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Senate

The Senate met at 9 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by the Reverend Bill Shuler from Capital Life Church in Arlington, VA.

The guest Chaplain offered the following prayer:

Let us pray.

Heavenly Father, as we bow our heads and pray, we acknowledge that we are one nation under God. Grant these Members of the Senate wisdom. Let their leadership be marked by faith, courage, health, and compassion.

God, we pray that You will refresh these Senators. Help them envision a world that is not yet but ought to be. Make their goals clear, their hearts brave, and their actions resolute. Grant them integrity and purpose in their generation. Let their daily duties translate into better lives for those they serve. God, reward their hard work. Bless their families and bless their staffs.

We pray these things in the Name of the One who binds up the brokenhearted and proclaims liberty to the captives. In Jesus' Name, amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 21, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND 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. Madam President, following leader remarks, the Senate will resume consideration of H.R. 2346, the emergency supplemental appropriations bill, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees. At 10 a.m., the Senate will proceed to vote on the motion to invoke cloture on H.R. 2346. The filing deadline for second-degree amendments is 9:30 a.m. today.

We are confident cloture will be invoked on this most important piece of legislation. I think we have had a very good debate on a number of issues. We will finish this bill before we leave this week. We hope we can do it today. There is no reason we should not be able to do it today, but if not, we will have to let the 30 hours run out sometime tomorrow evening.

We have had a tremendously productive work period. We have all worked extremely hard, and as I have said before, it is nice to be able to be home during the week rather than just on weekends. So we look forward to having a productive work period during the next week in our home States and look forward to having a productive day today and sending this bill on to the House and have the conference completed. There are very few things that need to be worked out in conference, but that should be done in a few days, and we will complete this when we get back. We have checked with the Pentagon, and they are satisfied that if we finish this when we get back, there will be adequate time to fund everything our troops need.

RECOGNITION OF THE MINORITY LEADER

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

GUANTANAMO

Mr. MCCONNELL. Madam President, a little later this morning, the President will discuss his decision to close Guantanamo by an arbitrary deadline that is now only 8 months away. It is clear to both Republicans and Democrats in Congress that the administration does not currently have a plan for closing Guantanamo and that closing it without a plan is simply unacceptable. So I hope the President uses his remarks this morning to present a concrete plan that demonstrates how closing Guantanamo will keep Americans as safe as Guantanamo has.

We know the FBI has serious concerns about any plans to release or transfer other detainees into the United States. Just yesterday, FBI Director Mueller said detainees who are sent to U.S. soil, even if they are only sent to secure detention facilities, might still be able to conduct terrorist activities, much like gang leaders who have been able to run their gangs from prison. Director Mueller also stated that detainees released or transferred

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

into the United States could endanger the American people by radicalizing others or providing financial support for terrorism. Director Mueller's testimony appears to undermine the claim that sending detainees to the United States is a safe alternative to Guantanamo.

Yesterday, the Senate spoke with near unanimity, by a vote of 90 to 6, against sending terrorist detainees to U.S. soil—a vote that mirrored a vote 2 years ago on the same question. The Senate also expressed its view yesterday that Congress expects its relevant committees to be briefed on the threat posed by the terrorists at Guantanamo. So it is clear that Senate Democrats do not believe circumstances have changed over the last 2 years in such a way that would warrant releasing or transferring terrorists into America.

If the President believes circumstances have changed, then he has an opportunity to explain those changes this morning. The American people are asking the administration to guarantee that any terrorist it releases or transfers will not return to the battlefield. This is particularly urgent in light of a New York Times report this morning that says one in seven detainees already released has returned to terrorism. The President has an opportunity to reassure the American people that future releases will not lead to the same result. If he is not able to provide specifics about his plan for terrorist detainees at Guantanamo, he could still provide this assurance by simply revising his policy. The President has already shown adaptability on military commissions, on prisoner photos, on Iraq, on Afghanistan, and on Pakistan. Here is an opportunity to show more of that flexibility on Guantanamo.

ENERGY

Mr. MCCONNELL. Madam President, Americans have noticed a steady uptick in the price of gasoline over the past few weeks, and it is only going to get worse during the summer driving season. The economic downturn may have caused gas prices to fall from last summer's record highs, but as the economy recovers, $4 gasoline could well return and Americans will want answers.

Fortunately, many of us have been busy putting together a balanced, sensible solution that gets at the root of our energy crisis and addresses the concerns of everyone involved in this debate, including some who traditionally have been at odds. We believe it is possible to build a bridge to the clean energy future all of us want without introducing crippling taxes on consumers or on industry. So this morning, with Memorial Day fast approaching, I would like to briefly outline this balanced approach.

The first step is to admit we have a serious problem. Something must be done to reduce America's dependence on foreign oil. America uses more than a fifth of the world's supply of oil, much of it from countries that do not like us. If we start by using less, we will need a lot less from other countries. So conservation and increased efficiency are certainly necessary. It is something on which everyone can agree. We need to use less.

But conservation is only half the equation. Even as we use less energy, we need to produce more of our own. America sits on an ocean—a literal ocean—of untapped oil and natural gas and vast stores of coal and oil shale. Our geography also makes us rich in renewable energy sources such as wind, solar, and geothermal. Taken together, these resources are the perfect complement as we move toward the day when cars and factories can run on cleaner, more efficient fuels. But we have to be realistic about how far off that day is. We have to admit there is a gap between the clean renewable fuel we want and the reliable energy we need. So as we invest in technologies that will bring us cleaner, more efficient energy, the only way we can expect to truly reduce our dependence on foreign sources of oil is to produce more American energy and use less. This may sound like a simple proposal. The best solutions usually are. Unfortunately, the idea of finding more energy at home and using less is needlessly controversial because some are unwilling to admit that a gap exists between the energy we need now and the energy we want, and still others do not like a number of our proposals for finding more domestic energy.

Here is what we have proposed. We propose building 100 new clean nuclear energy plants as soon as possible. We propose offshore exploration for natural gas and oil. We propose making plug-in electric cars and trucks half of all new vehicles sold in 20 years. And we propose doubling research and development on energy to make all of this possible. These and other proposals, including the development of clean coal and coal-to-liquids technologies, constitute a balanced, comprehensive approach that would do all the things we need to reduce our dependence on foreign oil, help reduce our consumption, and build the bridge to a cleaner, more efficient energy future.

This approach would strengthen our economy by preserving jobs in existing industries even as we create new jobs by investing in new technologies. It would enhance our security by reducing our dependence on foreign suppliers. And it would help the environment by embracing the cleaner, more efficient energy sources of the future.

All of us recognize we should reduce the amount of energy we use. We also recognize the energy we use should be as clean as possible, as reliable as possible, and as inexpensive as possible. Our balanced approach of finding more American energy and using less would bring about all these things without hurting the economy or disrupting our lives or hindering security.

So as the summer driving season continues, Americans will be reminded, once again, that our Nation's energy crisis has not gone away. But the approach I have outlined addresses that crisis head-on. Republicans will continue to speak out about the produce-more, use-less model. We hope our friends on the other side recognize it is the only sensible approach to a crisis that must be addressed.

Madam President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

SIGNING AUTHORITY

Mr. PRYOR. Madam President, I ask unanimous consent that the majority leader be permitted to sign any duly enrolled bills and joint resolutions during today's session.

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

DEALERSHIP CLOSINGS

Mrs. HUTCHISON. Madam President, I wish to give sort of a progress report on the amendment I introduced yesterday and is pending still, but after cloture it will be in a different category, of course. I wish to say I have had a very productive opportunity to talk to the president of Chrysler and the people at Chrysler to try to make headway for the Chrysler dealers, the 789 that have gotten the notice they will be shut down as of June 9. I think there is a way forward here. It is not set in concrete, but I think there is going to be a result that I believe will make it a much better situation. That is what I am working for because these dealers right now are facing bankruptcy themselves—every one of them. We are talking about 40,000 employees in these dealerships. So as the Government is certainly backing the automobile companies and they are trying to have as soft a landing as possible for all those involved in this very serious situation we are in, I want the dealers to be part of the soft landing.

I don't think it is Government's position to go in and change the decisions that have been made by Chrysler, but I do think it is our responsibility to assure that those dealers have the ability to have some accommodation for all the inventory they have—the cars, the special equipment, the parts—that after June 9, they will not be able to use. They will not be able to sell a Chrysler car or use the Chrysler logo. Although General Motors has given notice to its dealers, they have given them until the end of 2010 to work things through. But Chrysler I think is trying to stay as strong as they can going into the merger that has been approved, so they want a quick ending, which we all understand and support. I do. I want Chrysler to emerge in a stronger situation. I think we all do. But I also want the dealers that are suffering all over this country right now, having had 3 weeks' notice to shut down, sometimes a dealership that has been in business for 90 years or 50 years or 25 years—we can't walk away from that. Chrysler can't walk away from that. I believe, from talking to the president today, they agree with that.

We are trying to get something definitive. I will report, again, on this. I am going to support cloture because we must provide the supplemental funds for our troops who are in harm's way. That is the premier purpose of this supplemental appropriation. I am very pleased this Senate has acted decisively to stop the funding for moving prisoners from Guantanamo Bay into our country or letting them go into other countries, where we fear we might see them again on the other side of an IED or some other disruption. I am very pleased with the action the Senate took yesterday on that. We must fund our troops who are in harm's way and their families and their quality of life, giving them the equipment and the training and the support they need to do their jobs.

At the same time, the reason I brought this amendment forward is because it, too, is an emergency. While it is not a taxpayer expense, it is a situation that I think is untenable and that is the people who are under the gun until June 9. My message is that I believe the Chrysler people are going to try to do the right thing. I believe the White House can help us make that happen. We are going to work with the White House and the task force. The Senators from Michigan, I think, are also being very proactive here. I wish to say I appreciate the cosponsors of my amendment. Senator MIKULSKI, on the floor last night, was added as a cosponsor, along with Senator MENENDEZ and Senator BROWN.

I ask unanimous consent, at this time, that Senator CASEY and Senator LAUTENBERG be added as cosponsors of amendment No. 1189.

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

Mrs. HUTCHISON. We were adding sponsors just about every few minutes as people began to see the plight of these dealers and hear from them.

My message is we need to vote for cloture. We need to go forward with this supplemental appropriation for our troops, but we must—we must—take care of these dealers in the best possible way and not leave them stranded in a situation which was not their doing. Yet they are paying the highest of all prices.

I thank the Chair, and I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. CHAMBLISS. Madam President, I ask unanimous consent that Senate amendment No. 1144 be considered in order postcloture in addition to the requirements under rule XVI, rule XXII, and the adoption of the Inouye amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Reserving the right to object, this amendment from my friend, Senator CHAMBLISS, would preclude the U.S. Attorney General from allowing detainees at Guantanamo to even be tried for crimes in the United States. I think it goes too far, and I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CHAMBLISS. Madam President, the assistant majority leader is exactly right. My amendment is going to prohibit any Guantanamo detainee from being brought to the United States. The assistant majority leader made a comment yesterday that he thought it was somewhat foolish on the part of the minority to think this President would even allow terrorists to be brought into the United States. The fact is, this administration is already proposing that some of the terrorists who are held at Guantanamo be brought into the United States and be freed because the court has determined that 17 Uyghurs ought to be free. The administration is talking about freeing those Uyghurs inside the United States.

The press reported this morning that President Obama intends to bring a Gitmo detainee, Ahmed Ghailani, to New York to be tried in our criminal courts. I fear this is the start of a long process of transferring detainees to the United States where, I believe, legal technicalities will ultimately allow some of them to be freed into the United States.

The Senate voted yesterday to prevent any detainees from being brought here and has been very outspoken on this issue this week. Despite this, the President has chosen to ignore the will of Congress and bring Ghailani to the United States. Instead, he is acting quickly to bring him here before he signs the supplemental bill into law.

I don't know how the President thinks he can try this detainee in our courts. Ghailani is not just any terrorist. He was a high-value detainee in the CIA's detention. Bringing him into a U.S. courtroom will open a floodgate to challenges on his detention, his treatment, and any evidence obtained from him.

Additionally, if we were able to obtain any evidence on Ghailani from any other terrorists, that information would likely not be admitted in U.S. courts because it would be considered hearsay. If not, the prosecution would be required to bring additional terrorists to New York just to testify in Ghailani's trial. This alone will make a conviction much more difficult.

There is too much at stake to grant the unprecedented benefit of our legal system's complex procedural safeguards to foreign nationals who were captured outside the United States during a time of war. Allowing these terrorists to escape conviction or, worse yet, to be freed into the United States by our courts because of legal technicalities would tarnish the reputation of our legal system as one that is fair and just.

Prohibiting the detainees from entering the United States, as my amendment does—the assistant majority leader is exactly right—is one small step in the right direction.

Further, if these individuals, such as Ghailani, were to be brought to the United States by President Obama to be tried in our article III courts and not convicted, the only mechanism available to our Government to continue to detain these individuals would be via immigration law. However, current immigration laws on our books are insufficient to ensure these detainees would be mandatorily detained and continue to be detained until they can successfully be removed from our borders.

Although I am adamantly opposed to bringing any of these detainees to the United States, and I do not believe the President has independent authority to do so, I do believe we need legislation to safeguard our citizens and our communities in the event they are brought here. To that end, my amendment makes mandatory the detention of any Gitmo detainees brought to the United States.

It is imperative the Senate consider my amendment before the final adoption of this supplemental bill.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Madam President, in response to my friend, the Senator from Georgia, he has obviously forgotten the name Zacarias Moussaoui. He was accused of being the 19th or 20th

hijacker on 9/11. He was successfully prosecuted in the courts of the United States. He has been convicted, is serving time in a prison of the United States, and we are not less safe because of it. Our system of justice worked.

The Senator from Georgia and many on his side of the aisle have no confidence in our system of justice. They do not want to even consider the possibility that people could be charged with a crime and successfully prosecuted here. We have proven otherwise.

There are 347 convicted terrorists now serving time in U.S. prisons. I have not heard a hue and cry from anyone saying let's get them all out of the country, because we know they are being safely and securely held.

America is not at risk. For the Senator to argue that once they are tried they have to be released as American citizens or in the general population defies logic. If these people are brought in for the purpose of trial and found not guilty, they are certainly not going to be allowed to stay in the United States. There is no requirement for that. There is no way they could ask for citizenship, having just been found not guilty, being a resident of another country. That is not even in the realm of possibility.

What the Senator is arguing is about a possibility that I think is farfetched, and he ignores the obvious. Madam President, 347 terrorists convicted in American courts are currently serving time in American prisons right now.

I might also add that at the end of the day, it will be the President of the United States who will propose what we do, and the President will make his recommendations soon. I am anxious to hear them. But for us to foreclose the possibility of bringing a detainee to justice for crimes committed, for acts of terrorism, by saying we would not consider ever trying them in the United States, what would we do with them? Hold them indefinitely without charges? Export them to some other country?

If they can be charged and prosecuted successfully in our courts, they should be. They should be held securely until they are resolved in court, and if they are resolved in a guilty fashion, they could be incarcerated as the other 347 terrorists in our prisons. If found not guilty, they can leave the country, as they should not be welcomed as citizens.

The President will be making an announcement today. I am anxious to hear it. For us to anticipate what that is and foreclose possibilities I don't think is a wise policy for keeping this country safe.

The bottom line is this President—no President—is going to release terrorists into Georgia, Mississippi, Illinois, or New York. It is not going to happen. Presidents accept their responsibility to keep our country safe, and to suggest otherwise I don't think is consistent with our experience.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. CHAMBLISS. Madam President, what the Senator from Illinois, who is a lawyer, neglects to mention is the fact that all 347 of the current incarcerated people who have been tried for terrorist acts were arrested under U.S. law. They were investigated by the FBI. They were prosecuted because they were arrested and investigated with that end in mind. Not one single one of those 347 individuals was arrested on the battlefield.

What the Senator is now proposing is that we take all 240 of the confined detainees at Gitmo and give them all of the rights that are guaranteed to every criminal who is investigated and arrested inside the United States as opposed to being arrested on the battlefield. That has never happened before in the history of the United States, and we have had an awful lot of captives on the battlefield.

