of students in schools across the United States; and

(3) encourages the people of the United States to observe the week with appropriate ceremonies and activities that promote

awareness of the vital role school psychologists play in schools, in the community, and in helping students develop into successful and productive members of society.

SENATE RESOLUTION 632—HONORING THE WORK OF THE UNITED SERVICE ORGANIZATIONS AND CONGRATULATING THE UNITED SERVICE ORGANIZATIONS ON THE SENDING OF THEIR 2 MILLIONTH TROOP CARE PACKAGE

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 632

Whereas the United Service Organizations (referred to in this preamble as the ''USO'') has worked to serve members of the Armed Forces and their families for nearly 70 years;

Whereas the USO provides morale and support services to military families in more than 130 locations across the world;

Whereas the USO continues to support veterans of the Iraq and Afghanistan Wars;

Whereas the USO provides comfort to members of the Armed Forces by sending care packages to bases overseas; and

Whereas the USO and their volunteers have sent 2,000,000 care packages to our troops: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the work of the United Service Organizations in supporting the members of the Armed Forces of the United States around the world; and

(2) congratulates the United Service Organizations on sending their 2 millionth troop care package.

SENATE RESOLUTION 633—DESIGNATING SEPTEMBER 23, 2010, AS ''NATIONAL FALLS PREVENTION AWARENESS DAY'' TO RAISE AWARENESS AND ENCOURAGE THE PREVENTION OF FALLS AMONG OLDER ADULTS

Mr. KOHL (for himself, Ms. MIKULSKI, Mr. CASEY, Mr. FEINGOLD, and Mr. LEMIEUX) submitted the following resolution; which was considered and agreed to:

S. RES. 633

Whereas older adults, 65 years of age and older, are the fastest-growing segment of the population in the United States, and the number of older adults in the United States will increase from 35,000,000 in 2000 to 72,100,000 million in 2030;

Whereas 1 out of 3 older adults in the United States falls each year;

Whereas falls are the leading cause of injury, death, and hospital admissions for traumatic injuries among older adults;

Whereas, in 2008, approximately 2,100,000 older adults were treated in hospital emergency departments for fall-related injuries, and more than 500,000 were subsequently hospitalized;

Whereas, in 2007, over 18,400 older adults died from injuries related to unintentional falls;

Whereas the total cost of fall-related injuries for older adults is $80,900,000,000, including more than $19,000,000,000 in direct medical costs;

Whereas the Centers for Disease Control and Prevention estimate that if the rate of increase in falls is not slowed the annual cost under, the Medicare program will reach $32,400,000,000 by 2020;

Whereas evidence-based programs show promise in reducing falls and facilitating cost-effective interventions, such as comprehensive clinical assessments, exercise programs to improve balance and health, management of medications, correction of vision, and reduction of home hazards;

Whereas research indicates that fall prevention programs for high-risk older adults have a net-cost savings of almost $9 in benefits to society for each $1 invested;

Whereas the Falls Free Coalition Advocacy Work Group and its numerous national and State supporting organizations should be commended for their efforts to raise awareness and to promote greater understanding, research, and programs to prevent falls among older adults: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 23, 2010, as ''National Falls Prevention Awareness Day'';

(2) commends the Falls Free Coalition Advocacy Work Group and the 31 State falls coalitions for their efforts to work together to increase education and awareness about the prevention of falls among older adults;

(3) encourages businesses, individuals, Federal, State, and local governments, the public health community, and health care providers to work together to promote the awareness of falls in an effort to reduce the incidence of falls among older adults in the United States;

(4) urges the Centers for Disease Control and Prevention to continue developing and evaluating strategies to prevent falls among older adults that will translate into effective fall prevention interventions, including community-based programs;

(5) encourages State health departments, which provide significant leadership in reducing injuries and injury-related health care costs by collaborating with colleagues and a variety of organizations and individuals, to reduce falls among older adults; and

(6) recognizes proven, cost-effective falls prevention programs and policies and encourages experts in the field to share their best practices so that their success can be replicated by others.

SENATE RESOLUTION 634—COMMEMORATING THE 100TH ANNIVERSARY OF THE FOUNDING OF THE SAINT LOUIS ZOO

Mrs. MCCASKILL (for herself and Mr. BOND) submitted the following resolution; which was considered and agreed to:

S. RES. 634

Whereas, in 1910, the citizens of Saint Louis, Missouri, inspired by the Smithsonian's Flight Cage, a large walk-through bird cage constructed in Saint Louis for the 1904 World's Fair and purchased by the city of Saint Louis at the conclusion of the fair, formed the Saint Louis Zoological Society and encouraged the city of Saint Louis to set aside 77 acres in historic Forest Park for the establishment of a zoological park;

Whereas, guided by legislation providing that ''the zoo shall be forever free'' and supported by the extraordinary generosity of the people of Saint Louis, the Saint Louis Zoo is, and his been since its inception, accessible for all, enriching the lives of millions of people, including a record 3,101,830 visitors in 2009;

Whereas, through the exceptional work of dedicated staff, state-of-the-art facilities including the Endangered Species Research Center and Veterinary Hospital, and initiatives such as the WildCare Institute, the Saint Louis Zoo has established itself as a world leader in the conservation of endangered species and their habitats;

Whereas, through classroom presentations, Zoo tours, outreach programs, and educational resources such as the Library and Teacher Resource Center, the Saint Louis Zoo has provided invaluable educational opportunities to the members of the public, including tens of thousands of school children from the Saint Louis area for generations; and

Whereas the 2010 centennial anniversary of the founding of the Saint Louis Zoo is an achievement of historic proportions for the City of Saint Louis, the State of Missouri, the United States, and the world conservation community: Now, therefore, be it

Resolved, That the Senate commemorates the 100th anniversary of the founding of the Saint Louis Zoo on September 24, 2010.

SENATE RESOLUTION 635—DESIGNATING THE WEEK BEGINNING SEPTEMBER 19, 2010, AS ''NATIONAL HISPANIC-SERVING INSTITUTIONS WEEK''

Mr. MENENDEZ (for himself, Mr. CORNYN, Mr. LAUTENBERG, Mr. UDALL of New Mexico, Mrs. MURRAY, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. UDALL of Colorado, Mrs. BOXER, Mrs. FEINSTEIN, Mr. ENSIGN, and Mr. WARNER) submitted the following resolution; which was considered and agreed to:

S. RES. 635

Whereas Hispanic-serving institutions play an important role in educating many underprivileged students and helping those students attain their full potential through higher education;

Whereas Hispanic-serving institutions are degree-granting institutions that have a full-time equivalent undergraduate enrollment of at least 25 percent Hispanic students;

Whereas, as of the date of approval of this resolution, there are approximately 268 Hispanic-serving institutions in the United States;

Whereas Hispanic-serving institutions are actively involved in stabilizing and improving the communities in which the Hispanic-serving institutions are located;

Whereas more than 48 percent of Hispanic students in the United States attend Hispanic-serving institutions;

Whereas celebrating the vast contributions of Hispanic-serving institutions to the United States strengthens the culture of the United States;

Whereas the achievements and goals of Hispanic-serving institutions are deserving of national recognition; and

Whereas the week beginning September 19, 2010, would be an appropriate week for national recognition of Hispanic-serving institutions: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and goals of Hispanic-serving institutions across the United States;

(2) designates the week beginning September 19, 2010, as ''National Hispanic-Serving Institutions Week''; and

(3) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for Hispanic-serving institutions.

SENATE RESOLUTION 636—CONGRATULATING WALTER BREUNING ON THE OCCASION OF HIS 114TH BIRTHDAY

Mr. BAUCUS (for himself and Mr. TESTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 636

Whereas Walter Breuning of Great Falls, Montana is the oldest living man in the world and will celebrate his 114th birthday on September 21, 2010;

Whereas Walter Breuning has given back to his communities throughout his life through his service to the Shriners International;

Whereas Walter Breuning served as manager and secretary of the Great Falls Shriners Club until the age of 99;

Whereas Walter Breuning is a 33rd degree Mason, the most advanced level for that fraternal group;

Whereas Walter Breuning began working for the Great Northern Railway at the age of 16 and gave 50 years of service to the railroad;

Whereas Walter Breuning is an honorary member of the Great Northern Railway Historical Society;

Whereas Walter Breuning has practiced good health habits throughout his many years and has lived life to the fullest;

Whereas Walter Breuning has witnessed many monumental events in history and can teach all people of the United States about the lessons he learned throughout his life; and

Whereas Walter Breuning is an outstanding citizen of, and an ambassador for, the State of Montana: Now, therefore, be it

Resolved, That the Senate congratulates Walter Breuning, the oldest living man in the world, on the occasion of his 114th birthday.

Mr. BAUCUS. Mr. President, today I am submitting a resolution honoring Walter Breuning, the oldest living man in the world. Walter is celebrating his 114th birthday today.

He was born in Melrose, MN on September 21, 1896, and moved to Great Falls, MT, in 1918 while working for the Great Northern Railway. Walter is still a proud resident of Great Falls and delights fellow residents, staff, and visitors at The Rainbow Senior Living home.

Despite all the honor and attention bestowed upon him for being the oldest living man in the world, Walter is very humble. He has worked hard all his life and advises others to do the same. When I called him last year to wish him a happy birthday, that is exactly what he said to me. Walter began working for the Great Northern Railway at the age of 16 and gave 50 years of service to the railway. When he retired in 1963, Walter didn't stop working; he began a second career, one that would last until he was 99, as the manager and secretary of the Great Falls Shriner's Club.

Community service has been a big part of Walter's life and when he visits with young people he always encourages them to give back to their communities. Walter is a 33rd degree Mason, the most advanced level for that fraternal organization.

Walter has practiced healthy habits all his life, and those have contributed greatly to his longevity. He has eaten only two meals a day for the past 30 years and says he is most grateful for his good health over the years. These healthy habits have helped Walter live life to the fullest. He enjoys visiting with the many folks that come from all over to hear the insights of the oldest living man in the world.

I am proud to join today with folks from around Montana and across the world in wishing Walter a very happy birthday. He is a great ambassador for our State and I thank him for all his community involvement and service over the years. He truly represents the best of Big Sky Country.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, 114 years old, your constituent? I guess Senator BAUCUS treats his constituents well.

SENATE RESOLUTION 637—COMMENDING THE SEATTLE STORM FOR WINNING THE 2010 WOMEN'S NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP

Ms. CANTWELL (for herself and Mrs. MURRAY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 637

Whereas, on September 16, 2010, the Seattle Storm (referred to in this preamble as the ''Storm'') defeated the Atlanta Dream by a score of 87 to 84 to win the Women's National Basketball Association (referred to in this preamble as the ''WNBA'') Championship;

Whereas this victory is the second championship in the 11-year history of the Storm franchise;

Whereas the Storm had the most wins in the league during the 2010 regular season;

Whereas the Storm tied the record for wins in a WNBA regular season with 28, including a 13-game win streak;

Whereas the Storm did not lose a single game at home during the entire 2010 season;

Whereas the 2010 season was the best season in Storm franchise history;

Whereas the Storm had a regular season record of 28-6 and a winning percentage of .824, the best of any professional sports team in Seattle history;

Whereas the Storm won all 7 games the team played in the postseason, becoming only the fourth WNBA team to win the championship without a postseason loss, the first since 2002;

Whereas center/forward Lauren Jackson was named the Most Valuable Player of the WNBA Finals, scoring 67 points and earning 24 rebounds during the series;

Whereas Lauren Jackson was named the Most Valuable Player of the WNBA regular reason for the third time in her WNBA career;

Whereas Lauren Jackson received the most votes of the All-WNBA first team, and guard Sue Bird was named to the All-WNBA second team;

Whereas Lauren Jackson and Sue Bird won their second career championships with the Storm;

Whereas each of the starting players for the Storm scored at least 10 points in the final game;

Whereas the owners of the Storm, Dawn Trudeau, Lisa Brummel, Anne Levinson, and Ginny Gilder, have invested in the success of the Storm and prevented the franchise from leaving Seattle;

Whereas the owners of the Storm have set the example for the leadership of women in professional sports;

Whereas head coach of the Storm, Brian Agler, with the help of assistant coach Nancy Darsch, led the team to its second WNBA championship through leadership and a winning philosophy;

Whereas head coach Brian Agler was named the 2010 WNBA Coach of the Year;

Whereas the management of the Storm has been successful in building an outstanding team by drafting new players and signing key free agents;

Whereas the Storm is headquartered in the 7th Congressional District of Washington in the Interbay neighborhood of Seattle, Washington;

Whereas the Storm is the only professional basketball franchise in the City of Seattle; and

Whereas the 2010 Storm team is evidence of what can be accomplished when self is set aside and a teamwork mentality is adopted by all of the players: Now, therefore, be it

Resolved, That the Senate—

(1) commends—

(A) the Seattle Storm for winning Women's National Basketball Association championship; and

(B) the people of Washington State for their support of the team;

(2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in the success of the Seattle Storm during the 2010 Women's National Basketball Association season; and

(3) requests the Secretary of the Senate to transmit an enrolled copy of this resolution for appropriate display to the Seattle Storm.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4626. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4627. Mrs. MURRAY (for herself, Mr. BROWNBACK, Ms. CANTWELL, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4628. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4629. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4630. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4631. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4632. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4633. Mr. SHELBY (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4634. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to

be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4635. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4636. Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4637. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4638. Mr. KYL (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4639. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4640. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4641. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4636 submitted by Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) and intended to be proposed to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4642. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4643. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4644. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4645. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4646. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4647. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4648. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4649. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4650. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4651. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4652. Mr. BEGICH (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3454, supra; which was ordered to lie on the table.

SA 4653. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4626. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH.

(a) ESTABLISHMENT.—Subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384l et seq.) is amended by adding at the end the following:

"SEC. 3632. ADVISORY BOARD ON TOXIC SUBSTANCES AND WORKER HEALTH.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this section, the President shall establish and appoint an Advisory Board on Toxic Substances and Worker Health (referred to in this section as the 'Board').

''(2) CONSULTATION ON APPOINTMENTS.—In appointing members to the Board under paragraph (1), the President shall consult with organizations with expertise on worker health issues in order to ensure that the membership of the Board reflects a proper balance among perspectives from the scientific, medical, legal, workers, and worker advocate communities.

''(3) CHAIRPERSON.—The President shall designate a chairperson of the Board from among its members.

''(b) DUTIES.—The Board shall—

''(1) provide advice to the President concerning the review and approval of the Department of Labor site exposure matrix;

''(2) conduct periodic peer reviews of, and approve, medical guidance for part E claims examiners with respect to the weighing of a claimant's medical evidence;

''(3) obtain periodic expert reviews of medical evidentiary requirements for part B claims related to lung diseases;

''(4) provide oversight over consulting physicians and reports to ensure quality, objectivity, and consistency of the consultant physicians' work; and

''(5) coordinate where applicable exchanges of data and findings with the Advisory Board on Radiation and Worker Health (under section 3624).

''(c) STAFF AND POWERS.—

''(1) IN GENERAL.—The President shall appoint a staff to facilitate the work of the Board. The staff of the Board shall be headed by a Director who shall be appointed under subchapter VIII of chapter 33 of title 5, United States Code.

''(2) FEDERAL AGENCY PERSONNEL.—The President may authorize the detail of employees of Federal agencies to the Board as necessary to enable the Board to carry out its duties under this section. The detail of such personnel may be on a non-reimbursable basis.

''(3) POWERS.—The Board shall have same powers that the Advisory Board has under section 3624.

''(d) EXPENSES.—The members of the Board, other than full-time employees of the United States, while attending meetings of the Board or while otherwise serving at the request of the President, and while serving away from their homes or regular place of business, shall be allowed travel and meal expenses, including per diem in lieu of subsistence (as authorized by section 5703 of title 5, United States Code) for individuals in the Federal Government serving without pay.

''(e) SECURITY CLEARANCES.—

''(1) REQUIREMENT.—The Secretary of Energy shall ensure that the members and staff of the Board, and the contractors performing work in support of the Board, are afforded the opportunity to apply for a security clearance for any matter for which such a clearance is appropriate. The Secretary should, not later than 180 days after receiving a completed application for such a clearance, make a determination whether or not the individual concerned is eligible for the clearance.

''(2) BUDGET JUSTIFICATION.—For fiscal year 2011, and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.

''(f) INFORMATION.—The Secretary of Energy shall, in accordance with law, provide to the Board and the contractors of the Board, access to any information that the Board considers relevant to carry out its responsibilities under this section, including information such as restricted data (as defined in section 2014(y)) and information covered by the Privacy Act.''.

(b) DEPARTMENT OF LABOR RESPONSE TO THE OFFICE OF THE OMBUDSMAN ANNUAL REPORT.—Section 3686 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385s-15) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g), the following:

''(h) RESPONSE TO REPORT.—Not later than 90 days after the publication of the annual report under subsection (e), the Department of Labor shall submit an answer in writing on whether the Department agrees or disagrees with the specific issues raised by the Ombudsman, if the Department agrees, on the actions to be taken to correct the problems identified by the Ombudsman, and if the Department does not agree, on the reasons therefore. The Department of Labor shall post such answer on the public Internet website of the Department.''.

SA 4627. Mrs. MURRAY (for herself, Mr. BROWNBACK, Ms. CANTWELL, and Mr. GRAHAM) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VIII, add the following:

SEC. 858. CONSIDERATION OF UNFAIR COMPETITIVE ADVANTAGE IN EVALUATION OF OFFERS FOR KC–X AERIAL REFUELING AIRCRAFT PROGRAM.

(a) REQUIREMENT TO CONSIDER UNFAIR COMPETITIVE ADVANTAGE.—In awarding a contract for the KC–X aerial refueling aircraft

program (or any successor to that program), the Secretary of Defense shall, in evaluating any offers submitted to the Department of Defense in response to a solicitation for offers for such program, consider any unfair competitive advantage that an offeror may possess.

(b) REPORT.—Not later than 60 days after submission of offers in response to any such solicitation, the Secretary of Defense shall submit to the congressional defense committees a report on any unfair competitive advantage that any offeror may possess.

(c) REQUIREMENT TO TAKE FINDINGS INTO ACCOUNT IN AWARD OF CONTRACT.—In awarding a contract for the KC–X aerial refueling aircraft program (or any successor to that program), the Secretary of Defense shall take into account the findings of the report submitted under subsection (b).

(d) UNFAIR COMPETITIVE ADVANTAGE.—In this section, the term ''unfair competitive advantage'', with respect to an offer for a contract, means a situation in which the cost of development, production, or manufacturing is not fully borne by the offeror for such contract.

SA 4628. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 648, between lines 10 and 11, insert the following:

SEC. 3133. OIL AND GAS PRODUCTION ON DEPARTMENT OF DEFENSE LAND.

Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended—

(1) in the first sentence of subsection (a), by striking ''All money received'' and inserting ''Subject to subsection (d), all money received''; and

(2) by adding at the end the following:

''(d) CERTAIN SALES, BONUSES, AND ROYALTIES.—

''(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Secretary of Defense the amounts received under subsection (a) from oil and gas production carried out on land that is occupied by, or title to which is held by, a military installation.

''(2) USE OF FUNDS.—Any amount received by the Secretary of Defense under paragraph (1) shall be used to offset costs of military installations for—

''(A) administrative operations; and

''(B) the maintenance and repair of facilities and infrastructure of military installations.''.

SA 4629. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVI—PREVENTION AND RESPONSE TO SEXUAL OFFENSES IN THE ARMED FORCES

SEC. 1601. ENHANCEMENT OF PROCEDURES FOR COMMUNICATIONS BY MEMBERS OF THE ARMED FORCES REGARDING ALLEGATIONS OF SEXUAL ASSAULT AND OTHER SEXUAL OFFENSES.

(a) JUDGE ADVOCATES TO BE RECIPIENTS OF RESTRICTED REPORTING OF ALLEGATIONS WITHOUT TRIGGERING OFFICIAL INVESTIGATIVE PROCESS.—The officials who are authorized to receive a restricted reporting by a member of the Armed Forces of an allegation of a sexual offense without resulting in the initiation of an official investigative process with respect to the allegation shall include judge advocates.

(b) PRIVILEGED NATURE OF COMMUNICATIONS BETWEEN MEMBERS AND VICTIM ADVOCATES.—

(1) IN GENERAL.—The Secretary of Defense shall modify the Military Rules of Evidence to provide that a member of the Armed Forces who alleges a sexual offense shall have the privilege to refuse to disclose, and to prevent any other person from disclosing, a confidential communication made between the member and a Victim Advocate (VA), in a case arising under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), or chapter 47A of title 10, United States Code (relating to military commissions), if the communication was made for the purpose of facilitating victim advocacy for the member with respect to the allegation. The privilege shall be similar in scope and exceptions, and the privilege shall be administered in a manner similar, to the psychotherapist-patient privilege under Rule 513 of the Military Rules of Evidence.

(2) CONFIDENTIAL DEFINED.—In this subsection, the term ''confidential'', in the case of a communication, means not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of victim advocacy or those reasonably necessary for the transmission of the communication.

(c) OTHER DEFINITIONS.—In this section, the terms ''official investigative process'', ''restricted reporting'', and ''unrestricted reporting'' have the meaning given such terms in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

SEC. 1602. PROVISION TO VICTIMS OF RECORDS OF PROCEEDINGS OF COURT-MARTIAL INVOLVING SEXUAL ASSAULT OR OTHER SEXUAL OFFENSES.

(a) PROVISION ON REQUEST.—A member of the Armed Forces who testifies as a victim thereof in a court-martial involving a sexual offense shall, upon request, be provided a copy of the prepared record of proceedings of the court-martial as soon as is practicable after the authentication of such record. The record shall be provided the member without charge to the member.

(b) NOTICE OF OPPORTUNITY TO REQUEST RECORD.—Each member who testifies as a victim in a court-martial described in subsection (a) shall be informed, in writing, of the opportunity to request a record of proceedings of the court-martial pursuant to that subsection.

SEC. 1603. EXPEDITED CONSIDERATION OF APPLICATION FOR PERMANENT CHANGE OF STATION OR UNIT TRANSFER FOR VICTIMS OF SEXUAL ASSAULT OR OTHER SEXUAL OFFENSES.

(a) IN GENERAL.—Under such regulations as the Secretary of the military department concerned shall prescribe, such Secretary shall, to the maximum extent practicable, ensure the expedited consideration of an application of a member of the Armed Forces described in subsection (b) for a permanent change or station or unit transfer.

(b) COVERED MEMBERS.—A member described in this subsection is a member of the Armed Forces on active duty who is the victim of a sexual offense committed by another member of the Armed Forces.

SEC. 1604. REQUIREMENTS AND LIMITATIONS REGARDING SEXUAL ASSAULT RESPONSE COORDINATORS AND VICTIM ADVOCATES.

(a) PERSONNEL DISCHARGING SARC FUNCTIONS.—

(1) IN GENERAL.—Each Sexual Assault Response Coordinator (SARC) shall be a member of the Armed Forces on active duty or a full-time civilian employee of the Department of Defense.

(2) PROHIBITION ON DISCHARGE BY CONTRACTOR PERSONNEL.—A contractor or employee of a contractor of the Federal Government may not serve or act as, or discharge the functions of, a Sexual Assault Response Coordinator.

(b) PERSONNEL DISCHARGING VA FUNCTIONS.—Each Victim Advocate (VA) shall be a member of the Armed Forces on active duty or a full-time civilian employee of the Department of Defense.

(c) MINIMUM NUMBER OF SARCS AND VAS.—Each brigade or similar unit of the Armed Forces shall be assigned the following:

(1) At least one Sexual Assault Response Coordinator.

(2) At least one Victim Advocate.

(d) TRAINING AND CERTIFICATION.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Office for Victims of Crime of the Department of Justice, carry out a program as follows:

(A) To provide uniform training for all individuals who will serve as Sexual Assault Response Coordinators on matters relating to sexual assault in the Armed Forces.

(B) To provide uniform training for all individuals who will serve as Victim Advocates on matters relating to sexual assault in the Armed Forces

(C) To certify individuals who successfully complete training provided pursuant to subparagraph (A) or (B) as qualified for the discharge of the functions of Sexual Assault Response Coordinator or Victim Advocate, as the case may be.

(2) COMMENCEMENT OF TRAINING AND CERTIFICATION REQUIREMENTS.—Commencing one year after the date of the enactment of this Act, an individual may not serve as a Sexual Assault Response Coordinator or Victim Advocate unless the individual has undergone training provided under subparagraph (A) or (B), as applicable, of paragraph (1) and been certified under subparagraph (C) of that paragraph.

(e) DEFINITIONS.—In this section, the term ''Sexual Assault Response Coordinator'' and ''Victim Advocate'' have the meaning given such terms in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

SEC. 1605. REQUIREMENTS FOR THE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.

(a) SES POSITION FOR DIRECTOR OF SAPRO.—The position of Director of the Sexual Assault Prevention and Response Office (SAPRO) of the Department of Defense shall be a position in the Senior Executive Service (SES).

(b) STANDARDIZATION OF PROGRAM.—The Secretary of Defense shall take appropriate actions to standardize and update programs and activities relating to sexual assault prevention and response across the Armed Forces and the military departments. Such actions shall include the following:

(1) The establishment of common organizational structures for organizations in the Armed Forces and the military departments responsible for sexual assault prevention and

response activities in order to achieve commonality in the structure of such organizations and their discharge of their functions.

(2) The standardization of terminology on sexual assault prevention and response to be utilized by the organizations described in paragraph (1), the Armed Forces, and the military departments.

(3) The establishment of position descriptions for positions in the Armed Forces and the military departments charged with sexual assault prevention and response duties, and the specification of the responsibilities of such positions.

(4) The establishment of minimum standards for programs and activities of the Armed Forces and the military departments relating to sexual assault prevention and response.

(5) Such other actions as the Secretary considers appropriate.

SEC. 1606. DATABASE ON SEXUAL ASSAULT INCIDENTS.

(a) DATABASE REQUIRED.—

(1) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1562 the following new section:

''§ 1562a. Database on sexual assault incidents

''(a) DATABASE REQUIRED.—The Secretary of Defense shall maintain a centralized, case-level database for the collection, in a manner consistent with Department of Defense regulations for restricted reporting and maintenance of information regarding sexual assaults involving a member of the armed forces, including information, if available, about the nature of the assault, the victim, the offender, and the outcome of any legal proceedings in connection with the assault.

''(b) AVAILABILITY OF DATABASE.—The database required by subsection (a) shall be available to personnel of the Sexual Assault Prevention and Response Office of the Department of Defense.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 80 of such title is amended by inserting after the item relating to section 1562 the following new item:

''1562a. Database on sexual assault incidents.''.

(b) COMPLETION OF IMPLEMENTATION.—The Secretary of Defense shall complete implementation of the database required by section 1562a of title 10, United States Code (as added by subsection (a)), not later than one year after the date of the enactment of this Act.

SEC. 1607. DEDICATED TELEPHONE LINE FOR REPORTING OF SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES.

(a) TELEPHONE LINE REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish a toll-free telephone number (commonly referred to as an ''800 number''), staffed by appropriately trained personnel, through which reports may be made of allegations of a sexual offense as follows:

(1) Allegations by a member of the Armed Forces, regardless of where serving, of being a victim of sexual assault, whether or not committed by another member of the Armed Forces.

(2) Allegations by any person of being a victim of a sexual offense committed by a member of the Armed Forces.

(b) OUTREACH.—The Secretary shall conduct appropriate outreach to inform members of the Armed Forces and the public of the toll-free telephone number required by subsection (a).

SEC. 1608. SEXUAL ASSAULT PREVENTION AND RESPONSE TRAINING IN PROFESSIONAL MILITARY EDUCATION.

The Secretary of Defense shall, in consultation with the Secretaries of the military departments, ensure that training on sexual assault prevention and response is provided to members of the Armed Forces at each level of professional military education (PME) for members of the Armed Forces. Such training shall, to the extent practicable, be uniform across the Armed Forces.

SEC. 1609. ENHANCED TRAINING FOR JUDGE ADVOCATES ON INVESTIGATION AND PROSECUTION OF SEXUAL ASSAULT AND OTHER SEXUAL OFFENSES.

The Secretary of Defense shall provide appropriate enhancements in the training of judge advocates who serve as trial counsel in order to improve the capabilities of such judge advocates in the investigation and prosecution of cases involving a sexual offense.

SEC. 1610. DEFINITIONS.

In this title:

(1) The term ''sexual assault'' has the meaning given that term in Department of Defense Directive 6495.01, dated October 6, 2005 (as amended).

(2) The term ''sexual offense'' means an offense under section 920, 920b, or 920c of title 10, United States Code (article 120, 120b, or 120c of the Uniform Code of Military Justice), as amended by section 561 of this Act.

SA 4630. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title XII, add the following:

SEC. 1205. INCLUSION OF ADDITIONAL COMMITTEES OF CONGRESS IN NOTIFICATION AND REPORTING REQUIREMENTS ON USE OF AUTHORITY FOR SUPPORT OF SPECIAL OPERATIONS TO COMBAT TERRORISM.

Section 1208 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086), as most recently amended by section 1202 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2511), is further amended—

(1) in subsections (b), (c)(1), and (f), by striking ''congressional defense committees'' and inserting ''committees of Congress specified in subsection (i)''; and

(2) by adding at the end the following new subsection:

''(i) COMMITTEES OF CONGRESS.—The committees of Congress specified in this subsection are the following:

''(1) The congressional defense committees.

''(2) The Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

''(3) The Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''.

SA 4631. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, between lines 5 and 6, insert the following:

SEC. 594. EXCEPTION TO ONE-YEAR PHYSICAL PRESENCE REQUIREMENT FOR ADJUSTMENT OF STATUS FOR ALIENS GRANTED ASYLUM AND EMPLOYED OVERSEAS BY THE FEDERAL GOVERNMENT.

(a) SHORT TITLE.—This section may be cited as the ''Refugee Opportunity Act''.

(b) AMENDMENT.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended—

(1) in subsection (a)(1)(B), by inserting ''(except as provided under subsection (d))'' after ''one year'';

(2) in subsection (b)(2), by inserting ''(except as provided under subsection (d)),'' after ''asylum''; and

(3) by adding at the end the following:

''(d) An alien who does not meet the 1-year physical presence requirement under subsection (a)(1)(B) or (b)(2), but who otherwise meets the requirements under subsection (a) or (b) for adjustment of status to that of an alien lawfully admitted for permanent residence, may be eligible for such adjustment of status if the alien—

''(1)(A) is or was employed by the United States Government or a contractor of the United States Government outside of the United States and performing work on behalf of the United States Government for the entire period of absence, which may not exceed 1 year; or

''(B)(i) is or was employed by the United States Government or a contractor of the United States Government in the alien's country of nationality or last habitual residence for the entire period of absence, which may not exceed 1 year; and

''(ii) was under the protection of the United States Government or a contractor while performing work on behalf of the United States Government during the entire period of such employment; and

''(2) returned immediately to the United States upon the conclusion of such employment.''.

(c) DETERMINATION OF BUDGETARY EFFECTS.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4632. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION E—DATA PRIVACY

SEC. 5001. SHORT TITLE.

This division may be cited as the ''Personal Data Privacy and Security Act of 2010''.

SEC. 5002. FINDINGS.

Congress finds that—

(1) databases of personally identifiable information are increasingly prime targets of hackers, identity thieves, rogue employees, and other criminals, including organized and sophisticated criminal operations;

(2) identity theft is a serious threat to the Nation's economic stability, homeland security, the development of e-commerce, and the privacy rights of Americans;

(3) over 9,300,000 individuals were victims of identity theft in America last year;

(4) security breaches are a serious threat to consumer confidence, homeland security, e-commerce, and economic stability;

(5) it is important for business entities that own, use, or license personally identifiable information to adopt reasonable procedures to ensure the security, privacy, and confidentiality of that personally identifiable information;

(6) individuals whose personal information has been compromised or who have been victims of identity theft should receive the necessary information and assistance to mitigate their damages and to restore the integrity of their personal information and identities;

(7) data brokers have assumed a significant role in providing identification, authentication, and screening services, and related data collection and analyses for commercial, nonprofit, and government operations;

(8) data misuse and use of inaccurate data have the potential to cause serious or irreparable harm to an individual's livelihood, privacy, and liberty and undermine efficient and effective business and government operations;

(9) there is a need to ensure that data brokers conduct their operations in a manner that prioritizes fairness, transparency, accuracy, and respect for the privacy of consumers;

(10) government access to commercial data can potentially improve safety, law enforcement, and national security; and

(11) because government use of commercial data containing personal information potentially affects individual privacy, and law enforcement and national security operations, there is a need for Congress to exercise oversight over government use of commercial data.