For there to be any correlation between the 240 detainees at Guantanamo who are the meanest, nastiest killers in the world, getting up every day thinking of ways to kill and harm Americans, and to compare them to the 347 who are now confined after being arrested inside the United States is somewhat ludicrous.

Again, I regret the Senator is objecting to my amendment which would keep those 240 individuals at Guantanamo outside the United States and would ensure that forever and ever they could never be released into the United States. I simply regret he sees fit to object to it.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Madam President, I am not suggesting that the detainees at Guantanamo all be tried. I know of one, for example, who has been held for 7 years and was notified a year ago there are no charges against him. The question is where he will be sent. He still languishes in prison because of that. It would be unjust for us to continue to keep him in Guantanamo without any charges against him beyond 7 years. I don't think he needs to be tried. We need to find a safe place to put him once we are certain he is not going to engage in acts of terrorism.

This morning, President Obama is going to make a statement on this issue. The statement by the White House in advance of his speech at the National Archives—I think part of this press announcement bears repeating into the RECORD. It says:

The President also ordered a review of all pending cases at Guantanamo. In dealing with the situation, we do not have the luxury of starting from scratch. We are cleaning up something that is—quite frankly—a mess that has left in its wake a flood of legal challenges that we are forced to deal with on a constant basis and that consumes the time of government officials whose time would be better spent protecting the country. To take care of the remaining cases at Guantanamo Bay, the President will, when feasible, try those who have violated American criminal laws in Federal courts; when necessary, try those who violate the rules of war through military commissions; when possible, transfer to third countries those detainees who can be safely transferred.

President Obama is calling for an orderly, sensible review of cases at Guantanamo. For us to continue to keep voting on ways to foreclose the possibilities of bringing Guantanamo to a close in a responsible fashion I don't think is responsible conduct. I hope we will stop this and allow the President to show his leadership. He inherited this mess at Guantanamo. He is doing his best to find solutions in keeping with our values and keeping in mind his primary responsibility to keep us safe.

I yield the floor.

Mr. CHAMBLISS. Madam President, I simply close by saying the Senator is exactly right. There are military tribunals set up in Guantanamo today. In fact, those military tribunals had convicted three separate detainees, and the current administration, when they came into office, dropped the pending charges of twenty-some others awaiting trial, thus suspending the military commissions. These individuals can be tried by military tribunals at Guantanamo. They are in place and ready to go. I would simply urge that is the way these individuals need to be prosecuted and not to be brought to the United States and tried here.

I yield the floor.

RESERVATION OF LEADER TIME

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

SUPPLEMENTAL APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2346, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Cornyn amendment No. 1139, to express the sense of the Senate that the interrogators, attorneys, and lawmakers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned.

Chambliss amendment No. 1144, to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

Isakson amendment No. 1164, to amend the Internal Revenue Code of 1986 to expand the application of the homebuyer credit.

Corker amendment No. 1173, to provide for the development of objectives for the United States with respect to Afghanistan and Pakistan.

Lieberman amendment No. 1156, to increase the authorized end strength for active-duty personnel of the Army.

Graham (for Lieberman) amendment No. 1157, to provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after

September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

Kyl/Lieberman amendment No. 1147, to prohibit funds made available for the Strategic Petroleum Reserve to be made available to any person that has engaged in certain activities with respect to the Islamic Republic of Iran.

Brown amendment No. 1161, to require the United States Executive Director of the International Monetary Fund to oppose loans and other programs of the Fund that do not exempt certain spending by the governments of heavily indebted poor countries from certain budget caps and restraints.

McCain amendment No. 1188, to make available from funds appropriated by title XI an additional $42,500,000 for assistance for Georgia.

Lincoln amendment No. 1181, to amend the Federal Deposit Insurance Act with respect to the extension of certain limitations.

Risch amendment No. 1143, to appropriate, with an offset, an additional $2,000,000,000 for National Guard and Reserve Equipment.

Kaufman modified amendment No. 1179, to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations.

Leahy/Kerry amendment No. 1191, to provide for consultation and reports to Congress regarding the International Monetary Fund.

Hutchison amendment No. 1189, to protect auto dealers.

Merkley/Whitehouse amendment No. 1185, to express the sense of the Senate on the use by the Department of Defense of funds in the Act for operations in Iraq in a manner consistent with the United States-Iraq Status of Forces Agreement.

Merkley (for DeMint) amendment No. 1138, to strike the provisions relating to increased funding for the International Monetary Fund.

Bennet/Casey amendment No. 1167, to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

Reid amendment No. 1201 (to amendment No. 1167), to change the enactment date.

The ACTING PRESIDENT pro tempore. All time for debate has expired.

The Senator from Hawaii.

Mr. INOUYE. Madam President, I ask unanimous consent that the pending amendment be set aside, and to call up amendment No. 1162.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

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

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

Mr. INOUYE. Madam President, I withdraw my earlier request.

The ACTING PRESIDENT pro tempore. The request is withdrawn.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant 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 H.R. 2346, the Supplemental Appropriations Act of 2009.

Harry Reid, Christopher J. Dodd, Charles E. Schumer, Mark Begich, Mark L. Pryor, Richard Durbin, Patty Murray, Tom Harkin, Edward E. Kaufman, Claire McCaskill, Michael F. Bennet, Mark Udall, Jeanne Shaheen, Carl Levin, Jack Reed, Sheldon Whitehouse, Daniel K. Inouye.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2346, the Supplemental Appropriations Act of 2009, 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. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

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

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?:

The yeas and nays resulted--yeas 94, nays 1, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—94

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

NAYS—1

Feingold

NOT VOTING—4

Byrd	Kennedy
Hatch	Rockefeller

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 94, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Madam President, I ask unanimous consent that Senators BENNETT, BINGAMAN, and KERRY be added as cosponsors of amendment No. 1189.

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

Mrs. HUTCHISON. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Madam President, I ask unanimous consent to add Senator KLOBUCHAR as a cosponsor of amendment No. 1189.

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

Mrs. HUTCHISON. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I rise today to express my support for the 2009 Supplemental Appropriations Act. My vote today does not indicate a blank check for the administration. But it is indicative of a strong desire on my part to begin to change to a new approach in Iraq and Afghanistan.

We all know about the challenges President Obama inherited from 8 long years of the Bush administration. He was left with an economy and recession, wars in Iraq and Afghanistan, diminished U.S. standing around the globe, a country more dependent on foreign oil, and a resurgent al-Qaida.

Today, we have a new administration with clear priorities and realistic foreign policy objectives. We must give President Obama and his administration the resources and flexibility they need to move U.S. foreign policy in a new direction. If we were to walk away from this change in policy that is reflected in this supplemental, I think the message we are sending is for the status quo. The status quo does not deserve a vote.

Again, I repeat, my vote is not a blank check. I am voting for this bill not because I want the United States to remain bogged down in two wars, but because I want to give this administration—the Obama administration—the resources it needs to successfully end these wars, starting with the war in Iraq. Furthermore, I don't support an open-ended commitment of American troops to Afghanistan; and if we do not see measurable progress, we must reconsider our engagement and strategy there.

In particular, we must do more to sharply reduce the numbers of heartbreaking civilian casualties. As ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, recently said:

> We cannot succeed in Afghanistan, or anywhere else . . . by killing Afghan civilians. . . .

In a reference to a U.S. airstrike in the Farah Province, Admiral Mullen said:

> We can't keep going through incidents like this and expect the strategy to work.

I could not agree more. President Obama promised the American people a new way forward in Iraq and a new way forward in Afghanistan. The passage of this bill will allow him to put the pieces in place to keep his promises by finishing the mission in Afghanistan, which was shortchanged because of the Iraq war. I want to talk about that for a minute.

I voted, after 9/11, to go after al-Qaida, to go after the Taliban, to go after Osama bin Laden. The administration, instead of doing that, turned around and went into Iraq under the false premise that Iraq had something to do with 9/11. We still have former Vice President Cheney out there trying to convince the people that was the right thing to do. That was the wrong thing to do. There have been so many needless deaths in Iraq. We left Afghanistan, and the Taliban returned in force; and the people there are under the yoke of the Taliban in many parts of that country. What a tragedy, because of a mistaken policy. What a terrible legacy, because of a mistaken policy. Yet the debate rages on. So I am going to engage in that debate.

I believe we need to tackle this mission in Afghanistan, which was shortchanged. I believe we must increase the role of the State Department and our civilian agencies in working toward peace. I know my colleague in the chair, Senator KAUFMAN, has been very eloquent on this point—a new way to allow the Afghan people to, in essence, take back their country. We need to train Afghan security forces so we can ultimately change the nature of our mission there and bring our troops home. That is the goal.

I have heard my Republican friends say they don't know what the goal is in Afghanistan. That is OK. I don't think there is any problem explaining what it is. We want to go after al-Qaida. We want to decrease the influence of the Taliban and defeat them, if we have to. Hopefully, we can, in fact, work with some of them. I am not convinced of that, but it may be possible. We need to give the Afghan security forces the ability to defend their own people.

There is a lot more we have to do over there to protect the most vulnerable Afghans, and that means the women and the children of Afghanistan. I will talk more about that because this supplemental takes a huge step forward in protecting the women and children there.

It seems to me we have to give President Obama an opportunity to bring about the change he promised. If I see that change is not coming, I am not going to be there. But today, I believe we should give him that chance.

To think that we actually had Osama bin Laden cornered at one time, but the obsession with Saddam Hussein drove us away in those Bush years from that mission and brought us into a situation where we have lost so many of our young men and women, many of them—30,000—were injured, some with horrific injuries, and many more are suffering from post-traumatic stress and brain injury.

President Bush took his eye off Afghanistan, and so did Vice President Cheney. Frankly, sadly, we come to this day. I understand why some colleagues might just say: I don't want to hear about it. I don't want to spend any more money on it. Just forget it.

I don't think that is the way to go. I think President Obama said very clearly that he is going to bring change. I think this is the day. We either stand for change or for the status quo. That is my belief.

In the Bush years we never really had enough resources to fight al-Qaida in Afghanistan because we were waging an open-ended war in Iraq. Remember, there were no benchmarks for progress. It was day after day, death after death after death. Frankly, because the Iraq war fueled recruitment by al-Qaida, our Nation's security has been compromised. Our standing in the world has suffered. Again, most heartbreaking, American servicemembers and their families have paid the price.

In my view, there are four provisions in the supplemental that will help to correct our course.

First, the bill provides funding to get our troops home from Iraq. These provisions are essential for President Obama to meet his date of August 31, 2010, to remove combat brigades from Iraq and remove all of our troops by the end of 2011.

For those of us who want to bring the troops home, the funding to do that is in this supplemental. So, clearly, when we vote for this, we vote to begin that process. The responsibility for security must be turned over to the Iraqis—and quickly. U.S. forces cannot continue to shoulder the burden there anymore. The people there have to decide if they want to live together or die together. They have to look at these ethnic divisions and make their own decisions. We will help. We will always help. But it is their decision.

So the first part of the bill is funding to begin bringing the troops home from Iraq.

Second, this bill seeks to turn things around in Afghanistan by providing a significant investment in diplomacy and development, including, very importantly to me and to a lot of my colleagues, for the Afghan women. A military solution alone will not solve the problems in Afghanistan. We need a strategy that helps the Government provide for its people and invest in the civil society and those programs that are crucial to the long-term security and prosperity of that country.

Development is very important to the people of Afghanistan. I am very proud that this bill takes critical steps to support Afghan women and girls. Today, more than 7 years after the international community helped free Afghan women from the prison of life under the Taliban, the situation for women in Afghanistan remains dire.

I want to say to Senator LEAHY and his staff: Thank you. Thank you for listening. Thank you for working with us. Thank you for working with the women-led nongovernmental organizations.

Without Senator LEAHY and his staff, we would not have this language in the bill. I wanted to make that point.

More than 80 percent of the women in Afghanistan are illiterate. More than one in six die in childbirth. These are the voices that have been forgotten. We cannot return to the days when Afghan women had to be draped in burqas against their will. If you have never tried on a burqa—and I am sure most people haven't—let me tell you what it feels like, because I did. You disappear. You become nothing. Remember when women were murdered in cold blood by the Taliban in soccer stadiums? Those days must be over.

It seems to me that walking away from this supplemental at this time says we are walking away from those women. We need to help them. We need to do everything we can to give them a chance because to not do so would be tragic.

This bill specifically appropriates $100 million for programs that directly address the needs of Afghan women and girls. In addition to Senator LEAHY and his staff, I thank Congresswoman NITA LOWEY and her staff. In the House bill, they also put in quite a few resources for the women-led NGOs. In our bill, we do even more to directly address the

needs of women and girls, including funding for the Afghan Human Rights Commission and Afghan Ministry of Women's Affairs.

I wrote a bill called the Afghan Women Empowerment Act. Specifically, the supplemental appropriates $30 million for Afghan women-led nongovernmental organizations, which is a key component of that bill. The international community cannot stay in Afghanistan indefinitely. We know that. So this funding will help empower those organizations that will provide for the needs of the Afghan community long after the international community has left.

The supplemental includes $10 million to train and support Afghan women investigators, police officers, prosecutors, and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

This is particularly important in a country where women have been so marginalized. No female victim of violence will ever come forward if she believes there is no system in place or resources to help her. What happens if she comes forward is that she becomes a target. I don't know how you feel about it—I think I can guess—when any of us sees little girls being attacked with acid when they are going to school. There is something deeply wrong if America turns away from that. We cannot, it seems to me, in good conscience not give this one more chance, which is what this supplemental is doing because it is taking a major step to give the Afghan people the chance to stand up for their women, children, and families.

Third, this bill recognizes the importance of Pakistan, a dysfunctional, nuclear-armed nation that has some of the most notorious al-Qaida terrorists within its borders. Pakistan is one of the greatest threats to international security that we face today. This danger is such a concern that Bruce Riedel, a Brookings Institution scholar who served as the coauthor of the President's review of our Afghanistan-Pakistan strategy, said that the country—this is Pakistan—''has more terrorists per square mile than any other place on Earth, and it has a nuclear weapons program that has grown faster than anyplace else on Earth.'' It seems to me to walk away from that threat is the wrong course. This bill provides funds for nonmilitary aid and counterinsurgency training to enable the Pakistani Government to defeat the growing extremist threat within its borders.

Fourth, this bill provides funding to help our servicemembers and their families deal with the wounds of war and to improve their quality of life. It provides funding to increase the number of soldiers and marines to help ease some of the burdens on servicemembers and families who have served three, four, and five deployments to combat zones. How can we walk away from giving those soldiers relief at this point when they have served three, four, and five times? We see some of the fallout on the mental health of our soldiers. We have seen some tragic things happen, including a soldier who actually turned on his own colleagues and killed them. We cannot have servicemembers under this amount of stress from three, four, five, or six deployments. Some of them can handle it. Not all of them can handle it. This bill will increase the number of soldiers and marines, so we can help ease the burden of those who have given and given.

This bill includes funding to keep our servicemembers safer, including funding for mine-resistant vehicles in Afghanistan to combat the dangers of roadside bombs. It helps ease the childcare needs of our military families by funding the construction of 25 child development centers to serve 5,000 children. It provides $230 million to complete construction of the Walter Reed National Military Medical Center, and it provides funds for the construction of nine warrior support facilities across the United States. Our soldiers need help. They cannot be expected to travel across the country to get medical care, either for physical wounds or mental wounds. We need to make sure we do this.

Finally, this bill provides funding for domestic programs that will safeguard our security. It includes $1.5 billion to prepare and respond to a global disease pandemic, such as the H1N1 influenza virus we are combating today. A lot of people say: Maybe you are overreacting. We just don't know because in other flu epidemics, we think we have conquered it, and then it comes back in a more virulent form. We need to vaccinate our citizenry. This is expensive and a must-do. I am very pleased it is in this bill. Just this week, two lives were lost in New York City to the virus. One victim was only an infant, and the other was an assistant principal of a school. Yes, we lose people to the flu every year. We know that. But we want to make sure we are not facing something for which we are unprepared. Better to be prepared, and this bill gives us the funds to prepare.