SEC. 5003. DEFINITIONS.

In this division, the following definitions shall apply:

(1) AGENCY.—The term ''agency'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) AFFILIATE.—The term ''affiliate'' means persons related by common ownership or by corporate control.

(3) BUSINESS ENTITY.—The term ''business entity'' means any organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or venture established to make a profit, or nonprofit.

(4) IDENTITY THEFT.—The term ''identity theft'' means a violation of section 1028(a)(7) of title 18, United States Code.

(5) DATA BROKER.—The term ''data broker'' means a business entity which for monetary fees or dues regularly engages in the practice of collecting, transmitting, or providing access to sensitive personally identifiable information on more than 5,000 individuals who are not the customers or employees of that business entity or affiliate primarily for the purposes of providing such information to nonaffiliated third parties on an interstate basis.

(6) DATA FURNISHER.—The term ''data furnisher'' means any agency, organization, corporation, trust, partnership, sole proprietorship, unincorporated association, or nonprofit that serves as a source of information for a data broker.

(7) ENCRYPTION.—The term ''encryption''—

(A) means the protection of data in electronic form, in storage or in transit, using an encryption technology that has been adopted by a widely accepted standards setting body or, has been widely accepted as an effective industry practice which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(B) includes appropriate management and safeguards of such cryptographic keys so as to protect the integrity of the encryption.

(8) PERSONAL ELECTRONIC RECORD.—

(A) IN GENERAL.—The term ''personal electronic record'' means data associated with an individual contained in a database, networked or integrated databases, or other data system that is provided by a data broker to nonaffiliated third parties and includes personally identifiable information about that individual.

(B) EXCLUSIONS.—The term ''personal electronic record'' does not include—

(i) any data related to an individual's past purchases of consumer goods; or

(ii) any proprietary assessment or evaluation of an individual or any proprietary assessment or evaluation of information about an individual.

(9) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means any information, or compilation of information, in electronic or digital form that is a means of identification, as defined by section 1028(d)(7) of title 18, United State Code.

(10) PUBLIC RECORD SOURCE.—The term ''public record source'' means the Congress, any agency, any State or local government agency, the government of the District of Columbia and governments of the territories or possessions of the United States, and Federal, State or local courts, courts martial and military commissions, that maintain personally identifiable information in records available to the public.

(11) SECURITY BREACH.—

(A) IN GENERAL.—The term ''security breach'' means compromise of the security, confidentiality, or integrity of computerized data through misrepresentation or actions—

(i) that result in, or that there is a reasonable basis to conclude has resulted in—

(I) the unauthorized acquisition of sensitive personally identifiable information; and

(II) access to sensitive personally identifiable information that is for an unauthorized purpose, or in excess of authorization; and

(ii) which present a significant risk of harm or fraud to any individual.

(B) EXCLUSION.—The term ''security breach'' does not include—

(i) a good faith acquisition of sensitive personally identifiable information by a business entity or agency, or an employee or agent of a business entity or agency, if the sensitive personally identifiable information is not subject to further unauthorized disclosure;

(ii) the release of a public record not otherwise subject to confidentiality or nondisclosure requirements; or

(iii) any lawfully authorized investigative, protective, or intelligence activity of a law enforcement or intelligence agency of the United States.

(12) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means any information or compilation of information, in electronic or digital form that includes—

(A) an individual's first and last name or first initial and last name in combination with any 1 of the following data elements:

(i) A nontruncated social security number, driver's license number, passport number, or alien registration number.

(ii) Any 2 of the following:

(I) Home address or telephone number.

(II) Mother's maiden name.

(III) Month, day, and year of birth.

(iii) Unique biometric data such as a finger print, voice print, a retina or iris image, or any other unique physical representation.

(iv) A unique account identifier, electronic identification number, user name, or routing code in combination with any associated security code, access code, or password if the code or password is required for an individual to obtain money, goods, services, or any other thing of value; or

(B) a financial account number or credit or debit card number in combination with any security code, access code, or password that is required for an individual to obtain credit, withdraw funds, or engage in a financial transaction.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

SEC. 5101. ORGANIZED CRIMINAL ACTIVITY IN CONNECTION WITH UNAUTHORIZED ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION.

Section 1961(1) of title 18, United States Code, is amended by inserting ''section 1030 (relating to fraud and related activity in connection with computers) if the act is a felony,'' before ''section 1084''.

SEC. 5102. CONCEALMENT OF SECURITY BREACHES INVOLVING SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''§ 1041. Concealment of security breaches involving sensitive personally identifiable information

''(a) Whoever, having knowledge of a security breach and having the obligation to provide notice of such breach to individuals under title III of the Personal Data Privacy and Security Act of 2010, and having not otherwise qualified for an exemption from providing notice under section 312 of such Act, intentionally and willfully conceals the fact of such security breach and which breach causes economic damage to 1 or more persons, shall be fined under this title or imprisoned not more than 5 years, or both.

''(b) For purposes of subsection (a), the term 'person' has the same meaning as in section 1030(e)(12) of title 18, United States Code.

''(c) Any person seeking an exemption under section 312(b) of the Personal Data Privacy and Security Act of 2010 shall be immune from prosecution under this section if the United States Secret Service does not indicate, in writing, that such notice be given under section 312(b)(3) of such Act.''.

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The table of sections for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''1041. Concealment of security breaches involving personally identifiable information.''.

(c) ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—The United States Secret Service shall have the authority to investigate offenses under this section.

(2) NONEXCLUSIVITY.—The authority granted in paragraph (1) shall not be exclusive of any existing authority held by any other Federal agency.

SEC. 5103. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.

Section 1030(c) of title 18, United States Code, is amended—

(1) by inserting ''or conspiracy'' after ''or an attempt'' each place it appears, except for paragraph (4);

(2) in paragraph (2)(B)—

(A) in clause (i), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense'';

(B) in clause (ii), by inserting '', or attempt or conspiracy or conspiracy to commit an offense,'' after ''the offense''; and

(C) in clause (iii), by inserting ''(or, in the case of an attempted offense, would, if completed, have obtained)'' after ''information obtained''; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(B)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(B)'';

(iii) by inserting ''or conspiracy'' after ''if the offense'';

(iv) by redesignating subclauses (I) through (VI) as clauses (i) through (vi), respectively, and adjusting the margin accordingly; and

(v) in clause (vi), as so redesignated, by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (B)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense under subsection (a)(5)(A)'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense, under subsection (a)(5)(A)'';

(iii) by inserting ''or conspiracy'' after ''if the offense''; and

(iv) by striking ''; or'' and inserting a semicolon;

(C) in subparagraph (C)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(D) in subparagraph (D)—

(i) by striking clause (ii);

(ii) by striking ''in the case of—'' and all that follows through ''an offense or an attempt to commit an offense'' and inserting ''in the case of an offense, or an attempt or conspiracy to commit an offense,''; and

(iii) by striking ''; or'' and inserting a semicolon;

(E) in subparagraph (E), by inserting ''or conspires'' after ''offender attempts'';

(F) in subparagraph (F), by inserting ''or conspires'' after ''offender attempts''; and

(G) in subparagraph (G)(ii), by inserting ''or conspiracy'' after ''an attempt''.

SEC. 5104. EFFECTS OF IDENTITY THEFT ON BANKRUPTCY PROCEEDINGS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27B) as paragraph (27D); and

(2) by inserting after paragraph (27A) the following:

''(27) The term 'identity theft' means a fraud committed or attempted using the personally identifiable information of another person.

''(28) The term 'identity theft victim' means a debtor who, as a result of an identify theft in any consecutive 12-month period during the 3-year period before the date on which a petition is filed under this title, had claims asserted against such debtor in excess of the least of—

''(A) $20,000;

''(B) 50 percent of all claims asserted against such debtor; or

''(C) 25 percent of the debtor's gross income for such 12-month period.''.

(b) PROHIBITION.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following:

''(8) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file a motion under paragraph (2) if the debtor is an identity theft victim.''.

TITLE II—DATA BROKERS

SEC. 5201. TRANSPARENCY AND ACCURACY OF DATA COLLECTION.

(a) IN GENERAL.—Data brokers engaging in interstate commerce are subject to the requirements of this title for any product or service offered to third parties that allows access or use of personally identifiable information.

(b) LIMITATION.—Notwithstanding any other provision of this title, this title shall not apply to—

(1) any product or service offered by a data broker engaging in interstate commerce where such product or service is currently subject to, and in compliance with, access and accuracy protections similar to those under subsections (c) through (e) of this section under the Fair Credit Reporting Act (Public Law 91–508);

(2) any data broker that is subject to regulation under the Gramm-Leach-Bliley Act (Public Law 106–102);

(3) any data broker currently subject to and in compliance with the data security requirements for such entities under the Health Insurance Portability and Accountability Act (Public Law 104–191), and its implementing regulations;

(4) any data broker subject to, and in compliance with, the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and 17934) and implementing regulations promulgated under such sections;

(5) information in a personal electronic record that—

(A) the data broker has identified as inaccurate, but maintains for the purpose of aiding the data broker in preventing inaccurate information from entering an individual's personal electronic record; and

(B) is not maintained primarily for the purpose of transmitting or otherwise providing that information, or assessments based on that information, to nonaffiliated third parties;

(6) information concerning proprietary methodologies, techniques, scores, or algorithms relating to fraud prevention not normally provided to third parties in the ordinary course of business; and

(7) information that is used for legitimate governmental or fraud prevention purposes that would be compromised by disclosure to the individual.

(c) DISCLOSURES TO INDIVIDUALS.—

(1) IN GENERAL.—A data broker shall, upon the request of an individual, disclose to such individual for a reasonable fee all personal electronic records pertaining to that individual maintained or accessed by the data broker specifically for disclosure to third parties that request information on that individual in the ordinary course of business in the databases or systems of the data broker at the time of such request.

(2) INFORMATION ON HOW TO CORRECT INACCURACIES.—The disclosures required under paragraph (1) shall also include guidance to individuals on procedures for correcting inaccuracies.

(d) DISCLOSURE TO INDIVIDUALS OF ADVERSE ACTIONS TAKEN BY THIRD PARTIES.—

(1) IN GENERAL.—If a person takes any adverse action with respect to any individual that is based, in whole or in part, on any information contained in a personal electronic record, the person, at no cost to the affected individual, shall provide—

(A) written or electronic notice of the adverse action to the individual;

(B) to the individual, in writing or electronically, the name, address, and telephone number of the data broker (including a toll-free telephone number established by the data broker, if the data broker complies and maintains data on individuals on a nationwide basis) that furnished the information to the person;

(C) a copy of the information such person obtained from the data broker; and

(D) information to the individual on the procedures for correcting any inaccuracies in such information.

(2) ACCEPTED METHODS OF NOTICE.—A person shall be in compliance with the notice requirements under paragraph (1) if such person provides written or electronic notice in the same manner and using the same methods as are required under section 5313(1) of this Act.

(e) ACCURACY RESOLUTION PROCESS.—

(1) INFORMATION FROM A PUBLIC RECORD OR LICENSOR.—

(A) IN GENERAL.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information disclosed to such individual under subsection (c) that is obtained from a public record source or a license agreement, such data broker shall determine within 30 days whether the information in its system accurately and completely records the information available from the licensor or public record source.

(B) DATA BROKER ACTIONS.—If a data broker determines under subparagraph (A) that the information in its systems does not accurately and completely record the information available from a public record source or licensor, the data broker shall—

(i) correct any inaccuracies or incompleteness, and provide to such individual written notice of such changes; and

(ii) provide such individual with the contact information of the public record or licensor.

(2) INFORMATION NOT FROM A PUBLIC RECORD SOURCE OR LICENSOR.—If an individual notifies a data broker of a dispute as to the completeness or accuracy of information not from a public record or licensor that was disclosed to the individual under subsection (c), the data broker shall, within 30 days of receiving notice of such dispute—

(A) review and consider free of charge any information submitted by such individual that is relevant to the completeness or accuracy of the disputed information; and

(B) correct any information found to be incomplete or inaccurate and provide notice to such individual of whether and what information was corrected, if any.

(3) EXTENSION OF REVIEW PERIOD.—The 30-day period described in paragraph (1) may be extended for not more than 30 additional days if a data broker receives information from the individual during the initial 30-day period that is relevant to the completeness or accuracy of any disputed information.

(4) NOTICE IDENTIFYING THE DATA FURNISHER.—If the completeness or accuracy of any information not from a public record source or licensor that was disclosed to an individual under subsection (c) is disputed by such individual, the data broker shall provide, upon the request of such individual, the contact information of any data furnisher that provided the disputed information.

(5) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) through (3), a data broker may decline to investigate or terminate a review of information disputed by an individual under those paragraphs if the data broker reasonably determines that the dispute by the individual is frivolous or intended to perpetrate fraud.

(B) NOTICE.—A data broker shall notify an individual of a determination under subparagraph (A) within a reasonable time by any means available to such data broker.

SEC. 5202. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) PENALTIES.—Any data broker that violates the provisions of section 5201 shall be subject to civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A data broker that intentionally or willfully violates the provisions of section 5201 shall be subject to additional penalties in the amount of $1,000 per violation per day, to a maximum of an additional $250,000 per violation, while such violations persist.

(3) EQUITABLE RELIEF.—A data broker engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subsection are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any data broker shall have the provisions of this title enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a data broker that violate this title, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this title; or

(C) obtain civil penalties of not more than $1,000 per violation per day while such violations persist, up to a maximum of $250,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in subparagraph (A) before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or civil action for a violation of this title, no attorney general of a State may, during the pendency of such proceeding or civil action, bring an action under this subsection against any defendant named in such civil action for any violation that is alleged in that civil action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this title establishes a private cause of action against a data broker for violation of any provision of this title.

SEC. 5203. RELATION TO STATE LAWS.

No requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under section 5201, relating to individual access to, and correction of, personal electronic records held by data brokers.

SEC. 5204. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE III—PRIVACY AND SECURITY OF PERSONALLY IDENTIFIABLE INFORMATION

Subtitle A—A Data Privacy and Security Program

SEC. 5301. PURPOSE AND APPLICABILITY OF DATA PRIVACY AND SECURITY PROGRAM.

(a) PURPOSE.—The purpose of this subtitle is to ensure standards for developing and implementing administrative, technical, and physical safeguards to protect the security of sensitive personally identifiable information.

(b) IN GENERAL.—A business entity engaging in interstate commerce that involves collecting, accessing, transmitting, using, storing, or disposing of sensitive personally identifiable information in electronic or digital form on 10,000 or more United States persons is subject to the requirements for a data privacy and security program under section 5302 for protecting sensitive personally identifiable information.

(c) LIMITATIONS.—Notwithstanding any other obligation under this subtitle, this subtitle does not apply to:

(1) FINANCIAL INSTITUTIONS.—Financial institutions—

(A) subject to the data security requirements and implementing regulations under the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); and

(B) subject to—

(i) examinations for compliance with the requirements of this division by a Federal Functional Regulator or State Insurance Authority (as those terms are defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)); or

(ii) compliance with part 314 of title 16, Code of Federal Regulations.

(2) HIPPA REGULATED ENTITIES.—

(A) COVERED ENTITIES.—Covered entities subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.), including the data security requirements and implementing regulations of that Act.

(B) BUSINESS ENTITIES.—A Business entity shall be deemed in compliance with this Act if the business entity—

(i) is acting as a business associate, as that term is defined under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.) and is in compliance with the requirements imposed under that Act and implementing regulations promulgated under that Act; and

(ii) is subject to, and currently in compliance, with the privacy and data security requirements under sections 13401 and 13404 of division A of the American Reinvestment and Recovery Act of 2009 (42 U.S.C. 17931 and 17934) and implementing regulations promulgated under such sections.

(3) PUBLIC RECORDS.—Public records not otherwise subject to a confidentiality or nondisclosure requirement, or information obtained from a news report or periodical.

(d) SAFE HARBORS.—

(1) IN GENERAL.—A business entity shall be deemed in compliance with the privacy and security program requirements under section 5302 if the business entity complies with or provides protection equal to industry standards or widely accepted as an effective industry practice, as identified by the Federal Trade Commission, that are applicable to the type of sensitive personally identifiable information involved in the ordinary course of business of such business entity.

(2) LIMITATION.—Nothing in this subsection shall be construed to permit, and nothing does permit, the Federal Trade Commission to issue regulations requiring, or according greater legal status to, the implementation of or application of a specific technology or technological specifications for meeting the requirements of this title.

SEC. 5302. REQUIREMENTS FOR A PERSONAL DATA PRIVACY AND SECURITY PROGRAM.

(a) PERSONAL DATA PRIVACY AND SECURITY PROGRAM.—A business entity subject to this subtitle shall comply with the following safeguards and any other administrative, technical, or physical safeguards identified by the Federal Trade Commission in a rulemaking process pursuant to section 553 of title 5, United States Code, for the protection of sensitive personally identifiable information:

(1) SCOPE.—A business entity shall implement a comprehensive personal data privacy and security program that includes administrative, technical, and physical safeguards appropriate to the size and complexity of the business entity and the nature and scope of its activities.

(2) DESIGN.—The personal data privacy and security program shall be designed to—

(A) ensure the privacy, security, and confidentiality of sensitive personally identifying information;

(B) protect against any anticipated vulnerabilities to the privacy, security, or integrity of sensitive personally identifying information; and

(C) protect against unauthorized access to use of sensitive personally identifying information that could create a significant risk of harm or fraud to any individual.

(3) RISK ASSESSMENT.—A business entity shall—

(A) identify reasonably foreseeable internal and external vulnerabilities that could result in unauthorized access, disclosure, use, or alteration of sensitive personally

identifiable information or systems containing sensitive personally identifiable information;

(B) assess the likelihood of and potential damage from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information;

(C) assess the sufficiency of its policies, technologies, and safeguards in place to control and minimize risks from unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information; and

(D) assess the vulnerability of sensitive personally identifiable information during destruction and disposal of such information, including through the disposal or retirement of hardware.

(4) RISK MANAGEMENT AND CONTROL.—Each business entity shall—

(A) design its personal data privacy and security program to control the risks identified under paragraph (3); and

(B) adopt measures commensurate with the sensitivity of the data as well as the size, complexity, and scope of the activities of the business entity that—

(i) control access to systems and facilities containing sensitive personally identifiable information, including controls to authenticate and permit access only to authorized individuals;

(ii) detect, record, and preserve information relevant to actual and attempted fraudulent, unlawful, or unauthorized access, disclosure, use, or alteration of sensitive personally identifiable information, including by employees and other individuals otherwise authorized to have access;

(iii) protect sensitive personally identifiable information during use, transmission, storage, and disposal by encryption, redaction, or access controls that are widely accepted as an effective industry practice or industry standard, or other reasonable means (including as directed for disposal of records under section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w) and the implementing regulations of such Act as set forth in section 682 of title 16, Code of Federal Regulations);

(iv) ensure that sensitive personally identifiable information is properly destroyed and disposed of, including during the destruction of computers, diskettes, and other electronic media that contain sensitive personally identifiable information;

(v) trace access to records containing sensitive personally identifiable information so that the business entity can determine who accessed or acquired such sensitive personally identifiable information pertaining to specific individuals; and

(vi) ensure that no third party or customer of the business entity is authorized to access or acquire sensitive personally identifiable information without the business entity first performing sufficient due diligence to ascertain, with reasonable certainty, that such information is being sought for a valid legal purpose.

(b) TRAINING.—Each business entity subject to this subtitle shall take steps to ensure employee training and supervision for implementation of the data security program of the business entity.

(c) VULNERABILITY TESTING.—

(1) IN GENERAL.—Each business entity subject to this subtitle shall take steps to ensure regular testing of key controls, systems, and procedures of the personal data privacy and security program to detect, prevent, and respond to attacks or intrusions, or other system failures.

(2) FREQUENCY.—The frequency and nature of the tests required under paragraph (1) shall be determined by the risk assessment of the business entity under subsection (a)(3).

(d) RELATIONSHIP TO SERVICE PROVIDERS.—In the event a business entity subject to this subtitle engages service providers not subject to this subtitle, such business entity shall—

(1) exercise appropriate due diligence in selecting those service providers for responsibilities related to sensitive personally identifiable information, and take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the sensitive personally identifiable information at issue; and

(2) require those service providers by contract to implement and maintain appropriate measures designed to meet the objectives and requirements governing entities subject to section 5302, this section, and subtitle B.

(e) PERIODIC ASSESSMENT AND PERSONAL DATA PRIVACY AND SECURITY MODERNIZATION.—Each business entity subject to this subtitle shall on a regular basis monitor, evaluate, and adjust, as appropriate its data privacy and security program in light of any relevant changes in—

(1) technology;

(2) the sensitivity of personally identifiable information;

(3) internal or external threats to personally identifiable information; and

(4) the changing business arrangements of the business entity, such as—

(A) mergers and acquisitions;

(B) alliances and joint ventures;

(C) outsourcing arrangements;

(D) bankruptcy; and

(E) changes to sensitive personally identifiable information systems.

(f) IMPLEMENTATION TIMELINE.—Not later than 1 year after the date of enactment of this Act, a business entity subject to the provisions of this subtitle shall implement a data privacy and security program pursuant to this subtitle.

SEC. 5303. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Any business entity that violates the provisions of sections 5301 or 5302 shall be subject to civil penalties of not more than $5,000 per violation per day while such a violation exists, with a maximum of $500,000 per violation.

(2) INTENTIONAL OR WILLFUL VIOLATION.—A business entity that intentionally or willfully violates the provisions of sections 5301 or 5302 shall be subject to additional penalties in the amount of $5,000 per violation per day while such a violation exists, with a maximum of an additional $500,000 per violation.

(3) EQUITABLE RELIEF.—A business entity engaged in interstate commerce that violates this section may be enjoined from further violations by a court of competent jurisdiction.

(4) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this section are cumulative and shall not affect any other rights and remedies available under law.

(b) FEDERAL TRADE COMMISSION AUTHORITY.—Any business entity shall have the provisions of this subtitle enforced against it by the Federal Trade Commission.

(c) STATE ENFORCEMENT.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the acts or practices of a business entity that violate this subtitle, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction, to—

(A) enjoin that act or practice;

(B) enforce compliance with this subtitle; or

(C) obtain civil penalties of not more than $5,000 per violation per day while such violations persist, up to a maximum of $500,000 per violation.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under this subsection, the attorney general of the State involved shall provide to the Federal Trade Commission—

(i) a written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXCEPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general of a State determines that it is not feasible to provide the notice described in this subparagraph before the filing of the action.

(C) NOTIFICATION WHEN PRACTICABLE.—In an action described under subparagraph (B), the attorney general of a State shall provide the written notice and the copy of the complaint to the Federal Trade Commission as soon after the filing of the complaint as practicable.

(3) FEDERAL TRADE COMMISSION AUTHORITY.—Upon receiving notice under paragraph (2), the Federal Trade Commission shall have the right to—

(A) move to stay the action, pending the final disposition of a pending Federal proceeding or action as described in paragraph (4);

(B) intervene in an action brought under paragraph (1); and

(C) file petitions for appeal.

(4) PENDING PROCEEDINGS.—If the Federal Trade Commission has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subsection against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(5) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1) nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths and affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(d) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 5304. RELATION TO OTHER LAWS.

(a) IN GENERAL.—No State may require any business entity subject to this subtitle to comply with any requirements with respect

to administrative, technical, and physical safeguards for the protection of sensitive personally identifying information.

(b) LIMITATIONS.—Nothing in this subtitle shall be construed to modify, limit, or supersede the operation of the Gramm-Leach-Bliley Act or its implementing regulations, including those adopted or enforced by States.

Subtitle B—Security Breach Notification

SEC. 5311. NOTICE TO INDIVIDUALS.

(a) IN GENERAL.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of or collects sensitive personally identifiable information shall, following the discovery of a security breach of such information, notify any resident of the United States whose sensitive personally identifiable information has been, or is reasonably believed to have been, accessed, or acquired.

(b) OBLIGATION OF OWNER OR LICENSEE.—

(1) NOTICE TO OWNER OR LICENSEE.—Any agency, or business entity engaged in interstate commerce, that uses, accesses, transmits, stores, disposes of, or collects sensitive personally identifiable information that the agency or business entity does not own or license shall notify the owner or licensee of the information following the discovery of a security breach involving such information.

(2) NOTICE BY OWNER, LICENSEE OR OTHER DESIGNATED THIRD PARTY.—Nothing in this subtitle shall prevent or abrogate an agreement between an agency or business entity required to give notice under this section and a designated third party, including an owner or licensee of the sensitive personally identifiable information subject to the security breach, to provide the notifications required under subsection (a).

(3) BUSINESS ENTITY RELIEVED FROM GIVING NOTICE.—A business entity obligated to give notice under subsection (a) shall be relieved of such obligation if an owner or licensee of the sensitive personally identifiable information subject to the security breach, or other designated third party, provides such notification.

(c) TIMELINESS OF NOTIFICATION.—

(1) IN GENERAL.—All notifications required under this section shall be made without unreasonable delay following the discovery by the agency or business entity of a security breach.

(2) REASONABLE DELAY.—Reasonable delay under this subsection may include any time necessary to determine the scope of the security breach, prevent further disclosures, conduct the risk assessment described in section 5302(a)(3), and restore the reasonable integrity of the data system and provide notice to law enforcement when required.

(3) BURDEN OF PRODUCTION.—The agency, business entity, owner, or licensee required to provide notice under this subtitle shall, upon the request of the Attorney General, provide records or other evidence of the notifications required under this subtitle, including to the extent applicable, the reasons for any delay of notification.

(d) DELAY OF NOTIFICATION AUTHORIZED FOR LAW ENFORCEMENT PURPOSES.—

(1) IN GENERAL.—If a Federal law enforcement or intelligence agency determines that the notification required under this section would impede a criminal investigation, such notification shall be delayed upon written notice from such Federal law enforcement or intelligence agency to the agency or business entity that experienced the breach.

(2) EXTENDED DELAY OF NOTIFICATION.—If the notification required under subsection (a) is delayed pursuant to paragraph (1), an agency or business entity shall give notice 30 days after the day such law enforcement delay was invoked unless a Federal law enforcement or intelligence agency provides written notification that further delay is necessary.

(3) LAW ENFORCEMENT IMMUNITY.—No cause of action shall lie in any court against any law enforcement agency for acts relating to the delay of notification for law enforcement purposes under this subtitle.

SEC. 5312. EXEMPTIONS.

(a) EXEMPTION FOR NATIONAL SECURITY AND LAW ENFORCEMENT.—

(1) IN GENERAL.—Section 5311 shall not apply to an agency or business entity if the agency or business entity certifies, in writing, that notification of the security breach as required by section 5311 reasonably could be expected to—

(A) cause damage to the national security; or

(B) hinder a law enforcement investigation or the ability of the agency to conduct law enforcement investigations.

(2) LIMITS ON CERTIFICATIONS.—An agency or business entity may not execute a certification under paragraph (1) to—

(A) conceal violations of law, inefficiency, or administrative error;

(B) prevent embarrassment to a business entity, organization, or agency; or

(C) restrain competition.

(3) NOTICE.—In every case in which an agency or business agency issues a certification under paragraph (1), the certification, accompanied by a description of the factual basis for the certification, shall be immediately provided to the United States Secret Service and the Federal Bureau of Investigation.

(4) SECRET SERVICE AND FBI REVIEW OF CERTIFICATIONS.—

(A) IN GENERAL.—The United States Secret Service or the Federal Bureau of Investigation may review a certification provided by an agency under paragraph (3), and shall review a certification provided by a business entity under paragraph (3), to determine whether an exemption under paragraph (1) is merited. Such review shall be completed not later than 10 business days after the date of receipt of the certification, except as provided in paragraph (5)(C).

(B) NOTICE.—Upon completing a review under subparagraph (A) the United States Secret Service or the Federal Bureau of Investigation shall immediately notify the agency or business entity, in writing, of its determination of whether an exemption under paragraph (1) is merited.

(C) EXEMPTION.—The exemption under paragraph (1) shall not apply if the United States Secret Service or the Federal Bureau of Investigation determines under this paragraph that the exemption is not merited.

(5) ADDITIONAL AUTHORITY OF THE SECRET SERVICE AND FBI.—

(A) IN GENERAL.—In determining under paragraph (4) whether an exemption under paragraph (1) is merited, the United States Secret Service or the Federal Bureau of Investigation may request additional information from the agency or business entity regarding the basis for the claimed exemption, if such additional information is necessary to determine whether the exemption is merited.

(B) REQUIRED COMPLIANCE.—Any agency or business entity that receives a request for additional information under subparagraph (A) shall cooperate with any such request.

(C) TIMING.—If the United States Secret Service or the Federal Bureau of Investigation requests additional information under subparagraph (A), the United States Secret Service or the Federal Bureau of Investigation shall notify the agency or business entity not later than 10 business days after the date of receipt of the additional information whether an exemption under paragraph (1) is merited.

(b) SAFE HARBOR.—An agency or business entity will be exempt from the notice requirements under section 5311, if—

(1) a risk assessment concludes that—

(A) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the encryption of such information establishing a presumption that no significant risk exists; or

(B) there is no significant risk that a security breach has resulted in, or will result in, harm to the individuals whose sensitive personally identifiable information was subject to the security breach, with the rendering of such sensitive personally identifiable information indecipherable through the use of best practices or methods, such as redaction, access controls, or other such mechanisms, which are widely accepted as an effective industry practice, or an effective industry standard, establishing a presumption that no significant risk exists;

(2) without unreasonable delay, but not later than 45 days after the discovery of a security breach, unless extended by the United States Secret Service or the Federal Bureau of Investigation, the agency or business entity notifies the United States Secret Service and the Federal Bureau of Investigation, in writing, of—

(A) the results of the risk assessment; and

(B) its decision to invoke the risk assessment exemption; and

(3) the United States Secret Service or the Federal Bureau of Investigation does not indicate, in writing, within 10 business days from receipt of the decision, that notice should be given.

(c) FINANCIAL FRAUD PREVENTION EXEMPTION.—

(1) IN GENERAL.—A business entity will be exempt from the notice requirement under section 5311 if the business entity utilizes or participates in a security program that—

(A) is designed to block the use of the sensitive personally identifiable information to initiate unauthorized financial transactions before they are charged to the account of the individual; and

(B) provides for notice to affected individuals after a security breach that has resulted in fraud or unauthorized transactions.

(2) LIMITATION.—The exemption by this subsection does not apply if—

(A) the information subject to the security breach includes sensitive personally identifiable information, other than a credit card or credit card security code, of any type of the sensitive personally identifiable information identified in section 5003; or

(B) the security breach includes both the individual's credit card number and the individual's first and last name.

SEC. 5313. METHODS OF NOTICE.

An agency or business entity shall be in compliance with section 5311 if it provides both:

(1) INDIVIDUAL NOTICE.—Notice to individuals by 1 of the following means:

(A) Written notification to the last known home mailing address of the individual in the records of the agency or business entity.

(B) Telephone notice to the individual personally.

(C) E-mail notice, if the individual has consented to receive such notice and the notice is consistent with the provisions permitting electronic transmission of notices under section 101 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001).

(2) MEDIA NOTICE.—Notice to major media outlets serving a State or jurisdiction, if the number of residents of such State whose sensitive personally identifiable information

was, or is reasonably believed to have been, accessed or acquired by an unauthorized person exceeds 5,000.

SEC. 5314. CONTENT OF NOTIFICATION.

(a) IN GENERAL.—Regardless of the method by which notice is provided to individuals under section 5313, such notice shall include, to the extent possible—

(1) a description of the categories of sensitive personally identifiable information that was, or is reasonably believed to have been, accessed or acquired by an unauthorized person;

(2) a toll-free number—

(A) that the individual may use to contact the agency or business entity, or the agent of the agency or business entity; and

(B) from which the individual may learn what types of sensitive personally identifiable information the agency or business entity maintained about that individual; and

(3) the toll-free contact telephone numbers and addresses for the major credit reporting agencies.