There is significant investment in shoring up our southwest border and also combating drug traffickers who operate there. We keep seeing horrific violence along the border. It is deplorable. The drug cartels must be stopped and the perpetrators brought to justice. That is also in this bill. This is an emergency spending bill.

It also includes $250 million for emergency firefighting activities. California has suffered devastating wildfires over the last few fire seasons. I know all of you have watched in horror at the recent wildfire in Santa Barbara. We know we are facing terrible challenges. We are facing warmer temperatures. We are facing more drought conditions. The funding will help ensure resources are on hand when they are needed.

I have to say that this bill should be a must-pass. I have to also reiterate that my vote indicates my support for a change in our foreign policy, a change in Iraq to bring this war to an end, a change to finally do what we have to do in Afghanistan so we do not walk out and walk away as we did before. The Taliban allowed al-Qaida to thrive, and we have to work in Afghanistan so that the people turn away from the Taliban toward something else that is positive. And we can provide that.

Strong diplomacy is in this bill. A change in policy is in this bill. It is our best opportunity to achieve these objectives. If it does not work, I will be the first one to stand up here and say so because, frankly, I believe too many of our brave soldiers have been put in harm's way.

I think this is the last use of a supplemental appropriation, according to the administration, to fund military operations in Iraq and Afghanistan. I welcome that. It says that our President is going to hold true to his commitment to an open and transparent government that is held accountable to the people. We are going to have these policies funded through the regular budget process. I understand why we need this now. To bring about the change in Iraq and Afghanistan, we cannot do it on the cheap. We have to do it right. I think President Obama's quote—and I am not quoting him exactly—was that we have to get out of there very carefully even though we did not get in there very carefully. That is what we are doing. We are getting out of Iraq carefully. We are doing it right. We are funding the way to do it right. We are helping our soldiers. And we are changing course in Afghanistan, first of all, by paying attention to it, going after al-Qaida, trying to make sure the Taliban is not an option people choose there, and being very strong in our help toward the women of Afghanistan.

I will be voting yes for all those reasons and watching closely.

Mr. President, I ask unanimous consent that for the next hour, this bill be open to debate only.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Madam President, I ask unanimous consent that upon the completion of my statement, Senator ISAKSON be recognized for 5 minutes, and then that Senator BROWN be recognized for 10 minutes. That will allow all of our statements to be completed prior to a unanimous consent agreement which will shortly be entered into.

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

Mr. LEAHY. I ask unanimous consent that no Budget Act points of order be in order to H.R. 2346, as amended; that at 1 p.m., Senator CORNYN be recognized for debate only for up to 40 minutes; that at the conclusion of Senator CORNYN's remarks, the time until 2 p.m. be equally divided and controlled between the leaders or their designees; that at 2 p.m. today, there be 40 minutes of debate with respect to the DeMint amendment No. 1138, with the time controlled as follows: 20 minutes under the control of Senator DEMINT, 10 minutes under the control of Senators GREGG and INOUYE or their designees; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the amendment; that no intervening amendment be in order to the language proposed to be stricken by the DeMint amendment.

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

Mr. LEAHY. Madam President, President Obama said in his campaign and has repeated it since the first days of his Presidency that we must keep our Nation safe and secure, but we have to do it in ways consistent with our values. That is a sentiment I share, and one that I have voiced in hearings and statements for years as well.

To President Obama's credit, to the benefit of the Nation, he has worked since his first day in office to turn these words into action to make our national security policy and our detainee policy consistent with American laws and American values. That, in turn, makes us more secure. I have supported President Obama in these steps, and I will continue to do so. That is why I have voted against amendments to withhold funding to close the Guantanamo detention facility, and to prohibit any Guantanamo detainees from being brought to the United States. These amendments undermine the good work the President is doing, and they make us less safe, not safer.

I believe strongly, as all Americans do, we have to take every step we can to prevent terrorism. Then we have to ensure severe punishment for those who do us harm. As a former prosecutor, I have never shied away from harsh sentences for those who commit atrocious acts. I point to the times I have requested and gotten for people I have prosecuted life sentences, life sentences that they served without the possibility of parole.

I also believe strongly we can ensure our safety and security and bring terrorists to justice in ways that are consistent with our laws and values. When we have strayed from that approach—when we have tortured people in our custody, or sent people to other countries to be tortured, or held people for years without even giving them a chance to go to court, to argue we were holding the wrong person, they are being held in error—we have hurt our national security immeasurably.

Our allies have been less willing to help our counterterrorism efforts, and that has made our military men and women more vulnerable and our country less safe. Terrorists have used our actions as a tool to recruit new members, which means then we have to fend off more enemies.

Worse still, we have lost our ability to respond with moral authority if other countries should mistreat American solders or civilians.

Guantanamo has become the symbol of the severe missteps our country took in recent years. Changing our interrogation policies to ban torture was an essential first step. But only by shutting the Guantanamo facility and restoring tough but fair procedures can we repair our image in the world. We have to do that if we hope to have a truly strong national security policy.

To close Guantanamo, we need our national security and our legal experts working hard to come up with a comprehensive plan for its closure. We should be funding those efforts. By cutting off that funding, we have hamstrung the President's initiative, and no matter what we intended to do, I believe we have made our Nation less safe.

Much debate has focused on keeping Guantanamo detainees out of the United States. In this debate, political rhetoric has entirely drowned out reason and reality. Our criminal justice system handles extremely dangerous criminals, and it has handled more than a few terrorists, and has done so safely and effectively. We try very dangerous people in our courts and we hold very dangerous people in our jails in Vermont and throughout the country. We have the best justice system in the world.

We have spent billions of dollars on our detention facilities, on our law enforcement, and our justice system. Are we going to say to the world, oh, my goodness gracious, we are not good enough to be able to handle criminal cases of this nature? I do not believe so.

We try those dangerous people and we hold those dangerous people in jails in Vermont and throughout our country. We are showing the world that we can do it. I know; I have put some of them there. We do it every day in ways that keep the American people safe and secure. I have absolute confidence we can continue to do it.

The Judiciary Committee has held several hearings on the issue of how to best handle detainees. Experts and judges from across the political spectrum have agreed that our courts and our justice system can handle this challenge. Indeed, it has handled it many times already.

What I am saying is, after all of those billions of dollars, after all of the superb men and women we have working in our justice system, after all that we spend on maximum security facilities, are we going to say to the world, America is not strong enough to try even the worst of criminals?

When we were hit with one of the worst terrorist attacks ever in this country, Oklahoma City, did we say we cannot try the people we have now captured? We cannot have them in a courtroom where it is secure, we will not be able to punish them? Of course not. We went ahead, and we also established for the rest of the world that we follow a system of justice in America. And having been horribly damaged in Oklahoma City, we followed our system of justice. The rest of the world looked at it, and they learned from us.

Let's not step back from that. Republican luminaries such as GEN Colin Powell have agreed with this idea. One Republican member of the Judiciary Committee, Senator GRAHAM, said, ''The idea that we cannot find a place to securely house 250-plus detainees within the United States is not rational.''

So let's let reality come in and overwhelm rhetoric. It is time to act on our principles and our constitutional system. Those whom we believe to be guilty of heinous crimes should be tried. They should be penalized severely, and our courts and our prisons are more than up to the task. Our courts and our prisons are more up to this task than those in any other country in the world. But we also could have people who are innocent or where we captured the wrong person. If so, they should be released.

There are going to be tough cases. Instead of cutting out the money the administration needs to dispose of those cases responsibly, knowing how tough they will be, we ought to be doing just the opposite and give them the resources they need.

Let's put aside heated, distorted rhetoric. Support the President in his efforts to truly make our country a safe and strong Republic worthy of the history and values that have always made America great.

I believed that when I was a young lawyer in private practice. I believed that when I was a prosecutor. I believe that even more today as a Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

TRIBUTE TO BILL SHIPP

Mr. ISAKSON. Madam President, I know most Members on the floor remember a song of about 25 years ago called: ''The Night the Lights Went Out in Georgia.''

Well, on Tuesday of this week, a beacon of light in journalism did go out in Georgia, when Bill Shipp, a gifted political writer, announced his retirement after 50 years of reporting in the South.

Bill Shipp is a remarkable character. It is said that all of us are replaceable. I am not sure Bill Shipp is replaceable. He began his writing in Georgia as a political columnist for the Atlanta Constitution.

Starting in the late 50s, he covered the late Ivan Allen and the late Dr. Martin Luther King and the Governors

and the politicians of that era from George Wallace to Lester Maddox, to Jimmy Carter, to Carl Sanders.

He wrote about the transition of the old South to the new South. And in Washington, he covered the Civil Rights Act in the middle and late seventies. He was a writer whose perception was keen, whose wit was sharp, and whose pen was even sharper.

For 32 of his 50 years I was in elected office in Georgia. I can make a true confession: When he wrote a column, you went to the paper and you read Bill Shipp first. There was a reason for that. If you were going to be the victim of the day, you might as well go out and find out what he was going to say about you. But if you were not the victim of the day, you could relish in seeing some other politician being skewered by that pen.

Bill Shipp had a profound effect on journalism in our State. For years he reported for the Atlanta Journal and Constitution, but after a number of years he started his only publication whose title was: ''Bill Shipp's Georgia.'' Never has there been a more appropriate name for a newsletter, because, in many ways, Georgia's politics was Bill Shipp's possession.

Bill Shipp wrote about politics in such a way that he changed politics in the South. While I would never accuse Bill of having editorialized in a news article, the tone and tenor of the direction of Bill Shipp's perception of what was right and wrong could help to lead debates to a positive conclusion in an otherwise period of discourse and trouble.

I love Bill Shipp for many reasons—one, because he and I have had the pleasure of living in the same county for the last 40 years. The other is, I have learned a lot from him. I always appreciated him. In politics, Bill Shipp is the equivalent of Helen Thomas at a Presidential press conference. When a Georgia politician has a press conference, Bill Shipp is there. When it is time for questions, he always has one. And when it comes time to roll the grenade in the middle of the room, Bill Shipp will do it. He did it to me and to others.

Bill Shipp is a gifted friend, a man for whom I wish the best in his retirement. I think, finally, of those days on Ivy Grove and Cherokee Road in Marietta where he and Tom Watson Brown and George Berry would sit at 5 in the afternoon, have a libation, and discuss the next day's column that Bill would write. Bill Shipp is a treasured asset of our State, a man who has contributed greatly to the growth of the new South and the new Georgia, a man whose contributions to journalism are preeminent in our State, and a friend to whom I wish the very best in his retirement.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

(The remarks of Mr. BROWN pertaining to the submission of S. Res. 156 are located in today's RECORD under ''Submitted Resolutions.'')

The Senator from Mississippi.

Mr. WICKER. I ask unanimous consent to speak as in morning business for up to 4 minutes.

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

SAMUEL L. GRAVELY, JR., FIRST AFRICAN-AMERICAN U.S. NAVY FLAG OFFICER

Mr. WICKER. Madam President, this past weekend, at the Northrop-Grumman shipbuilding facility in Pascagoula, MS, the USS *Gravely*, the 57th *Arleigh Burke* class Aegis Guided Missile Destroyer, was christened in honor of the late VADM Samuel L. Gravely, Jr.

Vice Admiral Gravely was born in 1922, in Richmond, VA. In 1942, Gravely interrupted his education at Virginia Union University and enlisted in the U.S. Naval Reserve. He attended officer training camp at the University of California in Los Angeles after boot camp at the Great Lakes Naval Training Station in Illinois, and then midshipman school at Columbia University. When he boarded his first ship in May of 1945, he became its first African-American officer.

Gravely was the first African-American to command a fighting ship, the USS *Falgout*, and to command a major warship, the USS *Jouett*. As a full commander, he made naval history in 1966 as the first African-American commander to lead a ship, the USS *Taussig*, into direct offensive action. He was the first African-American to achieve flag rank and eventually vice admiral. In 1976, Gravely became the commander of the entire Third Fleet, commanding over 100 ships, 60,000 sailors, and overseeing more than 50 million square miles of ocean.

Gravely's tenure in the naval service was challenged with the difficulties of racial discrimination. As a new recruit, he was trained in a segregated unit; as an officer, he was barred from living in the bachelor's officers' quarters. In 1945, when his first ship reached its berth in Key West, FL, he was specifically forbidden entry into the officers club on the base. Gravely survived the indignities of racial prejudice and displayed unquestionable competence as a naval officer.

Gravely exemplified the highest standards and demanded very high standards from his crew. Throughout his career, he stressed the rudiments of professionalism—intelligence, appearance, seamanship and, most importantly, pride.

Vice Admiral Gravely was a trailblazer for African-Americans in the military arena. He fought for equal rights quietly but effectively, letting his actions and his military record speak for him. Gravely died on October 22, 2004, at the naval hospital in Bethesda, MD. In a fitting tribute, the obituary on the U.S. Department of Defense Web site quoted Gravely's formula for success: ''My formula is simply education plus motivation plus perseverance.''

Samuel L. Gravely, Jr.'s performance and leadership as an African-American naval officer demonstrated to America the value and strength of diversity. He was a true professional with superb skills as a seaman and admirable leadership attributes.

The USS *Gravely*, christened in Pascagoula, will reflect his character, his forthrightness, and his steadfastness and will stand for and deliver his legacy wherever it serves. His spirit aboard the USS *Gravely* will be an inspiration to its crew, the U.S. Navy, and Americans for generations to come.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CORNYN. Mr. President, I understand there is a previous—let me ask unanimous consent that I be allowed to speak for up to 40 minutes.

The PRESIDING OFFICER. That is the standing order.

Mr. CORNYN. I appreciate it. Thank you very much, Mr. President.

AMENDMENT NO. 1139

Mr. President, I want to address the Senate on two subjects this afternoon—first of all, on the subject of various memos and interrogation techniques, notably enhanced interrogation techniques, that were carried out in response to Office of Legal Counsel memos that were written by lawyers there, designed to provide guidance to our CIA interrogators after 9/11 to help them protect the country against future terrorist attacks.

I have an amendment that, because of technical reasons, we will not be able to vote on this week. But I want to assure my colleagues this issue is not going away, and we will be back to talk about it more later. But I think it is of sufficient gravity and importance that I want to highlight it here for the next few minutes.

First of all, this amendment I am referring to is a sense-of-the-Senate amendment. Let me summarize what it does because I think it is important to put it in context.

The sense-of-the-Senate amendment reads as follows. It says:

> In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks [against] the United States was the most urgent responsibility of the United States Government.
>
> A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives concluded that the September 11, 2001 attacks demonstrated that the intelligence community had not shown ''sufficient initiative in coming to grips with the new transnational threats''.

By mid-2002, the Central Intelligence Agency had several top al Qaeda leaders in custody.

The Central Intelligence Agency believed that some of these al Qaeda leaders knew the details of imminent plans for follow-on attacks against the United States.

The Central Intelligence Agency believed that certain enhanced interrogation techniques might produce the intelligence necessary to prevent another terrorist attack against the United States.

The Central Intelligence Agency sought legal guidance from the Office of Legal Counsel of the Department of Justice as to whether such enhanced interrogation techniques, including one that the United States military uses to train its own members in survival, evasion, resistance, and escape training, would comply with United States and international law if used against al Qaeda leaders reasonably believed to be planning imminent attacks against the United States.

This amendment further notes that:

The Office of Legal Counsel is the proper authority within the executive branch [of the Federal Government] for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out [its] official duties.

It further notes that:

Before mid-2002, no court in the United States had [ever] interpreted the phrases ''severe physical or mental pain or suffering'' and ''prolonged mental harm'' as used in sections 2340 and 2340A of title 18, the United States Code.

The legal questions posed by the Central Intelligence Agency and other executive branch officials were—

This amendment notes—

a matter of first impression, and in the words of the Office of Legal Counsel, ''substantial and difficult''.

The Office of Legal Counsel approved the use by the Central Intelligence Agency of certain enhanced interrogation techniques, with specific limitations, in seeking actionable intelligence from al Qaeda leaders.