(b) ADDITIONAL CONTENT.—Notwithstanding section 5319, a State may require that a notice under subsection (a) shall also include information regarding victim protection assistance provided for by that State.

SEC. 5315. COORDINATION OF NOTIFICATION WITH CREDIT REPORTING AGENCIES.

If an agency or business entity is required to provide notification to more than 5,000 individuals under section 5311(a), the agency or business entity shall also notify all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis (as defined in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)) of the timing and distribution of the notices. Such notice shall be given to the consumer credit reporting agencies without unreasonable delay and, if it will not delay notice to the affected individuals, prior to the distribution of notices to the affected individuals.

SEC. 5316. NOTICE TO LAW ENFORCEMENT.

(a) SECRET SERVICE AND FBI.—Any business entity or agency shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that a security breach has occurred if—

(1) the number of individuals whose sensitive personally identifying information was, or is reasonably believed to have been accessed or acquired by an unauthorized person exceeds 10,000;

(2) the security breach involves a database, networked or integrated databases, or other data system containing the sensitive personally identifiable information of more than 1,000,000 individuals nationwide;

(3) the security breach involves databases owned by the Federal Government; or

(4) the security breach involves primarily sensitive personally identifiable information of individuals known to the agency or business entity to be employees and contractors of the Federal Government involved in national security or law enforcement.

(b) FTC REVIEW OF THRESHOLDS.—The Federal Trade Commission may review and adjust the thresholds for notice to law enforcement under subsection (a), after notice and the opportunity for public comment, in a manner consistent with this section.

(c) ADVANCE NOTICE TO LAW ENFORCEMENT.—Not later than 48 hours before notifying an individual of a security breach under section 5311, a business entity or agency that is required to provide notice under this section shall notify the United States Secret Service and the Federal Bureau of Investigation of the fact that the business entity or agency intends to provide the notice.

(d) NOTICE TO OTHER LAW ENFORCEMENT AGENCIES.—The United States Secret Service and the Federal Bureau of Investigation shall be responsible for notifying—

(1) the United States Postal Inspection Service, if the security breach involves mail fraud;

(2) the attorney general of each State affected by the security breach; and

(3) the Federal Trade Commission, if the security breach involves consumer reporting agencies subject to the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), or anticompetitive conduct.

(e) TIMING OF NOTICES.—The notices required under this section shall be delivered as follows:

(1) Notice under subsection (a) shall be delivered as promptly as possible, but not later than 14 days after discovery of the events requiring notice.

(2) Notice under subsection (d) shall be delivered not later than 14 days after the Service receives notice of a security breach from an agency or business entity.

SEC. 5317. ENFORCEMENT.

(a) CIVIL ACTIONS BY THE ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any business entity that engages in conduct constituting a violation of this subtitle and, upon proof of such conduct by a preponderance of the evidence, such business entity shall be subject to a civil penalty of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional. In determining the amount of a civil penalty under this subsection, the court shall take into account the degree of culpability of the business entity, any prior violations of this subtitle by the business entity, the ability of the business entity to pay, the effect on the ability of the business entity to continue to do business, and such other matters as justice may require.

(b) INJUNCTIVE ACTIONS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—If it appears that a business entity has engaged, or is engaged, in any act or practice constituting a violation of this subtitle, the Attorney General may petition an appropriate district court of the United States for an order—

(A) enjoining such act or practice; or

(B) enforcing compliance with this subtitle.

(2) ISSUANCE OF ORDER.—A court may issue an order under paragraph (1), if the court finds that the conduct in question constitutes a violation of this subtitle.

(c) OTHER RIGHTS AND REMEDIES.—The rights and remedies available under this subtitle are cumulative and shall not affect any other rights and remedies available under law.

(d) FRAUD ALERT.—Section 605A(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c–1(b)(1)) is amended by inserting ‘‘, or evidence that the consumer has received notice that the consumer’s financial information has or may have been compromised,’’ after ‘‘identity theft report’’.

SEC. 5318. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State or any State or local law enforcement agency authorized by the State attorney general or by State statute to prosecute violations of consumer protection law, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of a business entity in a practice that is prohibited under this subtitle, the State or the State or local law enforcement agency on behalf of the residents of the agency’s jurisdiction, may bring a civil action on behalf of the residents of the State or jurisdiction in a district court of the United States of appropriate jurisdiction or any other court of competent jurisdiction, including a State court, to—

(A) enjoin that practice;

(B) enforce compliance with this subtitle; or

(C) civil penalties of not more than $1,000 per day per individual whose sensitive personally identifiable information was, or is reasonably believed to have been, accessed or acquired by an unauthorized person, up to a maximum of $1,000,000 per violation, unless such conduct is found to be willful or intentional.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General of the United States—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subtitle, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the time the State attorney general files the action.

(b) FEDERAL PROCEEDINGS.—Upon receiving notice under subsection (a)(2), the Attorney General shall have the right to—

(1) move to stay the action, pending the final disposition of a pending Federal proceeding or action;

(2) initiate an action in the appropriate United States district court under section 5317 and move to consolidate all pending actions, including State actions, in such court;

(3) intervene in an action brought under subsection (a)(2); and

(4) file petitions for appeal.

(c) PENDING PROCEEDINGS.—If the Attorney General has instituted a proceeding or action for a violation of this subtitle or any regulations thereunder, no attorney general of a State may, during the pendency of such proceeding or action, bring an action under this subtitle against any defendant named in such criminal proceeding or civil action for any violation that is alleged in that proceeding or action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle regarding notification shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in—

(A) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(B) another court of competent jurisdiction.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

(f) NO PRIVATE CAUSE OF ACTION.—Nothing in this subtitle establishes a private cause of action against a business entity for violation of any provision of this subtitle.

SEC. 5319. EFFECT ON FEDERAL AND STATE LAW.

The provisions of this subtitle shall supersede any other provision of Federal law or any provision of law of any State relating to notification by a business entity engaged in interstate commerce or an agency of a security breach, except as provided in section 5314(b).

SEC. 5320. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to cover the costs incurred by the United States Secret Service to carry out investigations and risk assessments of security breaches as required under this subtitle.

SEC. 5321. REPORTING ON RISK ASSESSMENT EXEMPTIONS.

The United States Secret Service and the Federal Bureau of Investigation shall report to Congress not later than 18 months after the date of enactment of this Act, and upon the request by Congress thereafter, on—

(1) the number and nature of the security breaches described in the notices filed by those business entities invoking the risk assessment exemption under section 5312(b) and the response of the United States Secret Service and the Federal Bureau of Investigation to such notices; and

(2) the number and nature of security breaches subject to the national security and law enforcement exemptions under section 5312(a), provided that such report may not disclose the contents of any risk assessment provided to the United States Secret Service and the Federal Bureau of Investigation pursuant to this subtitle.

SEC. 5322. EFFECTIVE DATE.

This subtitle shall take effect on the expiration of the date which is 90 days after the date of enactment of this Act.

TITLE IV—GOVERNMENT ACCESS TO AND USE OF COMMERCIAL DATA

SEC. 5401. GENERAL SERVICES ADMINISTRATION REVIEW OF CONTRACTS.

(a) IN GENERAL.—In considering contract awards totaling more than $500,000 and entered into after the date of enactment of this Act with data brokers, the Administrator of the General Services Administration shall evaluate—

(1) the data privacy and security program of a data broker to ensure the privacy and security of data containing personally identifiable information, including whether such program adequately addresses privacy and security threats created by malicious software or code, or the use of peer-to-peer file sharing software;

(2) the compliance of a data broker with such program;

(3) the extent to which the databases and systems containing personally identifiable information of a data broker have been compromised by security breaches; and

(4) the response by a data broker to such breaches, including the efforts by such data broker to mitigate the impact of such security breaches.

(b) COMPLIANCE SAFE HARBOR.—The data privacy and security program of a data broker shall be deemed sufficient for the purposes of subsection (a), if the data broker complies with or provides protection equal to industry standards, as identified by the Federal Trade Commission, that are applicable to the type of personally identifiable information involved in the ordinary course of business of such data broker.

(c) PENALTIES.—In awarding contracts with data brokers for products or services related to access, use, compilation, distribution, processing, analyzing, or evaluating personally identifiable information, the Administrator of the General Services Administration shall—

(1) include monetary or other penalties—

(A) for failure to comply with subtitles A and B of title III; or

(B) if a contractor knows or has reason to know that the personally identifiable information being provided is inaccurate, and provides such inaccurate information; and

(2) require a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(A) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(B) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(C) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(d) LIMITATION.—The penalties under subsection (c) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source or licensor.

SEC. 5402. REQUIREMENT TO AUDIT INFORMATION SECURITY PRACTICES OF CONTRACTORS AND THIRD PARTY BUSINESS ENTITIES.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (7)(C)(iii), by striking ''and'' after the semicolon;

(2) in paragraph (8), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(9) procedures for evaluating and auditing the information security practices of contractors or third party business entities supporting the information systems or operations of the agency involving personally identifiable information (as that term is defined in section 5003 of the Personal Data Privacy and Security Act of 2010) and ensuring remedial action to address any significant deficiencies.''.

SEC. 5403. PRIVACY IMPACT ASSESSMENT OF GOVERNMENT USE OF COMMERCIAL INFORMATION SERVICES CONTAINING PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 208(b)(1) of the E-Government Act of 2002 (44 U.S.C. 3501 note) is amended—

(1) in subparagraph (A)(i), by striking ''or''; and

(2) in subparagraph (A)(ii), by striking the period and inserting ''; or''; and

(3) by inserting after clause (ii) the following:

''(iii) purchasing or subscribing for a fee to personally identifiable information from a data broker (as such terms are defined in section 5003 of the Personal Data Privacy and Security Act of 2010).''.

(b) LIMITATION.—Notwithstanding any other provision of law, commencing 1 year after the date of enactment of this Act, no Federal agency may enter into a contract with a data broker to access for a fee any database consisting primarily of personally identifiable information concerning United States persons (other than news reporting or telephone directories) unless the head of such department or agency—

(1) completes a privacy impact assessment under section 208 of the E-Government Act of 2002 (44 U.S.C. 3501 note), which shall subject to the provision in that Act pertaining to sensitive information, include a description of—

(A) such database;

(B) the name of the data broker from whom it is obtained; and

(C) the amount of the contract for use;

(2) adopts regulations that specify—

(A) the personnel permitted to access, analyze, or otherwise use such databases;

(B) standards governing the access, analysis, or use of such databases;

(C) any standards used to ensure that the personally identifiable information accessed, analyzed, or used is the minimum necessary to accomplish the intended legitimate purpose of the Federal agency;

(D) standards limiting the retention and redisclosure of personally identifiable information obtained from such databases;

(E) procedures ensuring that such data meet standards of accuracy, relevance, completeness, and timeliness;

(F) the auditing and security measures to protect against unauthorized access, analysis, use, or modification of data in such databases;

(G) applicable mechanisms by which individuals may secure timely redress for any adverse consequences wrongly incurred due to the access, analysis, or use of such databases;

(H) mechanisms, if any, for the enforcement and independent oversight of existing or planned procedures, policies, or guidelines; and

(I) an outline of enforcement mechanisms for accountability to protect individuals and the public against unlawful or illegitimate access or use of databases; and

(3) incorporates into the contract or other agreement totaling more than $500,000, provisions—

(A) providing for penalties—

(i) for failure to comply with title III; or

(ii) if the entity knows or has reason to know that the personally identifiable information being provided to the Federal department or agency is inaccurate, and provides such inaccurate information; and

(B) requiring a data broker that engages service providers not subject to subtitle A of title III for responsibilities related to sensitive personally identifiable information to—

(i) exercise appropriate due diligence in selecting those service providers for responsibilities related to personally identifiable information;

(ii) take reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the security, privacy, and integrity of the personally identifiable information at issue; and

(iii) require such service providers, by contract, to implement and maintain appropriate measures designed to meet the objectives and requirements in title III.

(c) LIMITATION ON PENALTIES.—The penalties under subsection (b)(3)(A) shall not apply to a data broker providing information that is accurately and completely recorded from a public record source.

(d) STUDY OF GOVERNMENT USE.—

(1) SCOPE OF STUDY.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and audit and prepare a report on Federal agency actions to address the recommendations in the Government Accountability Office's April 2006 report on agency adherence to key privacy principles in using data brokers or commercial databases containing personally identifiable information.

(2) REPORT.—A copy of the report required under paragraph (1) shall be submitted to Congress.

SA 4633. Mr. SHELBY (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 324, between lines 6 and 7, insert the following:

SEC. 858. CONSISTENCY OF ACTIONS WITH RESPECT TO THE KC-X AERIAL REFUELING TANKER AIRCRAFT PROGRAM WITH WTO OBLIGATIONS.

The Secretary of Defense shall not undertake any action with respect to the KC-X Aerial Refueling Tanker Aircraft Program (or any successor to that program) that is inconsistent with the obligations and commitments of the United States to WTO members (as defined in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10))) under the WTO Agreement and the agreements annexed thereto.

SA 4634. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 58, strike line 23 and all that follows through page 61, line 20, and insert the following:

(b) POLICY OF THE UNITED STATES.—It shall be the policy of the United States—

(1) that the Phased Adaptive Approach to missile defense in Europe is an appropriate response to the existing ballistic missile threat from Iran to European territory of North Atlantic Treaty Organization countries, and to potential future ballistic missile capabilities of Iran, and, as indicated by the April 19, 2010, certification by the Under Secretary of Defense for Acquisition, Technology, and Logistics, meets congressional guidance provided in section 235 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2234);

(2) that the Phased Adaptive Approach to missile defense in Europe is not intended to, and will not, provide a missile defense capability relative to the ballistic missile deterrent forces of the Russian Federation, or diminish strategic stability with the Russian Federation;

(3) to support the efforts of the United States Government and the North Atlantic Treaty Organization to pursue cooperation with the Russian Federation on ballistic missile defense relative to Iranian missile threats;

(4) that the Ground-based Midcourse Defense (GMD) system deployed in Alaska and California currently provides adequate defensive capability for the United States against potential and forseeable future long-range ballistic missiles from Iran, and this capability will be enhanced as the system is improved, including by the planned deployment of an AN/TPY–2 radar in southern Europe in 2011;

(5) that the United States should, as stated in its unilateral statement accompanying the New START Treaty, ''continue improving and deploying its missile defense systems in order to defend itself against limited attack and as part of our collaborative approach to strengthening stability in key regions'';

(6) that, as part of this effort, the Department of Defense should pursue the development, testing, and deployment of operationally effective versions of all variants of the Standard Missile–3 for all four phases of the Phased Adaptive Approach to missile defense in Europe;

(7) that the SM–3 Block IIB interceptor missile planned for deployment in Phase 4 of the Phased Adaptive Approach should be capable of addressing the potential future threat of intermediate-range and long-range ballistic missiles from Iran, including intercontinental ballistic missiles that could be capable of reaching the United States;

(8) that there are no constraints contained in the New START Treaty on the development or deployment by the United States of effective missile defenses, including all phases of the Phased Adaptive Approach to missile defense in Europe and further enhancements to the Ground-based Midcourse Defense system, as well as future missile defenses; and

(9) that the Department of Defense should continue the development, testing, and assessment of the two-stage Ground-Based Interceptor in such a manner as to provide a hedge against potential technical challenges with the development of the SM–3 Block IIB interceptor missile as a means of augmenting the defense of Europe and of the homeland against a limited ballistic missile attack from nations such as North Korea or Iran.

(c) CERTIFICATION.—

(1) IN GENERAL.—The President shall submit to Congress a report setting forth a certification whether or not the President has taken all actions, including the provision of adequate budgetary authority, required to achieve the following:

(A) The development and deployment of each stage of the Phased Adaptive Approach on current schedule.

(B) The availability of two-stage Ground-Based Interceptors (GBIs) as a viable technical and strategic hedge if needed to add to the defense of the United States and Europe.

(C) The testing, consistent with the experience of the United States in testing other large solid-rocket motors, and the regular modernization with emerging capabilities, of three-stage Ground-Based Interceptors.

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) NEW START TREATY DEFINED.—In this sec-

SA 4635. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle D—Other Matters

SEC. 1251. SENSE OF CONGRESS REGARDING TACTICAL NUCLEAR WEAPONS.