The amendment further notes that:

The legal advice of the Office of Legal Counsel regarding interrogation policy was reviewed by a host of executive branch officials, including the Attorney General, the Counsel to the President, the Deputy Counsel to the President, the General Counsel of the Central Intelligence Agency, the General Counsel of the National Security Council, the legal advisor of the Attorney General, the head of the Criminal Division of the Department of Justice, and the Counsel to the Vice President [of the United States].

Further, the amendment notes that:

The majority and minority leaders in both Houses of Congress,—

Both in the Senate and in the House, as well as—

the Speaker of the House of Representatives, and the chairmen and [ranking members] of [both] the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on [both the proposed techniques and the Office of Legal Counsel advice] as early as September 4, 2002.

The amendment further notes that:

Porter Goss, then-chairman of the Permanent Select Committee on Intelligence of the House of Representatives, recalls that he and then-ranking member Nancy Pelosi ''understood what the CIA was doing'' [and] ''gave the CIA our bipartisan support'' [and] ''gave the CIA funding to carry out its activities'', and ''On a bipartisan basis . . . asked if the CIA needed more support from Congress to carry out its mission against al Qaeda''.

The amendment further notes that:

No member of Congress briefed on the legal analysis of the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency in 2002 objected to the legality of the enhanced interrogation techniques, including ''waterboarding'', approved in legal opinions of the Office of Legal Counsel.

The amendment further notes that:

Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel [of the Department of Justice] provides national leaders a means to detect, deter, and defeat further terrorist [attacks] against the United States [of America].

The amendment further notes that:

The enhanced interrogation techniques approved by the Office of Legal Counsel have, in fact, accomplished the goal of providing intelligence necessary to defeating additional terrorist attacks against the United States.

It further notes that:

Congress has previously established a defense for persons who engaged in operational practices in the war on terror in good faith reliance on advice of counsel that [such] practices were lawful.

This amendment further notes that:

The Senate stands ready to work [on a bipartisan basis] with the Obama Administration to ensure that leaders of the Armed Forces of the United States and the intelligence community continue to have the resources and tools required to prevent additional terrorist attacks on the United States.

This amendment concludes with this finding or sense of the Senate:

It is the sense of the Senate that no person who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied in good faith on [that legal advice], nor any member of Congress who was briefed on the enhanced interrogation program and did not object to the program going forward should be prosecuted or otherwise sanctioned.

This is the amendment I sought to offer that for technical reasons is not going to be voted on now. But, I assure my colleagues, we will revisit this at a later date.

I want to take issue with some of the comments by my distinguished colleague from Illinois, the majority whip, who I believe—it was yesterday, or maybe the day before—said there was no basis for my assertion that there was actionable intelligence gained from the so-called enhanced interrogation techniques, and questioned what my source was.

I would remind the distinguished Senator from Illinois that the source is President Obama's Director of National Intelligence, Dennis Blair, who wrote, on April 16, 2009, that ''high-value information came from interrogations in which these methods were used, and provided a deeper understanding of the al Qaeda organization that was attacking this country.''

Mr. President, I ask unanimous consent that the letter in which the Director of National Intelligence made those statements be printed in the RECORD following my comments.

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

(See exhibit 1.)

Mr. CORNYN. Nor was this special information available to only a few. The New York Times reported it on April 21, under the headline ''Banned Techniques Yielded 'High-Value information', Memo Says.'' That is a story in the New York Times which basically recounts what the Director of National Intelligence said.

I would remind my distinguished colleague from Illinois that it is, in fact, the Director of National Intelligence for President Obama who has affirmed not just the need but the usefulness of the information and intelligence derived from these enhanced interrogation techniques that were approved by the legal authority for the executive branch of the Federal Government, the Office of Legal Counsel.

My colleague from Illinois, Senator DURBIN, argues that we need to allow prosecutors to follow the facts and the law wherever they may lead—certainly, a relatively harmless assertion; one I would generally agree with. But here, we know enough about the facts and the law to know there is no evidence that anyone acted with the intent required to prosecute under the law. I won't bore the Senate with an analysis of what the criminal law requires in this context, but I would say that the facts, as we know them, are to give our public servants the benefit of the doubt. As detailed in the Office of Legal Counsel memoranda, significant efforts were made to minimize significant harm that could arise from these techniques. Who could question the desire of both the intelligence community as well as the Department of Justice and the leaders responsible for protecting our national security—who could question the good-faith need to get information that would actually help prevent follow-on terrorist attacks?

We know al-Qaida, on September 11, 2001, used crude weapons to attack our country. Yet they were able to kill 3,000 Americans, roughly. Our intelligence community and our national leadership knew al-Qaida was not satisfied with such primitive weapons but, indeed, was seeking biological, chemical or nuclear weapons. We know how important it was for our intelligence officials to get the information they needed. We know the lawyers at the Office of Legal Counsel who rendered this legal advice were doing what they thought was their responsibility in good faith. Indeed, the Members of Congress who had the responsibility to perform congressional oversight on these activities, I believe, demonstrated their good-faith desire to do what was necessary to protect our country. I believe we know enough to

say these people—all of them—acted in good faith.

It has been suggested the standard we apply is whether the advice fell within the range of legitimate analysis and within the range of reasonable disagreement common to legal analysis of important statutory and constitutional questions. I believe that has been demonstrated, and but for this technical objection to the amendment, I am confident we would receive an overwhelming bipartisan vote of support for this sense-of-the-Senate resolution.

The distinguished Senator from Illinois, Senator DURBIN, says we should allow prosecutors and the Department of Justice to decide whether to bring a case against these officials: The intelligence community, the lawyers who drafted the legal advice, and perhaps even the Members of Congress who acquiesced and facilitated these enhanced interrogation techniques following a classified briefing. But I would suggest there is no case to be brought against these individuals. Any prosecution that arises out of this interrogation program would clearly be based upon politics and not on the law.

I would submit the amendment I have offered—and that I described and which I will reoffer again at an appropriate time—is a call for reasonableness and national unity. The calls for prosecution of good-faith patriots has simply gone too far. When bloggers and others—not to single out bloggers but even Members of this body—have suggested that we somehow need a truth commission and have suggested that prosecutions might be the appropriate outcome, when they are suggesting that prosecutions under these circumstances occur, then I think our political environment has changed in a dangerous way and one which will certainly chill our intelligence officials in gathering actual intelligence necessary to keep us safe and certainly discourage patriots who want to serve and who are willing to serve in Government. When policy differences become criminalized in ways that some have suggested, it is not helpful to our country. Indeed, I think it is dangerous to our national security.

We know there is an unfortunate history of hysterias, panics, and mob rule from time to time that occurs, whether it is from Salem through the McCarthy era. When justice is steered by passion and politics rather than by reason and the rule of law, it is not worthy of the name ''justice.'' Once you stir up an angry mob, we know it is unpredictable where that mob might lead or who might get caught up in the mob's action. But we know already too many patriotic Americans have been targeted by the present hysteria. This amendment calls for an end to the hysteria and a return to reason, civility, national unity, and the rule of law.

EXHIBIT 1

DIRECTOR OF
NATIONAL INTELLIGENCE,
Washington, DC, April 16, 2009.

DEAR COLLEAGUES: Today is a difficult one for those of us who serve the country in its intelligence services. An article on the front page of The New York Times claims that the National Security Agency has been collecting information that violates the privacy and civil liberties of American citizens. The release of documents from the Department of Justice's Office of Legal Counsel (OLC) spells out in detail harsh interrogation techniques used by CIA officers on suspected al Qa'ida terrorists.

As the leader of the Intelligence Community, I am trying to put these issues into perspective. We cannot undo the events of the past; we must understand them and turn this understanding to advantage as we move into the future.

It is important to remember the context of these past events. All of us remember the horror of 9/11. For months afterwards we did not have a clear understanding of the enemy we were dealing with, and our every effort was focused on preventing further attacks that would kill more Americans. It was during these months that the CIA was struggling to obtain critical information from captured al Qa'ida leaders, and requested permission to use harsher interrogation methods. The OLC memos make clear that senior legal officials judged the harsher methods to be legal, and that senior policymakers authorized their use. High value information came from interrogations in which those methods were used and provided a deeper understanding of the al Qa'ida organization that was attacking this country. As the OLC memos demonstrate, from 2002 through 2006 when the use of these techniques ended, the leadership of the CIA repeatedly reported their activities both to Executive Branch policymakers and to members of Congress, and received permission to continue to use the techniques.

Those methods, read on a bright, sunny, safe day in April 2009, appear graphic and disturbing. As the President has made clear, and as both CIA Director Panetta and I have stated, we will not use those techniques in the future. I like to think I would not have approved those methods in the past, but I do not fault those who made the decisions at that time, and I will absolutely defend those who carried out the interrogations within the orders they were given.

Even in 2009 there are organizations plotting to kill Americans using terror tactics, and although the memories of 9/11 are becoming more distant, we in the intelligence services must stop them. One of our most effective tools in discovering groups planning to attack us are their communications, and it is the job of the NSA to intercept them. The NSA does this vital work under legislation that was passed by the Congress. The NSA actions are subject to oversight by my office and by the Justice Department under court-approved safeguards; when the intercepts are conducted against Americans, it is with individual court orders. Under these authorities the officers of the National Security Agency collect large amounts of international telecommunications, and under strict rules review and analyze some of them. These intercepts have played a vital role in many successes we have had in thwarting terrorist attacks since 9/11.

On occasion. NSA has made mistakes and intercepted the wrong communications. The numbers of these mistakes are very small in terms of our overall collection efforts, but each one is investigated, Congress and the courts are notified, corrective measures are taken, and improvements are put in place to prevent reoccurrences.

As a young Navy officer during the Vietnam years, I experienced public scorn for those of us who served in the Armed Forces during an unpopular war. Challenging and debating the wisdom and policies linked to wars and warfighting is important and legitimate; however, disrespect for those who serve honorably within legal guidelines is not. I remember well the pain of those of us who served our country even when the policies we were carrying out were unpopular or could be second-guessed.

We in the Intelligence Community should not be subjected to similar pain. Let the debate focus on the law and our national security. Let us be thankful that we have public servants who seek to do the difficult work of protecting our country under the explicit assurance that their actions are both necessary and legal.

There will almost certainly be more media articles about the actions of intelligence agencies in the past, and as we do our vital work of protecting the country we will make mistakes that will also be reported. What we must do is make it absolutely clear to the American people that our ethos is to act legally, in as transparent a manner as we can, and in a way that they would be proud of if we could tell them the full story,

It is my job, and the job of our national leaders, to ensure that the work done by the Intelligence Community is appreciated and supported. You can be assured the President knows this and is supporting us. It is your responsibility to continue the difficult, often dangerous and vital work you are doing every day.

Sincerely,

DENNIS C. BLAIR.

Mr. CORNYN. Mr. President, I am going to turn to another subject, but may I inquire how much time is remaining under the unanimous consent agreement?

The PRESIDING OFFICER. The Senator has 27 minutes remaining.

Mr. CORNYN. I assure the Chair I will not use all that time.

HEALTH CARE REFORM

Mr. President, I wish to discuss another very serious challenge in our country and that is how to reform our broken health care system to serve the needs of the American people and to help bring down the costs of health care, which now prices many people out of the market and contributes to the too large number of Americans who don't have health insurance.

I am a relatively new member of the Senate Finance Committee, and under the leadership of Senator BAUCUS and Senator GRASSLEY, we have been discussing our various policy options for some time. There has been some discussion on the floor about the subject. Indeed, my colleagues from Oklahoma and North Carolina, Senator BURR and Dr. COBURN, have introduced a bill which they believe addresses the need for health care reform in a significant way.

On Monday, I am going to return to my State of Texas and travel around the State to basically talk about commonsense solutions to this health care crisis. Last Monday, I spent some time in Houston, TX, with the Houston Wellness Association and others concerned about how we can spend more of

our energy and effort on keeping people healthy and preventing disease which will, of course, avoid unnecessary human suffering but also help us contain the too high price of health care.

We know what is at stake in the health care reform debate. I believe my constituents in Texas—and I believe the American people, generally—don't want to be served up a fait accompli in Washington. They don't want to wake in July or August and find that Congress has taken a blank sheet of paper and basically deprived them of the opportunity to keep the health care they presently have and instead present them with something else which they don't want and which does not promise to make health care more accessible but, rather, will make it more expensive and less accessible. I know my constituents in Texas don't want elites in Washington to make decisions for them. They want to be informed about the debate, and they want to then discuss with me and their other elected representatives what they want—not what is dictated to them from Washington inside the beltway.

Whether you are putting together a family budget or a business plan, we all see the same problem, and that is the rising cost of health care. We know health care costs have risen faster than inflation in both good times and bad times. Health care costs, we know, force many self-employed workers and small businesses into the ranks of the uninsured. We also know that health care costs in America are twice as much per capita than they are in most of the developed world. In fact, we spend roughly 17 percent of our gross domestic product on health care. I believe the next highest country to us is Japan, an industrialized country, which spends roughly 9 percent of GDP.

But we also know there are a lot of hidden costs—there are not just the obvious costs—on families and businesses. These hidden costs show up in smaller paychecks for working men and women all across this country. All things being equal, one would think that rising productivity of the American worker would lead to higher wages, but instead, for many workers, more compensation takes the form of higher health care premiums, when they could be receiving greater compensation in terms of wages that they could then spend on other purposes. But because of rising deductibles, copays, and the rising costs, we see rising health care costs actually squeeze worker pay in America such that, in many instances, that pay is stagnant, if not declining.

Hidden costs also show up in the $36 trillion of unfunded liabilities in the Medicare Program, as well as other entitlements. Our people are concerned about the hidden costs of all the borrowing we are doing in Washington and the unprecedented spending. Nearly 50 cents on every dollar spent in Washington is borrowed, leaving the fiscal responsibility for our children and grandchildren and not taking it upon ourselves.

In fact, as we know, the Federal deficit in 2009 will be nearly as large as the entire Federal budget was in 2001. Let me say that again. This is staggering. The Federal deficit in 2009 will be nearly as large as the entire Federal budget in 2001. As the distinguished occupant of the chair, who is the former chief executive of his State, the Commonwealth of Virginia, knows, that kind of growth cannot be sustained indefinitely. Indeed, we are cruising for a disaster when it comes to unrestrained health care costs, both for individuals and for small businesses but also for the Government when it comes to entitlement spending.

I agree with what President Obama said last week. He said our current deficit spending is unsustainable. I agree with that. He said we are mortgaging our children's future with more and more debt. I think all Americans agree with what President Obama said, but we have yet to see the hard decisions that would lead us back to a path of fiscal discipline. It is the contrary: more spending, more borrowing, with no fiscal discipline. As we look at health care reform, our people want solutions that will lower the costs of health care, without increasing the debt, without raising taxes, and without reducing quality or access to care.

I have heard a lot of discussions in the context of the Finance Committee, talking about what options are available to the Congress in dealing with this health care crisis and, honestly, most of them deal with how we can empower the Government to make more and more decisions on behalf of patients. I think that is the opposite direction from which we ought to go to approach this problem. We ought to look at what puts patients back in charge; what gives individuals the power to consult with their own private physician and make a decision; what is in the best interests of themselves and their family when it comes to health care. Let's not put barriers in the way of that sacred relationship between a patient and a doctor, and for sure let's not use rationing—denying and delaying access to care—as government-run programs abroad use in order to control costs.

Let's put patients back in charge. That ought to be our battle cry as we approach this current crisis.

Patients should have more control, not less control, over their own health care. One way we can do that is giving them more and better information on cost and quality of their care. How in the world can we have an effective market for health care, which will provide lower costs, if, in fact, patients are denied access to information about cost and outcomes? They not only want to know how much it is going to cost them; they want to make sure it is a good, quality service, and we ought to be in the business of providing them that information. We ought to be insisting, as their elected representatives, that we have access to that information in deciding how to spend their money in entitlement programs such as Medicare and Medicaid. Patients should also, I believe, have a choice of providers who compete for their business. We know that competition produces higher quality, better service, and a lower price. We can see that across the board. When the market helps discipline spending, it improves quality and lowers price. We can do that in health care by empowering individuals and giving them more access to information, greater transparency, quality, and price, making them better informed consumers.