Recognizing the difficulty the United States has faced in ascertaining with confidence the number of tactical nuclear weapons maintained by the Russian Federation and the security of those weapons, it is the sense of Congress that the President should engage the Russian Federation with the objectives of—

(1) establishing cooperative measures to give each Party to the New START Treaty improved confidence regarding the accurate accounting and security of tactical nuclear weapons maintained by the other Party; and

(2) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its tactical nuclear weapons.

SA 4636. Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1239. IMPLEMENTATION OF MODERNIZATION PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS DURING THE IMPLEMENTATION PERIOD FOR THE START FOLLOW-ON AGREEMENT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) further reductions in the nuclear forces of the United States are only prudent and in the national security interest of the United States to the extent that the remaining nuclear forces of the United States are safer, more secure, and more reliable; and

(2) due to the inextricable link between safety, security, and reliability of the nuclear deterrent at lower levels, the security guarantees the United States has made to over 30 countries, which are backed up by the extended deterrent, and the uncertainty of modernization plans of other countries regarding their strategic and non-strategic nuclear weapons, the President should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the covered nuclear systems unless modernization is occurring as proposed in the plan the President submitted to the Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(b) ANNUAL REPORT ON THE PLAN FOR THE NUCLEAR WEAPONS STOCKPILE, NUCLEAR WEAPONS COMPLEX, AND DELIVERY PLATFORMS.—Section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) is amended—

(1) in the section heading, by inserting ''annual'' before ''report on the plan'';

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''and annually thereafter together with the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for each fiscal year in which the New START Treaty remains in effect'' after '', whichever is later,'';

(ii) by inserting ''detailed'' before ''report on the plan''; and

(iii) in subparagraph (C), by inserting ''and modernize'' after ''maintain'';

(B) in paragraph (2)—

(i) by inserting ''detailed'' before ''description'' each place it appears;

(ii) in subparagraph (C), by inserting ''and modernize'' after ''maintain'';

(iii) in subparagraph (D), by striking ''An estimate'' and inserting ''A detailed estimate''; and

(iv) by adding at the end the following new subparagraph:

''(E) A detailed description of the steps taken to implement the plan submitted in the previous year.''; and

(C) by adding at the end the following new paragraph:

''(3) CONSULTATION.—

''(A) IN GENERAL.—In preparing the report required under paragraph (1), the President shall consult with the Secretary of Defense and with the Secretary of Energy, who shall consult with the directors of the nuclear weapons enterprise facilities and laboratories, including the Pantex Plant, the Nevada National Security Site, the Kansas City Plant, the Savannah River Site, Y-12 National Security Complex, Lawrence Livermore National Laboratory, Sandia National Laboratories, and Los Alamos National Laboratory on the implementation of and funding for the plans outlined under subparagraphs (A) and (B) of paragraph (2). The directors shall make their judgments known in unclassified form, with a classified annex as necessary.

''(B) TRANSMISSION TO CONGRESS.—The written judgments received from the directors of the national nuclear weapons enterprise facilities and laboratories pursuant to subparagraph (A) shall be included, unchanged, together with the report submitted under paragraph (1).''; and

(3) in subsection (b)—

(A) in paragraph (2), by striking ''; and'' and inserting a semicolon;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new paragraph:

''(4) if the modernization plan is not funded consistent with the annual report required under subsection (a), such failure would jeopardizes the supreme interests of the United States and are potential grounds for the withdrawal of the United States from the New START Treaty in accordance with Article XIV of the Treaty.''

(c) LIMITATION ON USE OF FUNDS.—Neither the Secretary of Defense nor the Secretary of Energy may obligate or expend any amounts appropriated or otherwise made available to the Department of Defense or the Department of Energy for any of fiscal years 2011 through 2017 to retire, dismantle, or eliminate any of the covered nuclear systems until one year after the date on which the President submits to the congressional defense committees written notice of such proposed retirement, dismantlement, or elimination.

(d) COVERED NUCLEAR SYSTEMS DEFINED.—In this section, the term ''covered nuclear systems'' means—

(1) B–52H or B2 bomber aircraft, and Nuclear Air Launched Cruise Missiles;

(2) Trident ballistic missile submarines, launch tubes, and Trident D-5 Submarine launched ballistic missiles;

(3) Minuteman III intercontinental ballistic missiles and associated silos; and

(4) nuclear warheads or gravity bombs that can be delivered by the systems specified in paragraphs (1) through (3).

SA 4637. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle D—Other Matters

SEC. 1251. SENSE OF CONGRESS ON CHINA NUCLEAR COOPERATION OUTSIDE OF NUCLEAR SUPPLIERS GROUP.

(a) FINDINGS.—Congress makes the following findings:

(1) The Nuclear Suppliers Group (NSG) was established in 1974 to control the international supply of nuclear materials, facilities, and technology for the purpose of preventing the proliferation of nuclear weapons and the capacity to manufacture them.

(2) The effectiveness of the Nuclear Suppliers Group relies upon the willingness of its 46 Participating Governments to voluntarily abide by its unanimously adopted guidelines governing nuclear transfers.

(3) Under these unanimously adopted guidelines, supplier countries may not transfer nuclear materials, facilities, or technology to countries that are not signatories to the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the ''Nuclear Non-Proliferation Treaty'' or ''NPT''), without a unanimous vote by NSG Participating Governments.

(4) On joining the NSG in 2004, the People's Republic of China agreed to abide by all NSG guidelines.

(5) If the Government of China proceeds with a project without unanimous approval by the NSG's Participating Governments, it will be in clear violation of its NSG obligations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, if the Government of China engages in nuclear cooperation outside of the scope of what is approved of by the Nuclear Suppliers Group or its guidelines—

(1) the Secretary of State should work with other NSG countries to have the People's Republic of China removed from the group;

(2) the Nuclear Regulatory Commission, the Department of Energy, and the Department of Commerce should suspend any and all nuclear cooperation with the People's Republic of China; and

(3) the Secretary of State should certify—

(A) whether it remains in the national security interest of the United States that the civilian nuclear cooperation agreement entered into between the United States and the People's Republic of China pursuant to section 123 of the Atomic Energy Act (42 U.S.C. 2153) remain in force; and

(B) whether the findings of the nonproliferation assessment (NPAS) to Congress accompanying that agreement is still valid.

SA 4638. Mr. KYL (for himself and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1239. ANNUAL REPORT ON ACTIVITIES OF THE BILATERAL CONSULTATIVE COMMISSION UNDER THE NEW START TREATY.

(a) ANNUAL REPORT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense and the Secretary of State shall jointly submit to Congress each year a report on the activities of the Bilateral Consultative Commission established by the New START Treaty during the preceding year.

(2) ELEMENTS.—Each report required by this subsection shall include, for the year covered by such report, a description of any issues raised at the Bilateral Consultative Commission, including the following:

(A) Any discussion by either party regarding the missile defense capabilities or conventional global strike capabilities of the United States.

(B) Any discussion by either party regarding a compliance violation, or potential compliance violation, with respect to the New START Treaty.

(3) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex. Any classified annex included with such a report shall include a detailed explanation for the determination to submit the matters covered by such annex in a classified manner.

(b) PROHIBITION ON AVAILABILITY OF FUNDS.—No amount authorized to be appropriated by this Act or any other Act may be obligated or expended to negotiate or agree to the following:

(1) Any limitation on the development or deployment of United States missile defenses.

(2) Any exchange of telemetric information on United States missile defenses and conventional prompt global strike systems.

(3) Any limitation on the development or deployment of a conventional prompt global strike system.

(c) LIMITATION ON AVAILABILITY FUNDS FOR IMPLEMENTATION OF AGREEMENTS.—No amount authorized to be appropriated by this Act or any other Act may be obligated or expended to implement or carry out any agreement of the United States and the Russian Federation entered into through or pursuant to the Bilateral Consultative Commission until the date that is 60 days after the date on which the President submits to the Majority Leader of the Senate, the Minority Leader of the Senate, and the Committee on Foreign Relations of the Senate a notice on such agreement, including a comprehensive description of the terms of such agreement.

(d) NEW START TREATY DEFINED.—In this section, the term ''New START Treaty'' means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010.

SA 4639. Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. CONSTRUCTION OF MAJOR MEDICAL FACILITY IN FAR SOUTH TEXAS.

(a) FINDINGS.—Congress makes the following findings:

(1) The current and future health care needs of veterans residing in the Far South Texas area are not being fully met by the Department of Veterans Affairs.

(2) The Department of Veterans Affairs estimates that more than 117,000 veterans reside in Far South Texas.

(3) In its Capital Asset Realignment for Enhanced Services study, the Department of Veterans Affairs found that fewer than three percent of its enrollees in the Valley-Coastal Bend Market of Veterans Integrated Service Network 17 reside within its acute hospital access standards.

(4) Travel times for veterans from the market referred to in paragraph (3) can exceed six hours from their residences to the nearest Department of Veterans Affairs hospital for acute inpatient health care.

(5) Even with the significant travel times, veterans from Far South Texas demonstrate a high demand for health care services from the Department of Veterans Affairs.

(6) Current deployments involving members of the Texas National Guard and Reservists from Texas will continue to increase demand for medical services provided by the Department of Veterans Affairs.

(b) CONSTRUCTION OF MAJOR MEDICAL FACILITY IN FAR SOUTH TEXAS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall carry out the construction of a major medical facility project in Far South Texas consisting of a full service Department of Veterans Affairs hospital.

(2) FACILITY LOCATION.—The facility referred to in paragraph (1) shall be located in a county in Far South Texas that the Secretary determines to be most appropriate to meeting the health care needs of veterans in Far South Texas.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report identifying and outlining the determination of the Secretary under paragraph (2) and a detailed estimate of the cost of and time necessary for completion of the project required by paragraph (1).

(c) DEFINITION.—In this section, the term ''Far South Texas'' means the following counties of the State of Texas: Aransas, Bee, Brooks, Calhoun, Cameron, Crockett, DeWitt, Dimmit, Duval, Goliad, Hidalgo, Jackson, Jim Hogg, Jim Wells, Kenedy, Kleberg, Nueces, Refugio, San Patricio, Starr, Victoria, Webb, Willacy, and Zapata.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2011 for the Construction, Major Projects account such sums as may be necessary for the project required by subsection (b).

SA 4640. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 819. REPORT ON ALTERNATIVES FOR THE PROCUREMENT OF FIRE-RESISTANT AND FIRE-RETARDANT FIBER AND MATERIALS FOR THE PRODUCTION OF MILITARY PRODUCTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Vehicle and aircraft fires remain a significant force protection and safety threat for the members of the Armed Forces, whether deployed in support of ongoing military operations or while training for future deployment.

(2) Since 2003, the United States Army Institute of Surgical Research, the sole burn center within the Department of Defense, has admitted and treated more than 800 combat casualties with burn injuries. The probability of this type of injury remains extremely high with continued operations in Iraq and the surge of forces into Afghanistan and the associated increase in combat operations.

(3) Advanced fiber products currently in use to protect first responders such as fire fighters and factory and refinery personnel in the United States steel and fuel refinery industries may provide greater protection against burn injuries to members of the Armed Forces.

(b) REPORT.—Not later than February 28, 2011, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on fire-resistant and fire-retardant fibers and materials for the production of military products. The report shall include the following:

(1) An identification of the fire-resistance or fire-retardant properties or capabilities of fibers and materials (whether domestic or foreign) currently used for the production of military products that require such properties or capabilities (including include uniforms, protective equipment, firefighting equipment, lifesaving equipment, and life support equipment), and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose.

(2) An identification of the fire-resistance or fire-retardant properties or capabilities of fibers and materials (whether domestic or foreign) otherwise available in the United States that are suitable for use in the production of military products that require such properties or capabilities, and an assessment of the sufficiency, adequacy, availability, and cost of such fibers and materials for that purpose.

SA 4641. Mr. CORKER (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4636 submitted by Mr. KYL (for himself, Mr. CORKER, Mr. SESSIONS, and Mr. INHOFE) and intended to be proposed to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 6 of the amendment, strike lines 4 through 14 and insert the following:

(c) RESOURCE REQUIREMENTS.—If appropriations are enacted that fail to meet the resource requirements set forth in the plan submitted by the President pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549), or if at any time more resources are required than estimated in the President's 10-year plan, the President shall submit to the Congress, within 60 days of such enactment or the identification of the requirement for additional resources, a report detailing—

(1) how the President proposes to remedy the resource shortfall and when the resource shortfall will be remedied;

(2) if additional resources are required, the proposed level of funding required and an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(3) the impact of the resource shortfall on the safety, reliability, and performance of United States nuclear forces; and

(4) whether and why, in the changed circumstances brought about by the resource shortfall, it remains in the national interest of the United States to remain a party to the New START Treaty.

(d) LIMITATION ON USE OF FUNDS.—Neither the Secretary of Defense nor the Secretary of Energy may obligate or expend any amounts appropriated or otherwise made available to the Department of Defense or the Department of Energy for any of fiscal years 2011 through 2017 to retire, dismantle, or eliminate any of the covered nuclear systems until one year after the date on which the President submits to the congressional defense committees written notice of such proposed retirement, dismantlement, or elimination.

(e) COVERED NUCLEAR SYSTEMS DEFINED.—In this

SA 4642. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___MILITARY FAMILY-FRIENDLY EMPLOYER AWARD

SEC. _01. SHORT TITLE.

This title may be cited as the ''Military Family-Friendly Employer Award Act''.

SEC. _02. DEFINITIONS.

In this title:

(1) EMPLOYER.—The term ''employer''—

(A) means any person (as defined in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 202(a))) engaged in commerce or in any industry or activity affecting commerce; and

(B) includes any agency of a State, or political subdivision thereof.

The term does not include the Government of the United States or any agency thereof.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Defense.

SEC. _03. ESTABLISHMENT OF MILITARY FAMILY-FRIENDLY EMPLOYER AWARD.

(a) IN GENERAL.—There is established in the Department of Defense an annual award to be known as the Military Family-Friendly Employer Award (hereafter referred to in this title as the ''Award'') for employers that have developed and implemented workplace flexibility policies and practices—

(1) to assist the working spouses and caregivers of members of the Armed Forces who are deployed away from home, and to assist such members upon their return from deployment, so that the needs of the home may be addressed during and after such deployments; and

(2) that reflect a deep awareness and commitment in response to the needs of the military family unit.

(b) PLAQUE.—The Award shall be evidenced by a plaque bearing the title ''Military Family-Friendly Employer Award''.

(c) APPLICATION.—

(1) IN GENERAL.—An employer desiring consideration for an Award shall submit an application to the Secretary at such time, in such manner, and containing such information as such Secretary may require.

(2) REAPPLICATION.—An employer may reapply for an Award, regardless of whether the employer has been a previous recipient of such Award.

(d) DISPLAY ON WEB SITE.—The Secretary shall make publically available on its Internet website the names of each recipient of the Award.

(e) PRESENTATION OF AWARD.—The Secretary (or the Secretary's designee) shall present annually the Award to employers under this section.

SEC. __04. MILITARY FAMILY-FRIENDLY SPECIAL TASK FORCE.

(a) ESTABLISHMENT.—There is established within the Department of Defense a Military Family-Friendly Special Task Force (hereafter referred to in this title as the ''Task Force'').

(b) COMPOSITION.—

(1) IN GENERAL.—The Task Force shall be composed of 9 members to be appointed as follows:

(A) The Secretary shall appoint one individual to serve as the chairperson of the Task Force.

(B) The Secretary, in consultation with the Secretary of Labor and based on recommendations made by the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint—

(i) two members who shall be work-life experts; and

(ii) two members who shall be representatives of the general business community; and

(C) The Secretary, based on recommendations made by the Majority and Minority Leaders of the Senate and the Speaker and Minority Leader of the House of Representatives, shall appoint—

(i) two members who shall be experts on the Armed Forces; and

(ii) two members who shall be representatives of families with one or more members serving in the Armed Forces.

(2) QUALIFICATIONS.—In appointing members of the Task Force the Secretary shall ensure—

(A) that such members are individuals with knowledge and experience in workplace flexibility policies as such policies relate to services in and support for the Armed Forces;

(B) that not more than 2 members appointed under paragraph (1)(B) are from the same political party; and

(C) that not more than 2 members appointed under paragraph (1)(C) are from the same political party.

(3) TERMS.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), each member of the Task Force shall be appointed for 2 years and may be reappointed.