We also know our tax and our legal system need reform so all Americans are treated fairly. We have to end the cost shifting that now goes with too low reimbursement rates for Medicare and Medicaid, which means it is harder and harder for an individual to find a doctor who will actually accept those submarket rates to care for them.

I was in Dallas a couple years ago. I was in an emergency room at a hospital, while touring the hospital, and there was this wonderful woman who came into the emergency room and someone asked her what she wanted. She said: I need my prescriptions refilled—in the emergency room at a hospital in Dallas. She couldn't find a doctor who would accept her as a new Medicare patient, so the only place she knew where to go was to the emergency room to get a prescription, to refill her medications. That is incredibly inefficient and an incredibly costly way to deliver health care. We have to find a way to do it better.

Right now we know that for private health insurance, the costs are shifted in order for health care providers to provide care to everybody. That cost shifting results in higher premiums, smaller paychecks, tax increases, and more public debt, and we ought to attack it head-on.

We also know from experience that putting patients in charge can lower health care costs. At the Federal level, believe it or not, we actually have a Federal program that, contrary to intuition and some people's skepticism, actually demonstrates this.

This is a success of Medicare Part D, the prescription drug program. Medicare Part D gives seniors choices among entirely private plans, with no government-run plan at all, no ''public option'' at all. As a result of the successes of Medicare Part D, seniors have seen program costs that are 37 percent less than anticipated, and more than 80 percent of seniors are satisfied with the program.

I think this example proves the point I was making earlier—that greater access to information about quality and cost gives people more choices, creates competition in a market that disciplines cost, and ultimately brings down those costs and increases satisfaction.

At the State level, good ideas for Medicaid reform have come from Florida, South Carolina, Indiana, and other States. These programs have given some of the lowest income Americans more choices and more control over the dollars spent on their behalf. Again, costs are lower and participants are generally satisfied with these programs.

The private sector has some very good ideas as well. Steve Burd, of Safeway, has talked to many of us on both sides of the aisle about their successful experimenting with health care costs at their company by providing financial incentives to quit smoking, lose weight, exercise, control blood pressure and cholesterol, and get the appropriate diagnostic tests at a reasonable price.

There is also another successful program, and I am going to meet with executives and employees at Whole Foods, which is located in Austin, TX, where I live. Whole Foods has conducted a successful experiment with high-deductible insurance plans with personal wellness accounts that each employee controls. Whole Foods has seen fewer medical claims, lower prescription drug claims, and fewer hospital admissions through this program.

So why in the world would we want to dictate a single-payer system out of Washington for 300 million people when we have seen successful experiments and innovation across the country that we can learn from and adopt to empower patients and consumers, not Washington bureaucrats? Some, though, in Washington have simply given up on the private sector when it comes to delivering health care needs. They want to shift more power and control to the Federal Government. I think that is a terrible mistake.

We have heard ideas about how to increase spending to pay for more Government control, at a time when we already spend 17 percent of the GDP on health care—again, nearly twice as much as our next closest competitor in an industrialized nation, Japan—17 percent in the United States compared to 9 percent in Japan, and other countries are far lower.

Raising taxes is simply a terrible idea, especially during a recession. Raising taxes would also break the President's pledge he made in the campaign last year when he assured Americans that no family making less than $250,000 a year will see any form of tax increase—not your income tax, not your payroll tax, not your capital gains taxes, not any of your taxes. But we can help the President keep his pledge—not help him break it—by empowering patients and consumers, ordinary Americans, to make their decisions and not empower bigger and bigger government to take those decisions away from them and dictate them.

In the Finance Committee, we have heard a number of proposals that may improve care but are not going to contain costs—at least according to the CBO. These proposals include what I would consider to be commonsense approaches that I think are good, such as more health care technology and prevention initiatives. We have even seen a number of interest groups, provider groups, appear with the President last week, pledging they would cut the growth of health care costs, over the next 10 years, $2 trillion. That all sounds good until you start looking at it and realize there is actually no enforcement mechanism at all. It is a meaningless pledge, and there is going to continue to be upward pressure on health care costs across the board unless we do something about it.

Only in Washington, DC, would people embrace the notion that to save money, you have to spend more money. It is not just counterintuitive, it is unproven. I don't think there is any justification for that suspicion. If there is, I would just love to see it. I don't think we ought to take as a matter of blind faith that by spending over a trillion dollars more of tax money on top of the 17 percent of GDP we are already spending now, that somehow miraculously, with the wave of a wand, by suspending our powers of disbelief, we are going to bend the curve on the growth of health care costs, which are bankrupting the country when it comes to Medicare and putting health insurance and health care out of the reach of many hard-working Americans.

We have heard about some interesting ideas, such as comparative effectiveness research, which sounds good at first blush. In the stimulus plan, the Federal Government spent, or pledged, more than a million dollars on that. It sounds pretty good. Let's finds out what works. Well, I am concerned that the Government will use this research to delay treatment and deny care. The way the Government contains health care costs is by rationing, pure and simple. That is what happens in Medicare. I mentioned the woman in Dallas who couldn't find a doctor to accept her as a new Medicare patient. It is because the Government reimburses at such a low rate. So we have a promise of coverage, which everybody applauds, but it denies people access because the Government denies and delays care by using rationing as a way to control costs. We don't need that. Certainly, we don't need that, based on the ''cookbook'' medicine prescribed by Government bureaucrats, who will say: We will pay for this procedure but not that other procedure because it is not in our ''cookbook.'' Last week, Medicare refused to pay for less-invasive colonoscopy procedures. I don't think the American people are crying out for more Government control of their health care decisions based on cost-based decisions. That is what they would get if the proponents of the so-called public plan get their way.

Again, I don't know who it is in Washington, DC—there must be a little group, a cabal of individuals sitting behind closed doors, that tries to think up innocuous names, such as ''public plan,'' for some really scary stuff. A ''public plan'' is simply a Washington takeover of health care; it is plain and simple. It is not an option. In the end, it will be the only place you can go under a single-payer system.

We should take this pledge, too, Mr. President. We should guarantee that Americans who currently have health insurance that they like ought to be able to keep it—that is about 85 percent—as we look for ways to increase access for people who don't have health insurance. One think tank that looked at this so-called public plan—or Washington takeover of health care, which would drive all private competitors out of the market by undercutting them—estimated that 119 million Americans will lose their private health insurance if this Washington takeover, under the title of ''public plan,'' is embraced.

We know the Federal Government is not a fair competitor. While it serves also as a regulator and a funder, the Federal Government says: Take it or leave it. It is price fixing. Nobody else can compete with the Federal Government. The public plan, so-called, would simply shift cost to taxpayers and subsidize inefficiency, as Medicare and Medicaid do today. They are broken systems that we don't need to emulate by making Medicare for all. Why would we emulate Medicare when it is broken and on an unsustainable financial path? We need new ideas and innovations that put the people in charge and will help bring down costs. Greater transparency, more choices, and market forces will increase satisfaction while bringing down costs.

There is another scary concept out there that is called a ''pay or play'' mandate for employers. When I talk to small businesses in Texas, they tell me one of their most difficult decisions is how do they provide health care for their employees in small businesses? It is hard to get affordable health insurance. Some in Washington are proposing taking this to what I would call a ''mandate on steroids.'' Basically, it would say that if a small business doesn't provide health insurance coverage for its employees, it is going to have to pay a punitive tax. That is why they call it ''pay or play.'' New mandates on job creators would do nothing but head us in the wrong direction during a recession, where we are fighting the best we can in the private sector to create new jobs and retain the ones we have. We know the costs of this ''pay or play'' mandate are going to ultimately be passed down to the workers in the form of lower wages, just as they are today under a broken system.

I have heard good ideas about health care reform. I hope we will have a robust debate about the options available to the American people to fix this broken system. I have to tell you that many proposals out there that seem to be gathering momentum are deeply troubling. As I have said, I believe the

best way to approach health care reform—indeed, governance generally—is from the bottom up, not the top down.

We need to take our time and get this right and not, in our haste, produce a bad bill that will even deny people the choices and coverage they have now. We need to listen to the people who are running small businesses and raising families across this country. That is what I plan to do in Texas next week. I hope my colleagues will take advantage of the next week's recess to do likewise.

This is too important to get done wrong. Let's take our time and listen to the stakeholders and people who will suffer the negative consequences if we get it wrong, and let's work together with President Obama and the administration to try to get it right.

I thank the Chair. I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I now have 20 cosponsors of amendment No. 1189. I ask unanimous consent to add Senator KLOBUCHAR, Senator CARDIN, Senator BEN NELSON, Senator BROWNBACK, Senator ROBERTS, Senator GRASSLEY, Senator BURR, Senator JOHANNS, and Senator SCHUMER as cosponsors of amendment No. 1189.

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

Mrs. HUTCHISON. Mr. President, I add these cosponsors because more and more of our Senators are learning what has happened to these dealerships that have been notified by Chrysler that they have 3 weeks to completely dissolve a business that has been part of a community for 20 years, 30 years, up to 90 years. The oldest car dealership in Texas is 90 years old—a grandfather, father, and now a son running that car dealership. They were noticed 3 weeks from May 14 that dealership will be closed.

Just to give a view of what the dealers received on May 14 and why these 789 who received this notice are so concerned is because the letter they were sent says:

As a result of its recent bankruptcy filing, Chrysler is unable to repurchase your new vehicle inventory. As a result of the recent bankruptcy filing, Chrysler is unable to purchase your Mopar parts inventory. And furthermore, as a result of the bankruptcy filing, Chrysler is unable to purchase your essential special tools.

After 90 years of operating a Chrysler dealership, a company is now told they will have no ability after 3 weeks to sell a Chrysler automobile, nor will there be a guarantee for repurchase.

What my amendment does, which now has 20 very bipartisan cosponsors, is to say: Give these dealers 3 more weeks. Give them 3 more weeks to have an orderly transition out of a company. There are estimated to be 40,000 employees of these Chrysler dealerships who received 3 weeks' notice—40,000. We are dealing with so many issues in these auto manufacturer closings, the bankruptcies. We all want the auto manufacturers to stay in business. We do. The Government is making a huge investment in that hope. But the group that is getting nothing right now is the dealers.

The dealers also are the group that has done nothing that caused this problem in the first place. They did not design the cars, they did not manufacture the cars, but they did buy them. There is no cost to the company that manufactures because these dealerships have purchased these cars. They have purchased the parts. They have purchased the special tools to do the repairs. Yet now they are being told they cannot sell, they cannot repair and, oh, by the way: We are not going to guarantee you will have your parts and inventory bought. This is just not right. That is why there are 20 cosponsors to this amendment, and it is growing by the hour.

I submit for the RECORD a letter that Senator ROCKEFELLER wrote to the chief executive officer, Robert Nardelli, in which he, too, is protesting the egregious timeframe and terms of these franchise terminations which he said ''seem unprecedented to me.''

As you know, most auto dealers have a few months of inventory of new vehicles on their lots, though some may have up to 6-months' worth. This means if the dealers stopped adding cars to their inventories last week when GM and Chrysler announced their decisions, they would still be able to sell cars for 6 months before they run out.

But Chrysler is saying they will not buy back this inventory or even parts and instead has arranged for the remaining dealers to buy the unsold cars from dealers set to lose their franchises. But there is no guarantee of that. Right now it is just a hope.

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

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,

Washington, DC, May 20, 2009.

ROBERT NARDELLI,
Chief Executive Officer, Chrysler LLC, Auburn Hills, MI.

FRITZ HENDERSON,
Chief Executive Officer, General Motors Corporation, Detroit, MI.

DEAR MR. NARDELLI AND MR. HENDERSON: I am writing to express my deep concern with Chrysler's and General Motors' (GM) recent announcements to terminate franchise agreements with 789 and roughly 1,100, respectively, automobile dealerships across this country and to urge both of you to reconsider these decisions. It is my belief that we must work to keep as many of these businesses open as possible, and at the very least assist these dealerships, the employees, and their loyal customers transition as we move forward in this process.

Between Chrysler and GM, it appears that approximately 100,000 jobs nationally are at risk as a result of the dealership closings. In West Virginia, 17 of 24 Chrysler dealerships have been told their franchises will end on June 9, 2009, while a publicly undisclosed number of GM franchises were notified that their agreements will stop in October 2010. This puts hundreds, if not thousands, of employees' jobs at risk and will have a crippling impact on local communities across the State as less tax revenue will likely translate into cuts in important and much needed government services, especially during these challenging economic times.

The egregious timeframe and terms of these franchise terminations seem unprecedented to me. As you both know, most auto dealers have a few months of inventory of new vehicles on their lots, though some may have up to six-months worth. This means if the dealers stopped adding cars to their inventories last week when GM and Chrysler announced their decisions, they would still be able to sell cars for six months before they run out. From what I have been told, Chrysler will not buy back this inventory of vehicles or even parts and instead has arranged for the remaining dealers to buy the unsold cars from dealers set to lose their franchises. So come June 10th, terminated dealers will only be able to sell that inventory to remaining dealers, likely at substantial losses since they may well have backlogs of inventory themselves. While GM has at this point agreed to allow its terminated dealers to continue to sell vehicles until October 2010, I am concerned that this deadline will be moved up if GM enters bankruptcy as many expect.

Such franchises face a similar situation when it comes to large inventories of parts and manufacturer-related tools. From discussions with these dealership owners, it appears that some of this inventory may have been accepted as a result of manufacturer pressure to purchase additional, unneeded stock, possibly in order to help the companies avoid bankruptcy. Now these dealerships will likely have no other alternative but to sell their stock of parts and tools to surviving dealers for pennies on what they paid.

I am also worried about the negative impacts of your companies' decisions on consumers who have warranties and service contracts, especially in rural areas like West Virginia. Many families have consistently bought cars from the same dealership in their local community and have built long-term relationships with the dealership's owner. Now these West Virginians will be forced to travel unreasonable distances due to the local dealership having their franchise agreement terminated. In some cases, customers will be in the untenable position of having to drive over an hour to simply have their cars serviced and their warranties honored.

While I understand that as part of GM's and Chrysler's restructurings you may need to examine your dealership contracts, I urge you to reconsider your decisions to terminate these franchise agreements. As two companies that have received billions of dollars in Troubled Assets Relief Program (TARP) funding, I would hope at the very least that Chrysler will establish a more reasonable transition period that will allow its terminated franchises to stay open beyond June 9th. I would also hope that regardless of whether it enters bankruptcy, GM will honor its commitment to allow terminated dealers to remain open until October 2010.

Both of these actions would permit dealerships to sell most of the inventory of their vehicles, parts, and tools; maintain their used vehicle businesses and service and repair centers; allow consumers to continue to have access to quality service and the honoring of warranties and service contracts; and keep job losses to an absolute minimum.

Thank you for your urgent attention to these important matters. I look forward to receiving prompt responses from you both.

Sincerely,

JOHN D. ROCKEFELLER IV.

Mrs. HUTCHISON. Senator ROCKEFELLER is concerned, as many of us are, that the dealers are the roadkill in this, and they are also the people who have run successful businesses. They have sold the cars. They have employees. They have investments in the community. In many instances, these are the largest employers in the community. They support the high school football program. They support the community charitable events. We are not only knocking out 40,000 employees, we are not only knocking out the people who have given their faith and loyalty to this brand, but we are knocking out a huge chunk of community activism and volunteer service to the many communities affected by these closings.

I talked with the president of Chrysler this morning, and I believe he sincerely is trying to save the company, and we want him to do that. But it has been half a day, and I have not seen a progress report that we will be able to come back to the floor and say these dealers are going to get some help from Chrysler.

The President says he wants to help. But I think it is time now that we get some sense of what help is. If it is purchasing the inventory, getting the financing for the new and ongoing dealerships that will stay in business, we need to know that. These dealers need to know it so they can plan. My goodness, it is now probably 2 weeks or so, until June 9, and these people are having to plan for the orderly transition of their companies, hopefully not into bankruptcy, but many of them are going into bankruptcy.

I have been told some of these are Chrysler dealers, but they have other dealerships as well. The Chrysler dealership could bring down the ongoing one. I think it is time for the Government that is trying to help the manufacturers to say we need to help the dealers too. We do not need to have a bailout for the dealers, but we do need to give them time to have their orderly transition or give them credit possibilities with the dealerships that are going to stay in business and have them take the inventory. That would be the logical thing to do. But we need a commitment.

The 20 cosponsors of this amendment, when they hear from their dealers and they hear what is happening, want answers and they want answers before this bill leaves the floor. I hope I can give a better result than I have gotten so far today from the White House and from Chrysler that something is coming together. I think everyone has the right goal. We need to work together to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

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

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

HONORING OUR MILITARY

Mrs. LINCOLN. Mr. President, I think a lot of folks are looking toward the weekend. It is a holiday weekend. I know I am reflecting on that holiday weekend. I hope others are as well because on this Memorial Day, families in communities throughout Arkansas, our great State, and across our great Nation will gather to recognize the service of our men and women in uniform and to honor those who have paid the ultimate sacrifice in the name of freedom.

My father and both of my grandfathers were infantrymen who proudly and honorably served our Nation. They taught me from a very early age about the sacrifices of our troops, their experiences, the sacrifices of our troops and their families and what they have done to keep our Nation free.

Throughout my Senate career, I have consistently fought for initiatives that provide our military servicemembers, our veterans, and their families the benefits they have earned and deserve. That is why in advance of Memorial Day, which is right before us, I have authored a series of bills to honor our troops and their families.

My first legislative proposal calls for educational benefits that better reflect the service and commitment of our guardsmen and reservists. This legislation is endorsed by the Military Coalition, a group of about 34 military veterans and uniformed service organizations, with over 5.5 million members. I am pleased that my friend and colleague, Senator CRAPO of Idaho, with whom I routinely join in a bipartisan way on a whole host of issues—we came to the House together, and we came to the Senate together. He is a good friend and good working partner on behalf of substantive issues. He has joined me in cosponsoring this bill.

Unfortunately, educational benefits for the members of our Selected Reserve have simply not kept pace with their increased service or the rising cost of higher education. These men and women serve a critical role on our behalf, and we must make an appropriate investment in them.

In Arkansas and across the country, Americans are well aware of the reality that our military simply could not function without the thousands of men and women at armories and bases in our communities who continually train and prepare for future mobilizations and who work to ensure other members of their units are qualified and ready to deploy when called upon.

My legislation would tie educational benefit rates for guardsmen and reservists to the national average cost of tuition standard that is already applied to Active-Duty educational benefit rates. This builds upon my total force GI bill, first introduced in 2006, which was designed to better reflect a comprehensive total force concept that ensures members of the Selected Reserve receive the educational benefits that are more commensurate with their increased service.

The final provisions of this legislation became law last year with the signing of the 21st-century GI bill. In addition, the National Guard and Reserve have been and will continue to be an operational force serving overseas, and as such they require greater access to health care so that members can achieve a readiness standard demanded by current deployment cycles.

Far too many men and women are declared nondeployable because they have not received the medical and dental care they need to maintain their readiness before they are called up. This can cause disruption in their unit by requiring last-minute replacements from other units or requiring treatment during periods that are set aside for much needed training and experience they need to gain before they are deployed.

Compounding the challenge is the fact that short-notice deployments occur regularly within the National Guard. The Department of Defense can and should do more to bring our Selected Reserve members into a constant state of medical readiness for the benefit of the entire force.

My bill, the Selected Reserve Continuum of Care Act, would better ensure that health assessments for guardsmen and reservists are followed by Government treatment to correct any medical or dental readiness deficiencies discovered at their health screenings.

This legislation is endorsed by the National Guard Association of the United States, the Association of the United States Army, the Association of the United States Navy, the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the Retired Enlisted Association, the U.S. Army Warrant Officers Association, and the Veterans of Foreign Wars of the United States.

I also thank Senators LANDRIEU and BURRIS for their support in cosponsoring this bill as well.

Lastly, a bill I have introduced today, the Veterans Survivors Fairness Act, would enhance dependency and indemnity compensation benefits of survivors of severely disabled veterans and increase access to benefits for more families. In doing so, it would address inequities in the VA's DIC program by doing three things. First, it would increase the basic DIC rate so it is equivalent to the rate paid to survivors of Federal civilian employees. It also would provide a graduated scale of benefits so many survivors are no longer

denied benefits because of an arbitrary eligibility restriction. Lastly, it would allow surviving spouses who remarry after the age of 55 to retain their DIC benefits.

This legislation, cosponsored by my good friend, Senator HERB KOHL of Wisconsin, is endorsed by the Disabled American Veterans, the Association of the United States Navy, the Military Officers Association of America, the National Guard Association of the United States, the National Military Family Association, and the Reserve Officers Association. It is not coincidental that these two measures are supported so heavily by our military associations. It is because they are much needed and it is because they are so deserved. Beyond these three bills, veterans health care continues to be on the top of my priority list. I have worked with my colleagues to make substantial investments to increase patient travel reimbursement, improve services for mental health care, and reduce the backlog of benefit claims.

Access to the Veterans' Administration health system is absolutely critical, but too often it is quite challenging, particularly for our veterans who live in the rural areas of our Nation. For these veterans, among the other initiatives I have championed, I have championed legislation with my friend and colleague, Senator JON TESTER of Montana, that will increase the mileage reimbursement rate for veterans when they go to see a doctor at a VA medical facility and will authorize transportation grants for Veterans Service Organizations to provide better transportation service in rural areas.

I have been to areas in southern Arkansas, very far from Little Rock—3, 3½ hours' travel—visiting with veterans down there who are in dire need of access to that VA medical care. Yet their ability to get there was hampered by the fact that they were only reimbursed one way; not to mention the fact that their reimbursement was so low—so far below what a Federal employee gets reimbursed—it was uneconomical and almost prohibitive in getting them there.

As Memorial Day approaches, I hope all my colleagues will remember, and I would like to encourage them and all Arkansans, to take the time to honor our servicemembers, veterans, and their families. Never miss an opportunity to thank someone in uniform. Our troops are worthy of our appreciation, and we should come together as a nation to show them with our words and our deeds that we stand with them as they serve our interests at home and abroad. As we all gather in preparation of a recess break, I hope we will all remember the reason we have this break, the reason we celebrate this holiday.

Those of us who have military in our family, those of us who do not, it doesn't matter, we all enjoy the freedoms of this great country, and it is critically important that we show that not only on Memorial Day but each day of the year. The opportunity we have as legislators to honor our men and women in uniform, to support them with legislation that is meaningful to their lives, to their service, and to their families is absolutely essential. I encourage all my colleagues to look at the legislation I have offered, along with several of our colleagues, and encourage them to join me as we begin this Memorial Day break coming up next week and to remember why we celebrate, why we celebrate this Nation and these freedoms. It is because of the men and women in uniform who have served so bravely, and for those who have made the ultimate sacrifice, that we enjoy this great land and these freedoms and rights that we do enjoy in this great country.

Before concluding, I would like to add a couple other notes. I couldn't help but hear the comments of my colleague from Texas, and I wish to join her in her frustration for so many of our small and family-owned businesses across our State—our automobile dealers—that, for generations and generations, have passed down in their families a small business that they have worked very hard to keep afloat, to keep busy, to keep healthy, and to keep alive for future generations. My hope is that we will have the assistance and the working relationship with both the Treasury and the Chrysler Corporation and GM and others to better understand how we make that transition as reliable and certainly as palatable to those individuals and their families and small businesses as we possibly can. I look forward to working with the Senator from Texas and with other Senators as well as we move forward in that effort.

Last, but not least, I would like to also mention and extend my congratulations to our newest ''American Idol,'' Arkansas' own Kris Allen, who represented our State so well over the past few months in the ''American Idol'' television show, which has been so popular among so many people in this country.

Kris is a talented young man with a bright future ahead of him, and I look forward to watching him build a very successful career. I join all Arkansans when I say how proud we are of Kris, not only as a talented performer but as a humble young man who embodies our Arkansas values of hard work, integrity, and conviction. We wish him all the best as we begins this new phase of his life and career.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1138

Mr. DEMINT. Mr. President, do we need to set aside a pending amendment?

The PRESIDING OFFICER. Under the previous order, the Senator is recognized.

Mr. DEMINT. It is my understanding, Mr. President, that I have 20 minutes to speak.

The PRESIDING OFFICER. That is correct.

Mr. DEMINT. I would like to say a few words now and then reserve the remaining time.

Mr. President, I am going to speak on my amendment to S. 1054, and it addresses a large amount of money that has been added to the war supplemental bill. In these times, it is, first of all, somewhat surprising that we would take $108 billion and add it, unrelated to war supplemental, to this spending bill. My amendment would strike $108 billion from the current spending bill, and I would like to take a few minutes to explain exactly what my amendment does and what we are striking.

The Chair and all my colleagues know these are very challenging times. We often refer to it as one of the worst economic crises we have had. I think we and many Americans are concerned about how much we are spending, how much we are borrowing, and what that might mean in the not-too-distant future as it relates to inflation and interest rates and higher taxes. I am hearing very often when I go back home: Enough is enough.

We have to remember, as we look at this amount of money that has been requested, what happened to what we called the TARP funds. The last administration asked us to come up with $700 billion to be used for a financial bailout because we were in a crisis, and the money was going to be used—and this was very clear—to buy toxic assets, nonperforming loans, here and around the world. It had to be done immediately or the world financial system would collapse. Under that duress, Congress approved $700 billion—really, a trillion with interest, over time—but none of the money was ever used as it was supposed to be used. We never bought any toxic assets. In fact, the money was used in different ways: to inject money into banks—even some banks that didn't want it; it has been used to make loans to General Motors and to Chrysler; and now we are talking about converting those loans to common shares so that the Government is owner of General Motors and Chrysler, as well as the AIG insurance company and possibly part owners of many banks.

But the interesting part of this that relates to my amendment is that this week I asked Secretary Geithner: What is going to happen when this money is repaid? Well, if it is repaid, he said, it will go into the general fund, but the Treasury will maintain an authorization to take up to $700 billion from the

general fund anytime from now on. It becomes a permanent slush fund for Treasury. So what we have done is made the Treasury Department appropriators. Anytime they want, they can appropriate up to $700 billion.

That is, in effect, what we are doing with the International Monetary Fund. Let me explain to my colleagues a lot of things I didn't know until I looked into this. The International Monetary Fund was set up to make loans to nations; to help nations that might need money to get through a financial crisis. Many nations are involved, but we give them $10 billion as a kind of deposit to the fund. Currently, the IMF has the authority to use that money continuously. But we also give them the right to draw another $55 billion from our Treasury at any time. In effect, the International Monetary Fund can appropriate $55 billion from the U.S. Treasury anytime it wants. They now have over $60 billion of our money that they can use all over the world.

We can debate whether that is a good thing, but what the President has asked for, and this bill provides, is an additional $100 billion credit line, in effect, to the International Monetary Fund, and it ups our deposit another $8 billion. We are going to take another $8 billion and put it in the International Monetary Fund to be used. But then we make appropriators out of the International Monetary Fund. We give them a permanent credit line of an additional $100 billion that they can appropriate anytime they want around the world.

There are a lot of good things we would like to do as a country, as a Congress. We would love to improve our education system. There are a lot of challenges in health care. We have talked about our roads and bridges decaying. There are so many good things we would like to do that we don't have the money for. How can we possibly tell an International Monetary Fund that they can take $100 billion anytime they want from the U.S. Treasury if there is an emergency somewhere in the world?

There will be emergencies in these times. The interesting issue we are not thinking about is we are going to have more and more crises here at home. We know California is heavily in debt—over $20 billion. They are talking about a financial collapse, as is New York and other States. But the size of California's debt is only one-fifth of what we are giving the International Monetary Fund.

I don't think we have added up all of this. I am very concerned we are not considering how much money we are talking about. Let's put $108 billion in context. I know some will come and say we are not spending that amount of money, we are just authorizing it, which means it can be appropriated anytime, but we are not spending it. In fact, they took the effort to get CBO to change the way it normally scores so this is not spending. They are saying the risk is only like $5 billion. But the International Monetary Fund can take $100 billion out of our Treasury anytime it wants.

With the world situation the way it is, I think we are being very naive to think it will not come out. We were told most of the TARP funds would not be used. We used most of the TARP funds.

But let's think about this $100 billion. That is more than we spend as a Federal government on transportation all year. The 2010 budget for transportation is $5 billion. It is more than we spend on education for a whole year—$94 billion in our country. It is more than we spend on veterans' benefits. It is a lot of money. But very often we are talking about our own services to our own people in this country for which we do not have enough money. We need to remember the International Monetary Fund, while it may serve in theory a good purpose, people on the board who decide how this money is used include countries that we say are terrorists, such as Iran. Do we think Iran is going to help the United States when we are in trouble?

Let's look at our current situation. Our current national debt as a country is $11.2 trillion—more than any other country in the world. We are the most indebted country in the whole world. Our per capita debt is $37,000. Every man, woman and child in this country owes $37,000, based on what we have already borrowed. But if you include Social Security and Medicare liabilities, our current expenditures will exceed tax revenues by $40 trillion over the next 75 years. Our debt is now 80 percent of our gross domestic product—80 percent of our total economy, which is the highest level since 1951.

The President's budget estimates that total debt relative to our total economy will rise 97 percent by 2010 and 100 percent thereafter. We are going to have debt that is larger than our total economy in the next year or two.

We currently owe $740 billion to the People's Republic of China and we owe $635 billion to Japan and $186 billion to the oil exporters. Keep in mind, if the IMF does access this $108 billion, we will have to borrow it in order for them to get it, and we will have to pay interest on that money. We will be told we will earn interest on any money that is borrowed, but we will likely pay even a higher interest rate in order to make that money available. When we do, we increase our debt even further.

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

Mr. DEMINT. Yes.

Mr. KERRY. I appreciate that. Let me ask the Senator, I think the Senator said this is a permanent fund, that we would be permanently reduced from this amount of money. Is the Senator aware this expires and is renewable every 5 years? That there is no permanency at all?

Mr. DEMINT. Does the Senator have that? I have the bill with me. It would be a great help to point this out. Of course, 5 years, the drawing of $100 billion anytime in the next 5 years is something we should not even consider.

Mr. KERRY. Will the Senator yield further?

Mr. DEMINT. Yes.

Mr. KERRY. Is the Senator also aware it is not $100 billion, that CBO scored it at $5 billion and, in fact, the experience of our country is we earn interest, we make money, and this is a winning proposition for the country?

Mr. DEMINT. That is a little smoke and mirrors. If the Senator will allow me to read from page 104 of the bill, on line 4 it says:

> Any payments made to the United States by the International Monetary Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund.

You may have a date somewhere on this, but that is pretty clear, that it will continue to be a draw.

Mr. KERRY. Mr. President, if I could proceed further? In point of fact, it is limited, and it has to be repaid at the end of 5 years if it is not renewed.

Mr. DEMINT. Do you have the cite?

Mr. KERRY. I will further get that for the Senator.

Mr. DEMINT. I will answer the Senator on how much this costs. I think the Senator is aware, as I said, our normal way of measuring costs was changed for this bill. We are saying that, OK, if the International Monetary Fund accesses this money, it is just a loan so it is not a cost. But we have no guarantees it will get back. We say the International Monetary Fund has never lost money, but we have never been in these economic times before. We have never been in as much debt as a country. Can we afford, even if it is for the next 5 years, to have an international group that can draw $100 billion from our Treasury at any point they want? Do we want to be in that position? We have already given the Treasury Department a lot of credit to the general fund for $700 billion—which the Secretary has basically said is going to continue—and now we are going to give another line of credit to an international group in case there is a crisis around the world when we are facing crises here at home?

Mr. KERRY. Will the Senator further yield? I appreciate it.

Mr. DEMINT. Mr. President, we need to equally apply the time now against both sides.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from South Carolina has the floor.