(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members of the Task Force first appointed, 4 shall each be appointed for a 1-year term and the remainder shall each be appointed for a 2-year term.

(C) VACANCIES.—Any member of the Task Force appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(4) LIMITATION.—The Secretary may not appoint any Member of Congress to the Task Force.

(c) DUTIES.—The Task Force shall—

(1) develop and review military-centered questions for integration into the award model for determining which applicant employers should receive an Award;

(2) determine how such questions should be weighed in making Award determinations what threshold should be used as the minimum for making such Awards;

(3) review responses to a sample of such questions posed as part of any questionnaire used for purposes of making such Awards;

(4) consider private sector award models such as the Malcolm Baldrige National Quality Award or the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility;

(5) determine criteria for the delivery of the Award; and

(6) carry out any other activities determined appropriate by the Secretary.

(d) OPERATIONS.—

(1) MEETINGS.—

(A) IN GENERAL.—Except for the initial meeting of the Task Force under subparagraph (B), the Task Force shall meet at the call of the chairperson or a majority of its members.

(B) INITIAL MEETING.—The Task Force shall conduct its first meeting not later than 90 days after the appointment of all of its members.

(2) VOTING AND RULES.—A majority of members of the Task Force shall constitute a quorum to conduct business. The Task Force may establish by majority vote any other rules for the conduct of the business of the Task Force, if such rules are not inconsistent with this section or other applicable law.

(3) COMPENSATION AND TRAVEL.—All members of the Task Force shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of duties of the Task Force. The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

SEC. __05. REGULATIONS.

The Secretary may prescribe regulations to carry out the purposes of this title.

SA 4643. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, between lines 15 and 16, insert the following:

SEC. 1082. REPORT ON THE EFFECT OF DEPLOYMENT ON FIRST RESPONDER AGENCIES.

(a) DEFINITION.—In this section—

(1) the term ''active duty'' has the meaning given that term in section 101 of title 10, United States Code;

(2) the term ''first responder agency'' means—

(A) a law enforcement agency or fire service (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)) of a State or local government; and

(B) a publicly or privately operated ambulance service; and

(3) the term ''reservist'' means a member of a reserve component of the Armed Forces.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Federal Emergency Management Agency and appropriate officials having responsibility for the administration of the reserve components of the Armed Forces, including the Chief of the National Guard Bureau with respect to the National Guard, shall submit to Congress a report that evaluates—

(1) the financial and other effects of the employees of first responder agencies being placed on active duty on the first responder agencies, including the ability of the first responder agencies to provide services to the community; and

(2) the effect of reservists being placed on active duty on—

(A) the hiring and retention of reservists by first responder agencies; and

(B) the ability of the reserve components of the Armed Forces to retain reservists who are employed by a first responder agency.

SA 4644. Mrs. LINCOLN (for herself and Mr. CRAPO) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 543. MODIFICATION OF BASIS FOR ANNUAL ADJUSTMENTS IN AMOUNTS OF EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE.

(a) IN GENERAL.—Section 16131(b)(2) of title 10, United States Code, is amended by striking ''equal to'' and all that follows and inserting ''not less than the percentage by which—

''(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

''(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2010, and shall apply to adjustments in amounts of educational assistance for members of the Selected Reserve that are made for fiscal years beginning on or after that date.

SA 4645. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, add the following:

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR MEMBERS OF THE RESERVE COMPONENTS FOR LONG DISTANCE AND CERTAIN OTHER TRAVEL TO INACTIVE DUTY TRAINING.

(a) ALLOWANCES REQUIRED.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 411j the following new section:

''§ 411k. Travel and transportation allowances: long distance and certain other travel to inactive duty training performed by members of the reserve components of the armed forces

''(a) ALLOWANCE REQUIRED.—The Secretary concerned shall reimburse a member of a reserve component of the armed forces for transportation expenses, including mileage traveled, incurred in connection with the following:

''(1) Round-trip travel in excess of 100 miles to an inactive duty training location, regardless of the method of transportation.

''(2) Round-trip travel of any distance to an inactive duty training location, if such travel requires a commercial method of transportation other than ground transportation.

''(b) RATES OF REIMBURSEMENT.—

''(1) MILEAGE.—In determining the amount of allowances or reimbursement to be paid for mileage traveled under subsection (a)(1), the Secretary concerned shall use the mileage reimbursement rate for the use of privately owned vehicles by Government employees on official business (when a Government vehicle is available), as prescribed by the Administrator of General Services under section 5707(b) of title 5.

''(2) COMMERCIAL FARE FOR TRAVEL BY COMMON CARRIER.—The amount of reimbursement to be paid under subsection (a)(2) for travel covered by that subsection shall be the reasonable commercial fare expense for such travel by common carrier.

''(c) REGULATIONS.—The Secretary concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 411j the following new item:

''411k. Travel and transportation allowances: long distance and certain other travel to inactive duty training performed by members of the reserve components of the armed forces.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to travel expenses incurred after the expiration of the 90-day period that begins on the date of the enactment of this Act.

SA 4646. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. REQUIREMENT FOR PROVISION OF MEDICAL AND DENTAL READINESS SERVICES TO CERTAIN MEMBERS OF THE SELECTED RESERVE AND INDIVIDUAL READY RESERVE BASED ON MEDICAL NEED.

(a) IN GENERAL.—Section 1074a(g)(1) of title 10, United States Code, is amended—

(1) by striking ''may provide'' and inserting ''shall provide''; and

(2) by striking ''if the Secretary determines'' and inserting '', as applicable, if a qualified health care professional determines, based on the member's most recent annual medical exam or annual dental exam, as the case may be,''.

(b) FUNDING.—Subject to applicable provisions of appropriations Acts, amounts available to the Department of Defense for Defense Health Program shall be available for the provision of medical and dental services under section 1074a(g)(1) of title 10, United States Code, in accordance with the amendments made by subsection (a).

(c) BUDGETING FOR HEALTH CARE.—In determining the amounts to be required for medical and dental readiness services for members of the Selected Reserve and the Individual Ready Reserve under section 1074a(g)(1) of title 10, United States Code (as amended by subsection (a)), for purposes of the budget of the President for fiscal years after fiscal year 2010, as submitted to Congress pursuant to section 1105 of title 31, United States Code, the Assistant Secretary of Defense for Health Affairs shall consult with appropriate officials having responsibility for the administration of the reserve components of the Armed Forces, including the Chief of the National Guard Bureau with respect to the National Guard.

(d) MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.—Section 1074a(f)(1) of title 10, United States Code, is amended by striking ''may provide'' and inserting ''shall provide''.

SA 4647. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. INCREASE IN AMOUNT OF DEPENDENCY AND INDEMNITY COMPENSATION PAYABLE TO SURVIVING SPOUSES.

(a) INCREASE.—Section 1311 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking ''of $1,091'' and inserting ''equal to 55 percent of the rate of monthly compensation in effect under section 1114(j) of this title''; and

(2) by adding at the end the following new subsection:

''(g) Notwithstanding any other provision of law (other than section 5304(b)(3) of this title), in the case of an individual who is eligible for dependency and indemnity compensation under this section who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, neither a reduction nor an offset in benefits under such provision shall be made by reason of such individual's eligibility for benefits under this section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to compensation paid under chapter 13 of title 38, United States Code, for months beginning after the date that is 180 days after the date of the enactment of this Act.

SEC. 1083. PHASE-IN OF PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION WITH RESPECT TO VETERANS WHO DIE OF NON-SERVICE CONNECTED DISABILITY AFTER ENTITLEMENT TO COMPENSATION FOR SERVICE-CONNECTED DISABILITY RATED AS TOTALLY DISABLING FOR AT LEAST FIVE YEARS.

Section 1318 of title 38, United States Code, is amended—

(1) in subsection (b)(1), by striking ''10 years'' and inserting ''five years'';

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following new subsection (c):

''(c) In the case of a deceased veteran described in subsection (b)(1), benefits under this chapter shall be payable under subsection (a) in amounts as follows:

''(1) If the disability of the veteran described in subsection (b)(1) was continuously rated totally disabling for a period of at least five years, but less than six years, immediately preceding death, at the rate of 50 percent of the benefits otherwise so payable.

''(2) If the disability of the veteran so described was continuously rated totally disabling for a period of at least six years, but less than seven years, immediately preceding death, at the rate of 60 percent of the benefits otherwise so payable.

''(3) If the disability of the veteran so described was continuously rated totally disabling for a period of at least seven years, but less than eight years, immediately preceding death, at the rate of 70 percent of the benefits otherwise so payable.

''(4) If the disability of the veteran so described was continuously rated totally disabling for a period of at least eight years, but less than nine years, immediately preceding death, at the rate of 80 percent of the benefits otherwise so payable.

''(5) If the disability of the veteran so described was continuously rated totally disabling for a period of at least nine years, but less than 10 years, immediately preceding death, at the rate of 90 percent of the benefits otherwise so payable.

''(6) If the disability of the veteran so described was continuously rated totally disabling for a period of at least 10 years immediately preceding death, at the rate otherwise so payable.''.

SEC. 1084. REDUCTION FROM AGE 57 TO AGE 55 OF AGE AFTER WHICH REMARRIAGE OF SURVIVING SPOUSE SHALL NOT TERMINATE DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REDUCTION IN AGE.—Section 103(d)(2)(B) of title 38, United States Code, is amended—

(1) in the first sentence, by striking ''age 57'' and inserting ''age 55''; and

(2) by striking the second sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date that is the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; and

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

(c) RETROACTIVE BENEFITS PROHIBITED.—No benefit may be paid to any person by reason of the amendment made by subsection (a) for any period before the effective date specified in subsection (b).

(d) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for benefits under title 38, United States Code, by reason of the amendment made by subsection (a) and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 55, the individual

shall be eligible for such benefits by reason of such amendment only if the individual submits an application for such benefits to the Secretary of Veterans Affairs not later than the end of the one-year period beginning on the date of the enactment of this Act.

SA 4648. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. PROVISION OF VETERANS STATUS UNDER LAW BY HONORING CERTAIN MEMBERS OF THE RESERVE COMPONENTS AS VETERANS.

(a) IN GENERAL.—Chapter 1 of title 38, United States Code, is amended by inserting after section 107 the following new section:

''§ 107A. Honoring as veterans certain persons who performed service in the reserve components

''Any person who is entitled under chapter 1223 of title 10 to retired pay for nonregular service or, but for age, would be entitled under such chapter to retired pay for nonregular service shall be honored as a veteran but shall not be entitled to any benefit solely by reason of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 107 the following new item:

''107A. Honoring as veterans certain persons who performed service in the reserve components.''.

SA 4649. Mrs. LINCOLN (for herself and Mr. RISCH) submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1082. APPROVAL OF CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF THE POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM.

Subsection (b) of section 3313 of title 38, United States Code, is amended to read as follows:

''(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is approved for purposes of chapter 30 of this title (including approval by the State approving agency concerned) and—

''(1) the program of education is offered by an institution offering postsecondary level academic instruction that leads to an associate or higher degree and such institution is an institution of higher learning (as that term is defined in section 3452(f) of this title); or

''(2) the program of education is offered by an institution offering instruction that does not lead to an associate or higher degree and such institution is an educational institution (as that term is defined in section 3452(c) of this title).''.

SA 4650. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 460, between lines 15 and 16, insert the following:

SEC. 1082. COLONEL CHARLES YOUNG HOME SPECIAL RESOURCE STUDY.

(a) STUDY.—The Secretary of the Interior (referred to in this section as the ''Secretary''), in consultation with the Secretary of the Army, shall conduct a special resource study of the Colonel Charles Young Home, a National Historic Landmark in Xenia, Ohio (referred to in this section as the ''Home'').

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate any architectural and archeological resources of the Home;

(2) determine the suitability and feasibility of designating the Home as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the Home by Federal, State, or local governmental entities or private and nonprofit organizations, including the use of shared management agreements with the Dayton Aviation Heritage National Historical Park or specific units of that Park, such as the Paul Laurence Dunbar Home;

(4) consult with the Ohio Historical Society, Central State University, Wilberforce University, and other interested Federal, State, or local governmental entities, private and nonprofit organizations, or individuals; and

(5) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives considered under the study.

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) REPORT.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that contains—

(1) the results of the study under subsection (a); and

(2) any conclusions and recommendations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 4651. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

In Sec. 4501 of Title XLV, beginning on page 807, strike the following projects in the table entitled ''Military Construction'', and make all conforming changes in Division B—Military Construction Authorizations:

''Air Force, Bahrain Island, SW Asia, North Apron Expansion, $45,000,000'';

''Air Force, Guam, Anderson AFB, PRTC-Red Horse Headquarters/Engineering Facility, $8,000,000'';

''Air Force, Guam, Anderson AFB, Strike Ops Group and Tanker Taskforce Renovation, $9,100,000'';

''Air Force, Guam, Anderson AFB, PRTC-Combat Communications Operations Facility, $9,200,000'';

Air Force, Guam, Anderson AFB, PRTC-Commando Warrior Open Bay Student Barracks, $11,800,000'';

Air Force, Guam, Anderson AFB, Strike South Ramp Utilities, phase 1, $12,200,000'';

Army NG, Guam, Barrigada, Combined Support Maintenance Shop, phase 1, $19,000,000'';

''Army, Germany, Wiesbaden AB, Construct New ACP, $5,100,000'';

''Army, Germany, Sembach AB, Confinement Facility, $9,100,000'';

''Army, Germany, Ansbach, Physical Fitness Center, $13,800,000'';

''Army, Germany, Grafenwoehr, Barracks, $17,500,000'';

''Army, Germany, Ansbach, Vehicle Maintenance Shop, $18,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $19,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $19,000,000'';

''Army, Germany, Grafenwoehr, Barracks, $20,000,000'';

''Army, Germany, Wiesbaden AB, Information Processing Center, $30,400,000'';

''Army, Germany, Rhine Ordnance Barracks, Barracks Complex, $35,000,000'';

''Army, Germany, Wiesbaden AB, Command and Battle Center, Increment 2, $59,500,000'';

''Army, Germany, Wiesbaden AB, Sensitive Compartmented Information Facility, Increment 1, $45,500,000'';

''Navy, Bahrain Island, Operations and Support Facility, $60,002,000'';

''Navy, Bahrain Island, Waterfront Development, phase 3, $63,871,000'';

''Navy, Bahrain Island, NAVCENT Ammunition Magazines, $89,280,000'';

''Navy, Djibouti, Camp Lemonier, Camp Lemonier Headquarters Facility, $12,407,000'';

''Navy, Marshall Islands, Guam, Apra Harbor Wharves Imp. (phase 1, inc), $40,000,000'';

''Navy, Marshall Islands, Guam, Defense Access Road Improvements, $66,730,000'';

''DW, Germany, Vilseck, Health Clinic Add/Alt, $34,800,000'';

''DW, Germany, Katterbach, Health/Dental Clinic Replacement, $37,100,000''; and

''DW, Guam, Agana NAS, Hospital Replacement, Increment 2, $70,000,000''.

SA 4652. Mr. BEGICH (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 349. SENSE OF CONGRESS REGARDING RED FLAG EXERCISES AT SITES IN ALASKA AND NEVADA.

(a) FINDINGS.—Congress makes the following findings:

(1) Eielson Air Force Base, Alaska, and Nellis Air Force Base, Nevada, host advanced combat training exercises known as Red Flag for the United States Air Force and foreign participants.

(2) The Joint Pacific Alaska Range Complex and Nevada Test and Training Range provide Red Flag participants with realistic, large force complex training sites.

(3) Participation in Red Flag exercises in the states of Nevada and Alaska by foreign allies provides opportunity for building partnerships and strengthening existing partnerships.

(4) The states of Nevada and Alaska provide the Department of the Air Force unique training environments for purposes of Red Flag exercises.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Red Flag exercises hosted in the states of Alaska and Nevada are critically important to ensuring a ready force and building partner capacity;

(2) the Department of the Air Force should continue to utilize both the Joint Pacific Alaska Range Complex and Nevada Test and Training Range for Red Flag exercises and other training opportunities; and

(3) the Department of the Air Force should make improvements and investments in the Joint Pacific Alaska Range Complex and Nevada Test and Training Range to maximize training opportunities in accordance with the 2025 Air Test and Training Range Enhancement Plan.

SA 4653. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 946, to enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes; which was ordered to lie on the table as follows:

On page 2, line 9, strike ''relevant to'' and insert ''necessary for''.

On page 2, strike lines 21 through 25 and insert the following:

(3) PLAIN WRITING.—The term ''plain writing'' means writing that is clear, concise, well-organized, and follows other best practices appropriate to the subject or field and intended audience.

On page 3, line 18, insert ''as required under paragraph (2)'' after ''website''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 21, 2010, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. 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 September 21, 2010, at 10 a.m., to conduct a hearing entitled ''Investing in Infrastructure: Creating Jobs and Growing the Economy.''

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 21, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Welfare Reform: A New Conversation on Women and Poverty.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on September 21, 2010, at 2:30 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. 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 September 21, 2010, at 2:30 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. 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 September 21, 2010, at 9 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2010, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that Chas Cannon, a legislative fellow in my office, be granted floor privileges for the remainder of the consideration of S. 3454.

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

Mr. KAUFMAN. I ask unanimous consent Erik Berdy, a legislative fellow in Senator INHOFE's office, be granted the privilege of the floor for the remainder of the year.

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

FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 567, S. 3717.

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

The legislative clerk read as follows:

A bill (S. 3717) to amend the Securities Exchange Act of 1934, the Investment Company Act of 1940, and the Investment Advisers Act of 1940 to provide for certain disclosures under section 552 of title 5, United States Code, (commonly referred to as the Freedom of Information Act), and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I commend the Senate for promptly taking up the Freedom of Information Act amendments to the Securities Exchange Act, Investment Company Act and Investment Advisers Act of 2010, S. 3717—an important, bipartisan bill to ensure that the Freedom of Information Act FOIA remains an effective tool to provide public access to information about the stability of our financial markets. This bill eliminates several broad FOIA exemptions for Security and Exchange Commission—SEC—records that were recently enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill will also help ensure that the SEC has access to the information that the Commission needs to carry out its new enforcement activities under the new reforms.

I thank Senators GRASSLEY, CORNYN, and KAUFMAN for cosponsoring this important open government bill, and for working with me to promptly address this issue. I commend the many open government organizations, including OpenTheGovernment.org, the Project on Government Oversight, the American Library Association and the Sunlight Foundation for their support of this bill. I also thank the distinguished chairman of the House Committee on Oversight and Government Reform, Representative EDOLPHUS TOWNS, for introducing a companion bill, H.R. 6086, in the House of Representatives.

I supported the historic Wall Street reform law, because that law takes significant strides toward enhancing transparency and accountability in our financial system. But, I am concerned that the FOIA exemptions in section 9291 of that law, which was originally drafted in the House of Representatives and included in the final legislation, could be interpreted and implemented in a way that undermines this very important goal.

The Freedom of Information Act has long recognized the need to balance the government's legitimate interest in protecting confidential business records, trade secrets and other sensitive information from public disclosure, and preserving the public's right to know. To accomplish this, care must always be taken to ensure that exemptions to FOIA's disclosure requirements are narrowly and properly applied.

When Congress enacted the FOIA exemptions in section 929I, we sought to ensure that the SEC had access to the information that the Commission needed to protect American investors—not to shield information from the public. I

am also troubled by attempts in recent weeks to retroactively apply these exemptions to pending FOIA matters.

I am also troubled by the sweeping interpretation that the Commission has expressed, to date, that these exemptions would shield from public scrutiny all information provided to the Commission in connection with its broad examination and surveillance activities.

To truly restore stability and accountability to our financial system, Congress should take immediate steps to clarify this matter and eliminate overly broad FOIA exemptions. Not surprisingly, there is growing concern about these exemptions from across the ideological and political spectrum.

I have said many times that open government is neither a Democratic issue, nor a Republican issue—it is truly an American value and virtue that we all must uphold. It is in this bipartisan spirit that Senators from both sides of the aisle have joined together to pass this bill. I urge the House of Representatives to enact this good government bill without delay.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 3717) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION OF THE FREEDOM OF INFORMATION ACT TO CERTAIN STATUTES.

(a) AMENDMENTS TO THE SECURITIES AND EXCHANGE ACT.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x), as amended by section 929I(a) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended by striking subsection (e) and inserting the following:

''(e) FREEDOM OF INFORMATION ACT.—For purposes of section 552(b)(8) of title 5, United States Code, (commonly referred to as the Freedom of Information Act)—

''(1) the Commission is an agency responsible for the regulation or supervision of financial institutions; and

''(2) any entity for which the Commission is responsible for regulating, supervising, or examining under this title is a financial institution.''.

(b) AMENDMENTS TO THE INVESTMENT COMPANY ACT.—Section 31 of the Investment Company Act of 1940 (15 U.S.C. 80a–30), as amended by section 929I(b) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(c) AMENDMENTS TO THE INVESTMENT ADVISERS ACT.—Section 210 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10), as amended by section 929I(c) of the Dodd-Frank Consumer Financial Protection and Wall Street Reform Act (Public Law 111–203), is amended by striking subsection (d).

NATIONAL FLOOD INSURANCE PROGRAM EXTENSION

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3814 introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 3814) to extend the National Flood Insurance Program until September 30, 2011.

There being no objection, the Senate proceeded to consider the bill.

Mr. KAUFMAN. I ask unanimous consent that the bill be read for a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 3814) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3814

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 ''National Flood Insurance Program Reextension Act of 2010''.

SEC. 2. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) PROGRAM EXTENSION.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(b) FINANCING.—Section 1309(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

JUMPSTART'S READ FOR THE RECORD DAY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Health, Education, Labor, and Pensions Committee be discharged from further consideration of S. Res. 593 and that 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. 593) expressing support for designation of October 7, 2010, as Jumpstart's Read for the Record Day.

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

Mr. KAUFMAN. 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 relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 593) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 593

Whereas Jumpstart, a national early education organization, is working to ensure that all children in the United States enter school prepared to succeed;

Whereas Jumpstart recruits and trains college students and community volunteers year-round to work with preschool children in low-income communities, helping the children to develop the key language and literacy skills they need to succeed in school and in life;

Whereas, since 1993, Jumpstart has engaged more than 20,000 adults in service to more than 70,000 young children in communities across the United States;

Whereas Jumpstart's Read for the Record, presented in partnership with Pearson, is a world record-breaking campaign, now in its fifth year, that harnesses the power of reading by bringing adults and children together to read the same book on the same day;

Whereas the goals of the campaign are to raise national awareness of the early literacy crisis, provide books to children in low-income households through donations and sponsorship, celebrate the commencement of Jumpstart's program year, and raise money to support Jumpstart's year-long work with preschool children;

Whereas October 7, 2010, would be an appropriate date to designate as ''Jumpstart's Read for the Record Day'' because Jumpstart aims to set the world record for the largest shared reading experience on that date; and

Whereas Jumpstart hopes to engage 2,500,000 children to read Ezra Jack Keats' ''The Snowy Day'' during this record-breaking celebration of reading, service, and fun, all in support of the preschool children of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of October 7, 2010, as ''Jumpstart's Read for the Record Day'';

(2) recognizes the fifth year of Jumpstart's Read for the Record; and

(3) encourages adults, including grandparents, parents, teachers, and college students, to join children in creating the largest shared reading experience in the world and to show their support for early literacy and Jumpstart's early education programming for young children in low-income communities.

HONORING UNITED SERVICE ORGANIZATIONS

NATIONAL FALLS PREVENTION AWARENESS DAY

100TH ANNIVERSARY OF THE ST. LOUIS ZOO

NATIONAL HISPANIC-SERVING INSTITUTIONS WEEK

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of the following resolutions which were submitted earlier today: S. Res. 632, S. Res. 633, S. Res. 634, and S. Res. 635.

The PRESIDING OFFICER. There being no objection, the Senate proceeded to consider the resolutions.

Mr. KAUFMAN. I ask unanimous consent the resolutions be agreed to, the preambles be agreed to, the motions to reconsider be laid on the table en bloc, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolutions (S. Res. 632, 633, 634, and 635) were agreed to.

The preambles were agreed to.

The resolutions, with their preambles, read as follows:

S. RES. 632

Whereas the United Service Organizations (referred to in this preamble as the ''USO'') has worked to serve members of the Armed Forces and their families for nearly 70 years;

Whereas the USO provides morale and support services to military families in more than 130 locations across the world;

Whereas the USO continues to support veterans of the Iraq and Afghanistan Wars;

Whereas the USO provides comfort to members of the Armed Forces by sending care packages to bases overseas; and

Whereas the USO and their volunteers have sent 2,000,000 care packages to our troops: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the work of the United Service Organizations in supporting the members of the Armed Forces of the United States around the world; and

(2) congratulates the United Service Organizations on sending their 2 millionth troop care package.

S. RES. 633

Whereas older adults, 65 years of age and older, are the fastest-growing segment of the population in the United States, and the number of older adults in the United States will increase from 35,000,000 in 2000 to 72,100,000 million in 2030;

Whereas 1 out of 3 older adults in the United States falls each year;

Whereas falls are the leading cause of injury, death, and hospital admissions for traumatic injuries among older adults;

Whereas, in 2008, approximately 2,100,000 older adults were treated in hospital emergency departments for fall-related injuries, and more than 500,000 were subsequently hospitalized;

Whereas, in 2007, over 18,400 older adults died from injuries related to unintentional falls;

Whereas the total cost of fall-related injuries for older adults is $80,900,000,000, including more than $19,000,000,000 in direct medical costs;

Whereas the Centers for Disease Control and Prevention estimate that if the rate of increase in falls is not slowed the annual cost under, the Medicare program will reach $32,400,000,000 by 2020;

Whereas evidence-based programs show promise in reducing falls and facilitating cost-effective interventions, such as comprehensive clinical assessments, exercise programs to improve balance and health, management of medications, correction of vision, and reduction of home hazards;

Whereas research indicates that fall prevention programs for high-risk older adults have a net-cost savings of almost $9 in benefits to society for each $1 invested;

Whereas the Falls Free Coalition Advocacy Work Group and its numerous national and State supporting organizations should be commended for their efforts to raise awareness and to promote greater understanding, research, and programs to prevent falls among older adults: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 23, 2010, as ''National Falls Prevention Awareness Day'';

(2) commends the Falls Free Coalition Advocacy Work Group and the 31 State falls coalitions for their efforts to work together to increase education and awareness about the prevention of falls among older adults;

(3) encourages businesses, individuals, Federal, State, and local governments, the public health community, and health care providers to work together to promote the awareness of falls in an effort to reduce the incidence of falls among older adults in the United States;

(4) urges the Centers for Disease Control and Prevention to continue developing and evaluating strategies to prevent falls among older adults that will translate into effective fall prevention interventions, including community-based programs;

(5) encourages State health departments, which provide significant leadership in reducing injuries and injury-related health care costs by collaborating with colleagues and a variety of organizations and individuals, to reduce falls among older adults; and

(6) recognizes proven, cost-effective falls prevention programs and policies and encourages experts in the field to share their best practices so that their success can be replicated by others.

S. RES. 634

Whereas, in 1910, the citizens of Saint Louis, Missouri, inspired by the Smithsonian's Flight Cage, a large walk-through bird cage constructed in Saint Louis for the 1904 World's Fair and purchased by the city of Saint Louis at the conclusion of the fair, formed the Saint Louis Zoological Society and encouraged the city of Saint Louis to set aside 77 acres in historic Forest Park for the establishment of a zoological park;

Whereas, guided by legislation providing that ''the zoo shall be forever free'' and supported by the extraordinary generosity of the people of Saint Louis, the Saint Louis Zoo is, and his been since its inception, accessible for all, enriching the lives of millions of people, including a record 3,101,830 visitors in 2009;

Whereas, through the exceptional work of dedicated staff, state-of-the-art facilities including the Endangered Species Research Center and Veterinary Hospital, and initiatives such as the WildCare Institute, the Saint Louis Zoo has established itself as a world leader in the conservation of endangered species and their habitats;

Whereas, through classroom presentations, Zoo tours, outreach programs, and educational resources such as the Library and Teacher Resource Center, the Saint Louis Zoo has provided invaluable educational opportunities to the members of the public, including tens of thousands of school children from the Saint Louis area for generations; and

Whereas the 2010 centennial anniversary of the founding of the Saint Louis Zoo is an achievement of historic proportions for the City of Saint Louis, the State of Missouri, the United States, and the world conservation community: Now, therefore, be it

Resolved, That the Senate commemorates the 100th anniversary of the founding of the Saint Louis Zoo on September 24, 2010.

S. RES. 635

Whereas Hispanic-serving institutions play an important role in educating many underprivileged students and helping those students attain their full potential through higher education;

Whereas Hispanic-serving institutions are degree-granting institutions that have a full-time equivalent undergraduate enrollment of at least 25 percent Hispanic students;

Whereas, as of the date of approval of this resolution, there are approximately 268 Hispanic-serving institutions in the United States;

Whereas Hispanic-serving institutions are actively involved in stabilizing and improving the communities in which the Hispanic-serving institutions are located;

Whereas more than 48 percent of Hispanic students in the United States attend Hispanic-serving institutions;

Whereas celebrating the vast contributions of Hispanic-serving institutions to the United States strengthens the culture of the United States;

Whereas the achievements and goals of Hispanic-serving institutions are deserving of national recognition; and

Whereas the week beginning September 19, 2010, would be an appropriate week for national recognition of Hispanic-serving institutions: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the achievements and goals of Hispanic-serving institutions across the United States;

(2) designates the week beginning September 19, 2010, as ''National Hispanic-Serving Institutions Week''; and

(3) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for Hispanic-serving institutions.

MEASURES READ THE FIRST TIME—S. 3813 and S. 3815

Mr. KAUFMAN. Mr. President, I understand that there are two bills at the desk and I ask for their first reading en bloc.

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

The assistant editor of the Daily Digest read as follows:

A bill (S. 3813) to amend the Public Utility Regulatory Policies Act of 1978 to establish a Federal renewable electricity standard, and for other purposes.

A bill (S. 3815) to amend the Internal Revenue Code of 1986 to reduce oil consumption and improve energy security, and for other purposes.

Mr. KAUFMAN. I now ask for a second reading en bloc and I object to my own request en bloc.

The PRESIDING OFFICER. Objection having been heard, the resolutions will be read on the next legislative day.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—S.J. RES. 30

Mr. FRANKEN. Mr. President, I ask unanimous consent that on Thursday,

September 23, at 10:30 a.m., the Republican leader or his designee be recognized to move to proceed to the consideration of S.J. Res. 30, a joint resolution providing for congressional disapproval under chapter 8 of title 5, USC, of the rule submitted by the National Mediation Board relating to representation election procedures; that there be 2 hours of debate on the motion to proceed, with the time equally divided and controlled between Senators HARKIN and ISAKSON or their designees; that upon the use or yielding back of time, the Senate proceed to vote on adoption of the motion to proceed; that if the motion is successful, then there be 1 hour of debate with respect to the joint resolution, with the time divided as indicated above; that upon the use or yielding of time, the joint resolution be read for a third time and the Senate then proceed to vote on passage of the joint resolution; provided further that if the motion to proceed is defeated, then no further motion to proceed to the joint resolution be in order; further, that no amendments or any other motions be in order to the joint resolution and all other provisions of the statute governing consideration of the joint resolution remain in effect during the pendency of this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 3816

Mr. FRANKEN. Mr. President, I understand that S. 3816, introduced earlier today by Senator DURBIN, is at the desk and I ask for its first reading.

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

The assistant legislative clerk read as follows:

A bill (S. 3816) to amend the Internal Revenue Code of 1986 to create American jobs and to prevent the offshoring of such jobs overseas.

Mr. FRANKEN. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read the second time on the next legislative day.

ORDERS FOR WEDNESDAY, SEPTEMBER 22, 2010

Mr. FRANKEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, September 22; 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 that following any leader remarks, the Senate proceed to a period of morning business until 4 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees; and with the time from 10 a.m. to 4 p.m. controlled in 30-minute alternating blocks of time, with the majority controlling the first block and the Republicans controlling the next block; and that following morning business, the Senate resume consideration of the motion to proceed to S. 3454, the Department of Defense authorization bill.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRANKEN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Wednesday, September 22, 2010, at 9:30 a.m.