Mr. DEMINT. I will yield the time in a minute and reserve the remainder of my time. I appreciate the comment of the Senator. I think we should have open debate about this. I would like to talk a little bit more about this idea that a line of credit is not spending. We use that a lot around here. We say we have authorized it but have not appropriated it yet. But what the language

of this bill does is it not only authorizes $108 billion of new money for the International Monetary Fund, it gives them the power to appropriate it at any time. We may not call that spending around here, but that is just political talk. If that money is taken from our Treasury, we have to borrow money to give it to them, and they may or may not pay it back. We may say the International Monetary Fund has been stable for years, but part of the bill that is going through here today—the other side will say we have collateral, they have gold—but part of the bill here, and what my amendment strikes is, giving the International Monetary Fund the ability to sell over $12 billion worth of their gold, which is collateral supposedly for our money, in order to create more cash for them to lend around the world.

I am not saying the International Monetary Fund does not have a function. But we have already put at risk over $60 billion at a time when our country is struggling, at a time when it looks like we are going to triple the national debt over the next years, at a time when many of our States are near bankruptcy, and at a time when we do not have the money to fund the priorities such as health care and transportation, energy research, health research that we are always talking about. We need more money to do those things that are essential here in America. How can we possibly, on a war supplemental bill, add $108 billion that is unrelated, basically extort the votes out of the Members by forcing us to either vote against our troops or vote against this reckless risk we are talking about taking?

It makes absolutely no sense in this crisis that we have talked about in this country to put ourselves at risk for another $108 billion, when we don't even know how we are going to pay the interest on the money we have already borrowed.

Mr. KERRY. Will the Senator yield for a question on equal time?

Mr. DEMINT. Mr. President, I yield and reserve the remainder of my time.

Mr. KERRY. Mr. President, I will speak off the leader's time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I heard the Senator suggest that this is a reckless effort to put American money at risk somewhere else. I would like to share with colleagues a letter written to the Speaker of the House and to the majority leader, saying:

We are writing to express support for the Administration's request for prompt enactment of additional funding for the International Monetary Fund.

This very fund. Let me tell you who the signatories are: former Secretary of State, Republican, Jim Baker; former Secretary of the Treasury, Republican, Nicholas Brady; former Secretary of Defense Frank Carlucci; former Republican Secretary of the Treasury Henry Paulson; former Secretary of State Colin Powell; former chair of the Foreign Relations Committee in the House and now at the Woodrow Wilson Institute, Lee Hamilton; former Secretary of State, Republican, Henry Kissinger; former National Security Adviser Robert McFarlane; former Treasury Secretary, Republican, Paul O'Neill; General Brent Scowcroft, security adviser to two Presidents. I mean, are these people reckless? Are they suggesting we do that because this is a reckless expenditure? Let's not be ridiculous.

The fact is, the Chamber of Commerce—I have a letter here and will I ask unanimous consent the letter be printed in the RECORD.

To the Members of the United States Senate.

The U.S. Chamber of Commerce, the world's largest business federation representing more than 3 million businesses and organizations of every size, sector and region, supports legislation to strengthen the International Monetary Fund included in . . . the supplemental appropriations bill currently being considered by the full Senate. . . .

The worldwide economy is experiencing its worst downturn in more than half a century. While American workers and companies have been hit hard, the U.S. economic recovery may be undermined by even more severe difficulties in some emerging markets. It is squarely in the U.S. national interest to support efforts to help these countries as they confront the financial crisis.

They go on to say:

These U.S. commitments could leverage as much as $400 billion from other countries and thus ensure the IMF has adequate resources to mitigate ongoing financial crisis.

Mr. President, I ask unanimous consent this letter be printed in the RECORD.

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

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, May 20, 2009.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports legislation to strengthen the International Monetary Fund (IMF) included in H.R. 2346, the FY 2009 supplemental appropriations bill currently being considered by the full Senate, and urges Congress to reject amendments that would strike the provisions from the bill.

The worldwide economy is experiencing its worst downturn in more than half a century. While American workers and companies have been hit hard, the U.S. economic recovery may be undermined by even more severe difficulties in some emerging markets. It is squarely in the U.S. national interest to support efforts to help these countries as they confront the financial crisis.

With leadership from the United States, the G20 committed to increase the IMF New Arrangements to Borrow (NAB) by up to $500 billion. The Administration is seeking Congressional approval to (1) increase U.S. participation in the NAB by up to $100 billion and (2) raise the U.S. quota in the IMF by $8 billion.

These U.S. commitments could leverage as much as $400 billion from other countries and thus ensure the IMF has adequate resources to mitigate ongoing international financial crises. Pre-crisis IMF lending resources ($250 billion, more than half of which has been committed) are clearly insufficient. Without adequate IMF support, currency crises in especially troubled economies could trigger broader economic and financial problems. Not only is the IMF the appropriate multilateral institution to take preventive action against such crises, its labors help the U.S. and other national governments avoid costlier, ad hoc responses after crises have escalated.

In addition, these measures will signal to the world that the United States is prepared to lead efforts to help emerging market economies overcome the financial crisis. Without adequate IMF support, financial crises in foreign markets may negatively impact U.S. jobs and exports and undermine the U.S. economic recovery. The Chamber encourages you to support the provisions relating to the IMF included in H.R. 2346, the FY 2009 supplemental appropriations bill.

Sincerely,

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

Mr. KERRY. Mr. President, the fact is, this is a loan over which the United States keeps control. We are part of the decision-making of any lending that might take place under this. It is renewable under the New Arrangements for Borrowing Agreement, renewable every 5 years. If we do not renew it, it comes back. Moreover, it is only used in emergency if the other funds of the IMF run down.

This is for American workers. We have a lot of people in America whose jobs depend on their ability to export goods. The fact is, if those emerging markets start to fade, not only do we lose the economic upside of those markets but we also run the risk that governments fail. We have already had four governments that failed because of the economic crisis. The fact is, if they continue to in other places that are more fragile, then you wind up picking up the costs in the long run in potential military conflict, failed states, increased capacity for people to appeal to terrorism and the volatility of the politics of those regions. This is not something we are doing without American interests being squarely on the table—economic interests and national security interests.

I repeat, it has broad-based bipartisan support. I hope colleagues will take due note of that.

With respect to the economics of this, let me share one other quote, which is a pretty important one. Dennis Blair, Admiral Blair, the Director of National Intelligence, was recently quoted as saying, about the first crisis the United States faces today, the most significant crisis we face today, ''the primary, near-term security concern of the United States is the global economic crisis and its geopolitical implications.''

This is not just an economic vote, this is a national security vote. When you have a group from Jim Baker to General Scowcroft, to Henry Kissinger, and others all suggesting this is in our

long-term and important interest, I think we ought to listen pretty carefully.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, I have listened to some of the comments by the junior Senator from South Carolina about the President's request to participate in the expansion of the new arrangements to borrow and increase the U.S. quota at the International Monetary Fund.

This authority, incidentally, is requested in order to implement decisions that were made by President Bush.

It is easy to confuse people about this issue, as the Wall Street Journal editorial page confused itself and probably most of its readers earlier this week.

If you are opposed to giving the Treasury Department this authority, the best way to scare people into voting against it is to say that it is a giveaway of $100 billion in U.S. taxpayer funds to foreign countries. That would scare anyone. If it were true I would vote against it myself.

But it is not true. Our contribution is backed up by huge IMF gold reserves, so the cost to the taxpayers is $5 billion over 5 years, not $100 billion. OMB and CBO agree on that, and so does the Senate Budget Committee. And besides being false, it detracts from the legitimate question of why should we do this?

The simple answer is because our economy, and millions of American jobs, depends on it.

Between 2003 and 2008, U.S. exports grew by 8 percent per year in real terms. A key reason for that was the rapid growth of foreign markets. Our exports show a 95-percent correlation to foreign country growth rates since 2000.

During that period, the role of exports in driving growth in the U.S. economy steadily increased. The share of all U.S. growth attributable to exports rose from 25 percent in 2003 to almost 70 percent in 2008.

Because of the global financial crisis our exports peaked in July of last year and have been falling since then. In the first quarter of 2009, our real exports were 23 percent lower than in the first quarter of 2008.

Our export decline is now contributing to recession in the United States.

With an export share in GDP of 12 percent, a 23-percent decline, if sustained over the course of a year, would make a negative contribution to GDP of almost 3 percent.

The stimulus plan we passed is boosting domestic demand. But the benefits of the stimulus are at risk of being wiped out by the decline in exports.

We need to help foreign countries lift themselves out of recession. It will benefit them, but it will also restore our exports as their economies recover and they begin to buy more of our goods and services.

Some foreign countries can take care of themselves with stimulus of their own, and by cleaning up their own banking sectors.

But many others, especially emerging market economies, have been hard hit. Some countries have been cut off abruptly from capital markets and shut out of credit markets by the banking problems originating in the United States and Europe.

Those countries need to fix their own problems and get temporary finance to avoid a prolonged period of economic decline.

Providing temporary finance and policy fixes is the job of the IMF.

But as the world economy grew in the last decade, the financial resources available to the IMF did not keep up. It has been caught short by the suddenness, severity, and scope of this global crisis.

The request for a quota increase, and the authority to participate in the new arrangements to borrow, will replenish the IMF's resources so it can fight this crisis.

With this money, the IMF will be able to help many foreign economies revive. With this money, the IMF will be ready in case the crisis deepens and takes more victims.

As foreign economies recover, so will ours. We will be spared an even worse decline in our exports, with greater job loss. As our exports resume, people in export industries in every State will be able to go back to work.

This may seem like an arcane issue, but it is of vital importance to the jobs of millions of Americans across this country. I, Senator KERRY, Senator DODD, Senator SHELBY, Senator LUGAR, and others have agreed on substitute language which provides for prior consultation and reports to Congress, as well as greater transparency and accountability at the IMF. It also provides guidelines for the use of the proceeds of sales of IMF gold.

The real choice here is not whether or not we should provide Treasury with the authority that both former President Bush and President Obama have called for.

Rather, it is how we should do it. After we vote on the DeMint amendment, and assuming it is defeated, I will seek consent for the adoption of substitute language that is supported by the chairman and ranking member of the Foreign Relations Committee and the chairman and ranking member of the Banking Committee.

It also has the support of the chairman and ranking member of the State and Foreign Operations Subcommittee of the Appropriations Committee.

The true cost of the authority requested by the President is not the $100 billion the Senator from South Carolina wants you to believe. That is a scare tactic. It is $5 billion over 5 years, and that is a drop in the ocean compared to cost to our economy, and to American jobs, by not acting.

Mr. KERRY. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. How much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 4 minutes, the Senator from Massachusetts has 4 minutes, the Senator from New Hampshire has 10 minutes.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this is one of those issues which looks easy on its face because it is politically simple to synthesize and state, but it is not easy; it is a complex issue.

Obviously, anything that has an initial around here in a foreign organization can be easily attacked. The idea of American dollars going to support organizations which have initials, and they are foreign organizations, often gets attacked. But in this instance our national interest is of our concern, our primary concern, and is benefitted by the decision made to carry out our responsibilities relative to the IMF.

How does this work? The International Monetary Fund is essentially an organization set up by the United States during the Bretton Woods Conference in the post-World War II period, the purpose of which was, and is, to have a backstop for countries that get into very deep fiscal problems and to have a place where the rest of the world can go together in the industrialized world and basically meet and support individual countries which have problems. It is actually an opportunity for us as a nation to share the burden which, in the post-World War II period, has fallen primarily to us, to try to stabilize the world economy.

That obviously benefits us a lot. We are the biggest trader in the world. We export massive amounts of goods. Dramatic proportions of American jobs are tied to our capacity to export, and having a stable world economy is critical to our capacity to keep our economy going. That is why we set this up. It was pure, simple self-interest, to set up an international organization to help us stabilize other Nations that run into trouble.

We are now in the midst of, obviously, a worldwide recession that is deep, it is severe, and we felt the brunt of it in the United States, and other nations across the world are feeling it also. Some are in much more dire shape than we are.

The issue is, how can we try to avoid an international meltdown, countries failing and bringing down other countries with them, and how can we benefit ourselves by maintaining stable economies around the world?

Well, one way to do that is to have an international organization such as the IMF which steps up and essentially tries to catch the dominoes before they fall.

There are countries in this world that are going through deep economic

problems, even more severe than ours, which is hard to believe because ours is so severe. If those countries fail to be able to maintain their debt, their sovereign debt, and the leveraged debt of their banking systems, and if they fail as nations, then other nations that have lent to those nations will follow them into failure.

A lot of these nations are in Eastern Europe, a few of them are in the Western Hemisphere. We have already seen two instances of this in Iceland and Ireland, and we know the situation is tentative.

In fact, just today it was reported that even the British debt, the United Kingdom debt, may be downgraded. So the IMF is sort of our primary backstop in the international community to try to avoid that type of event occurring, where one Nation fails on its sovereign debt, or its major banking debt, and it brings down a series of other nations that have lent to it.

The IMF has said, and it was agreed to by all of the countries participating in the IMF, that it needed more resources to be able to be sure—although nobody can ever be sure in this economy—in order to be reasonably sure that if a fairly significant nation has very serious problems, it can step in and try to help stabilize that country's situation, so that country does not take a lot of other countries with it as it defaults on its debt. This agreement was reached in concert, not by us alone but by a whole group of nations. So rather than the United States, for example, having to step in and unilaterally take action in, say, one of our neighboring countries, as we did in the late 1990s, this allows us as a nation to join with other nations and pool, basically pool a large amount of resources, to have them available here, for the opportunity to avoid such a meltdown.

We put in about 20 percent, other nations—Japan, Germany, England, other industrialized countries—put in the balance. The IMF is calling for $500 billion essentially. Actually, it works out to $750 billion when you put in the special drawing rights, $750 billion of capacity to be able to have that type of resources available to stabilize various nations around this world should they get into serious, severe trouble.

You can follow the proposal of this amendment as essentially saying, the United States does not want to be part of this effort. We are going to back out of this responsibility or this—you do not even have to claim it as a responsibility, this action, because we basically are going to retrench from here within the United States and not participate in this sort of international effort to try to stabilize other economies because we need our money. We need it here, now, and we cannot afford to do that.

That, in my opinion, is extraordinarily shortsighted. That is like cutting off your nose to spite your face because let's face it, if an East European economy goes down and it takes with it two or three other East European countries, and that leads to even some major Western European economies going down, who is the loser? Well, those economies obviously. But I can tell you a lot of American jobs are going to be the losers.

That type of economic disruption, that type of economic Armageddon as it was described by one of my colleagues who actually supports the DeMint amendment, would come back to affect us dramatically.

So what is the price of avoiding that, or hopefully avoiding it? What is the price of at least having in place an insurance policy to try to avoid that? Well, the price is, for us to put up no money, we are not putting up any money. We are putting up what amounts to a letter of credit to the IMF that says: All right, you now have a letter of credit from the United States for $100 billion. You have a letter of credit from a variety of other nations around the world for another $400 billion. You have $500 billion of letters of credit, so if you have to go into a nation, because their banking system is on the verge of failure, and because they do not have the ability to monetize their debt the way we do—in other words, they do not have a central bank that can print money because they do not have a world currency—you are going to have this type of support to try to stabilize that country so it does not become a domino affect on all of those other nations that may have lent to it, including us.

That is an insurance policy. Does it mean even if the IMF had to take that step and go into that country and invest that we would lose those dollars? No, we would not. In fact, we will not lose those dollars. We have never lost a dollar through the IMF. We have always been repaid everything.

Not only will we not lose them because the country they are lending to is a nation, and probably a fairly sophisticated nation because they do not do too many nations that are not sophisticated, we will not lose it because the IMF has a massive gold reserve that essentially backs up all of the dollars, all of the money that is there. So it is not a risky exercise.

That is why this effort does not score as $108 billion. There is no game being played about the $108 billion number. The simple fact is, the $108 billion number does not score because there has never been an outlay to the IMF.

You can make an argument that even the $5 billion—that is what CBO came up with as a number, and I think that was based on the assumption that there might be some interest costs, but even the $5 billion is wrong. Zero is the right number. Certainly a representation that $108 billion is what it is going to cost the American taxpayers is totally inaccurate. It is playing with facts fast and loose because we never had lost any money.

All the lending of IMF is basically securitized, either by the debt of the nation they are lending it to or by their own gold, the gold of which they have a huge accumulation.

So this is not a cost of any significance to the American taxpayer. What it is, however, is an extraordinarily cheap way for us as a nation to lay off the burden to other nations, other industrialized nations; lay off the burden of making sure that countries which would represent a very serious problem to us and to the world community should they fail financially, a very cheap way of trying to have in place a system to avoid that.

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

Mr. GREGG. So, from my opinion, this is an amendment which is not constructive either for our economy or for the international situation. I would hope it would be defeated.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be equally charged to both sides.

The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, I objected to that. I was allowed 4 minutes. The other side is not showing up. I do not think that is right to take my 4 minutes. If the other side would like to yield back, I will be glad to close with my 4 minutes.

I suggest the absence of a quorum, and I reserve my 4 minutes.

The PRESIDING OFFICER. If the Senator puts us in a quorum call, the time will be charged to him, absent consent.

Mr. DEMINT. Let me simplify this. I will go ahead and speak.

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

Mr. DEMINT. Mr. President, I appreciate the comments that we have heard today. I want to make it clear we are not trying to minimize or change our commitment to the IMF at all. We are already committed for about $65 billion. We are the largest contributor to the IMF, and that will continue.

What I am opposing is a massive increase in our commitment of $108 billion at a time this country cannot afford it. We have also heard this is not really any spending, that no money will really come out of our Treasury. If that were true, we would not need to ask for it; it would not need to be in the bill. If that were true, it could be $200 or $300 billion, and it still would not cost us anything.

This is just political speak here in Washington. We are giving a credit line to an international agency where we do not control the vote, where they can take $108 billion more than they already have, 108 in addition to the $65 billion we have committed to this agency, to use in a way that they would like. I object to this because I have businesses in South Carolina that can't get a loan, a small loan from a bank that has taken Federal money. They can't continue their business because the bank says these are difficult

economic times and that is a high risk. So we are going to take $100 billion and give it to countries that are high risk because supposedly that helps our economy. Enough is enough. We have spent more than we can pay back already. It is wrong to attach this type of spending to a bill that supports our troops. This should be taken out of the bill right now. That is what my amendment does. It strikes a section that would give an additional $108 billion of appropriation authority to the IMF.

It also strikes a section that allows them to begin to sell off the gold reserves that we just heard are a so-called security for this loan. This makes no sense.

I urge colleagues to say enough is enough. There are many good things we can do, but we, frankly, don't have the money anymore. This is more than we spend on education every year, more than we spend on veterans benefits, more than we spend on transportation. It is real money, because it will be drawn upon, because there are countries all over the world in difficulty. We will set a precedent. Notice that in the criticism of the bill, they are not using this to criticize it, because not only does this create a permanent amount of authority to withdraw money, it gives the Secretary of the Treasury the ability to make amendments to the law. We are giving the authority of this Congress over to the Secretary of the Treasury and the International Monetary Fund. None of this makes any sense. Enough is enough. No more spending. No more borrowing. It is time to let it go.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, this makes all the sense in the world. In fact, Senator GREGG, former chairman, now ranking member of the Budget Committee, gave an excellent summary of exactly what this is. It is not an expenditure. It is a letter of credit. It stabilizes countries. It is an insurance policy. It has always been repaid. As Senator GREGG said, even the $5 billion which the CBO scores this at is not accurate because the money is never laid out. This is not a risky exercise because we make money through the interest. This is an asset that we create that is traded against the letter of credit.

Let me answer my colleague. He asked the question about the 5 years. Paragraph 17 of the IMF Articles of the New Arrangements to Borrow has a provision for withdrawal from membership. A participating member can withdraw. At that time, the money comes back to you. You cease to have your commitment on the line. Paragraph 19 of the IMF Articles of the New Arrangements to Borrow states:

This decision shall continue in existence for five years from its effective date. When considering a renewal of this decision for the period following the five-year period referred to in this paragraph 19 . . . the Fund and the participants shall review the functioning of this decision.

Mr. DEMINT. Will the Senator yield?

Mr. KERRY. I will yield on his time.

Mr. DEMINT. Are you reading from——

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

Mr. KERRY. I am reading from the current Articles of the IMF's New Arrangements to Borrow. This is the operative agreement for the NAB, on which this lending takes place. Let me make it clear, why this is furthering our interests. The fact is, in South Carolina, they have a lot of businesses that export. From the beginning of this year exports in the U.S. were down 23 percent. They were down 23 percent because countries' economies around the world are hurting. As Secretary Kissinger, General Scowcroft, and the Chamber of Commerce all agree, this is important for American business. The fact is, between 2003 and 2008, exports grew by 8 percent per year in real terms. We have a correlation in our exports to the growth of other countries. There has been a 95-percent correlation in that growth.

The fact is, the share of all U.S. growth attributable to export growth went from 25 percent in 2003, to 50 percent in 2007, to 70 percent in 2008. We benefit. That rise of exports from 25 percent to 70 percent is to the benefit of American business. Unfortunately, those exports peaked in July of last year. Most of our partners are now in recession. Real exports are now 23 percent lower. You are looking at a reduction in American GDP, if you don't provide this line of credit.

President Obama went to London. He led the world in getting a $500 billion agreement to help support these countries to revive their economies. When you consider the money we have spent in the Cold War to break the Eastern Bloc away from the Soviet Union and, ultimately, they have adopted our economic system, they are working as partners now, many of them members of NATO. Their economies are hurting. We benefit if those States don't go into an economic implosion.

This is a national security issue for the United States. It is a plain and simple, self-interest economic issue for the United States. Most importantly, we don't spend money. This is a deposit fund in an account which is interest bearing to the United States. It is a good investment. Historically, we have not lost money. I know Senator LUGAR will vote against this amendment. Senator GREGG and others. I hope colleagues will resoundingly reject this ill-advised amendment.

Mr. DEMINT. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 39 seconds.

Mr. DEMINT. I wish to make sure the Senator understands that the bill we vote on today amends what he just read about our ability to get out of this in 5 years. Sometimes it is hard to get the straight scoop here.

It is real money or we wouldn't be asking for it. This is not a time in our country's history that we can afford to put another $108 billion on the line, when we can't get our own businesses enough money. We have to stop this reckless spending. I encourage colleagues to support my amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 1138.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 64, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—30

Barrasso	DeMint	Kyl
Bayh	Ensign	McCain
Bennett	Enzi	McConnell
Brownback	Feingold	Risch
Bunning	Graham	Roberts
Burr	Grassley	Sanders
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cornyn	Isakson	Thune
Crapo	Johanns	Vitter

NAYS—64

Akaka	Gillibrand	Murkowski
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Reid
Bond	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown	Klobuchar	Snowe
Burris	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Voinovich
Collins	Lincoln	Warner
Conrad	Lugar	Webb
Corker	Martinez	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—5

Byrd	Kennedy	Rockefeller
Hatch	Murray	

The amendment (No. 1138) was rejected.

Mr. KERRY. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add the following cosponsors to amendment No. 1189: Senator LANDRIEU, Senator SHAHEEN, Senator CRAPO, Senator RISCH, Senator BILL NELSON, and Senator SNOWE.

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

Mrs. HUTCHISON. Mr. President, I would point out that there are now 26 cosponsors of the amendment that would have tried to give the Chrysler car dealers extra time to get their affairs in order rather than a June 9 deadline. It would just give them 3 more weeks. I am still hoping the White House and the Chrysler company will come forward with something that will give some help to these dealers. I think the Senate is beginning to speak by the number of cosponsorships for this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. 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. BAYH. Mr. President, I ask unanimous consent that the next hour be for debate only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add Senator INOUYE as a cosponsor of amendment No. 1189.

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

Mrs. HUTCHISON. Mr. President, we are still working on language that I very much hope we can get agreement on before the end of the day. I think everyone is working in good faith. That is my hope, and I will remain optimistic that we can have something definitive for the dealers in this country who are facing bankruptcy or dissolution in 2 weeks.

As of now, 28 Senators have signed on to agree that we need to be helpful to them. I think we have a way forward, but we have to get everyone signed off on it. I hope all of the parties will do that, so there can be a definitive announcement, because these dealers need to be able to plan going forward. They need to know what the rules of the game are. I think it is the least we can do for them.

Mr. President, 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.

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

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

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to add Senators FEINGOLD and HARKIN to amendment No. 1189.

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

Mrs. HUTCHISON. That takes us up to 29 cosponsors of this amendment. We are almost up to a third of the Senate saying we need to help these Chrysler dealers. I just hope we can produce something for these dealers by the end of business today that will help them begin to get their affairs in order after the blow they received on May 14.

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. COBURN. 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. COBURN. Mr. President, I asked the managers of the bill if I could have some time to discuss this bill for a moment. I offer a lot of amendments around here and, quite frankly, there are several amendments I should have offered, or should call up, but I am not going to call up because, quite frankly, I am not prepared to do it.

I wanted to talk about this bill because it has been described in a lot of ways as funding for our troops, as things that we have to do. I want to put a few holes in that for a minute.

There is funding for our troops in this bill, there is no question. We need to do that. One of the promises of the President—and I hope it comes about this next year—is we will never see another one of these to fight the wars. It will be incorporated, as it should have been in the past.

I am on record of voting against three of these requests from the Bush administration for the fact that it should be incorporated into the regular budget. We know we have these expenses. When we do a supplemental or an emergency—that is what we are calling this—there is something that happens most people do not realize. Mr. President, 100 percent of this bill will be borrowed by the Treasury when we start spending the money. This is not money we have. It is money we are going to borrow from the next two generations because the Congress refuses to make priorities of what we need to do, and we continue to spend money on things that we should not be or do not have to do, which are not a priority, and the money we are going to spend is borrowed money.

We have not heard much of that in the entire debate on this bill. Every dollar will be stolen from the future of the next two generations to come, and most of the people who are hearing my voice today will not pay the cost of this significantly large bill.

It was not all that long ago that the entire Federal budget wasn't the size of this, less than 45 years ago. Yet we are going to pass, in very short order, with very few amendments, a bill that does a lot of things besides fund our troops.

Of course, there is another thing most Americans don't know. It is that all the things that are in this bill that go to other executive branch agencies will be utilized to raise the baseline next year for the starting point of the budget process. In other words, we are raising the baseline. So when we look at it, when it comes through the budget next year, and the appropriations cycle, it will not be what we actually appropriated under the budget. It will be under the budget plus what we spent on the supplemental. We do not go back to where we should be. We go back to an elevated area because we had an emergency spending bill.

There is money in here for the United Nations Development Program, Peacekeeping Operations, $721 million. Here is a fact that most Americans don't know. Forty percent of every dollar spent by the United Nations on peacekeeping operations is absolutely defrauded or wasted. So in this case, $300 million of the $720 million that we are going to appropriate, some shyster connected with the United Nations, either in New York or in some foreign country, is going to steal that money. It is not going to go to help anybody keep the peace. It is not going to go to clothe and feed someone. It is not going to go to protect the rights of those who are discriminated against, those who are living not under the rule of law; that, in fact, $300 million out of the $720 million isn't going to do anything except line the pockets of crooks.

Yet we have that report, which we had to get from the U.N. because we don't have transparency on where our money is going. That is the U.N.'s own report. Yet there is nothing in this bill that requires them to give us an audit of how they are spending it. There is no metrics on how it is going to be spent, and there is nothing in this bill that says they are going to have to tell us and show us that they didn't let it get defrauded or get stolen. We are not paying attention. We are running like there isn't an economic crisis.

There is another area in this bill that is extremely disturbing to me, which is that we are going to give a $1.3 billion pay raise to all the Foreign Service officers in this country.

They hire 500 to 600 new ones each year. They have 25,000 applications for these jobs without this pay raise. This is called a locality pay differential, and it started because it is so expensive to live in Washington that we give a 21-percent increase to all Foreign Service officers who get stationed in the United States, but we are now going to give it to them no matter where they live.

So what we are talking about is a $15,000-a-year pay raise on the basis of nothing, to people who, on average, make more than $75,000 a year. Ask yourself a question: When we send a colonel to South Korea, do we give him a locality pay increase? No. When we send a sergeant to take care of the troops who are stationed around the world, do we give him a pay increase or her a pay increase? No. And they just happen to make a third of what our Foreign Service officers make. Yet with one broad stroke we are going to add $1.5 billion over the next 4 years, and then at least $400 million a year to everyone who works for the State Department.

Why are we doing that? Why are we saying Foreign Service officers are more important than our men and women in uniform? Why are we creating a differential when, in fact, there is no hardship, and we are having no trouble getting employees. By the first data I put out there, we are not. There are no statistics to suggest they have a greater loss than they are capable to reproduce. Yet in this bill, $400 million a year, just as a gift—just as a gift.

Think how demoralizing that is to the men and women who wear the uniform of the United States. We have decided that technocrats are more important than the people on the front lines. We have decided that, not based on merit, not based on performance, we are just going to give them a raise.

I don't have any objections due to the cost of living in DC that we might have a differential pay for that. But why would we say no matter where you live—if you live in Muskogee, OK, where I am from—and you happen to work for the State Department; that because you work for the State Department and not because you produce more or do a better job, you are going to get a 21-percent pay increase that is never going to get rescinded.

What are we doing? And why are we doing it?

Also in here is $.5 billion for the start of—and they have a legitimate claim, the State of Mississippi—a hurricane prevention program. We asked the Corps to do a study. We are putting money in. It is unauthorized money. It has never been through the committee, and I am not saying that we may or may not want to do this. But the Corps hasn't even finalized their evaluation of the study on whether it is viable. Yet this is the first $.5 billion in a $2 billion to $7 billion project that I am not sure right now, without authorization of the appropriate committee, we are going to jump in line ahead of every other priority program that the Corps of Engineers has just because we can do it. And the Corps hasn't even accepted the premise of the study on which the money is going to be spent.

America, wake up to what we are doing. This ship has a lot of holes in it, and we are taking on water faster than those with common sense can bail it out. These are just three prime examples of things in this bill that ought not be handled the way they are handled in the bill.

The No. 1 thing we are not doing is we are not being honest with ourselves about where this money is coming from and how much more it is going to cost the people in this country who are struggling every day just to pay their mortgage, just to put groceries on the table, and to pay their utility bills.

We are going to give $108 billion to the IMF. We had an amendment that got defeated. The fact is—and pay attention to this—it may not help. The assumption is we will get paid back because they have never not paid us back in the past. Well, this is a different day, and there is a high likelihood that, even though we only charge $5 billion for the cost of this $108 billion loan, we will never see a penny of it come back—a very high likelihood—especially if you look at the total debt and money assets of all the European countries compared to their GDP ratio.

We wring our hands and say: Well, we have to do this. We have to do this. What we have to do is preserve America first. What we have to do is defend America first. What we have to do is restore confidence in America. The way we are doing it with this bill does just the opposite.

I am sorry I haven't had time to go after the issues in this bill. There are tons of things we ought to be doing differently, and if we are not going to do them differently, we ought to hold the Members accountable on a vote to say why we are not doing them differently. Borrowing this money against our children's future and not making hard choices on some of the $350 billion worth of fraud and waste that we know the Federal Government has, not even looking at it, not making an attempt to pay for any of it, to me, is a tragedy.

It is not just a tragedy of the moment because what it clearly spells out is that there has been no change. There is no change in behavior. There is no recognition of the difficulty we are in. There is no set of priorities that says we do what is most important for the country first, and if it is not really that important, we don't do it at all now so that we can protect the way of life we have come to know. I am disappointed in us because we have failed to grasp the seriousness of where we are today in this country. And where we are is not far from losing the essence of what America stands for.

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

The PRESIDING OFFICER (Mrs. SHAHEEN). Will the Senator withhold his request?

Mr. COBURN. I will. I withdraw my request.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I rise to speak about the supplemental that is before the Senate in terms of the appropriations. Much of this bill is about supporting the men and women wearing the uniform of the United States who are serving this country around the world and acting as sentinels for America's freedom around the world.

The question is, Will we appropriate the resources necessary to match the challenge we have given them and the call to service we have asked of them? That is what this appropriations supplemental bill is largely all about.

In that context, there is one particular area of funding that doesn't go to where we have troops but where we, in fact, care about what is happening in part of the world, and that is Pakistan. We care about it because it is along the Afghanistan-Pakistan border; the area where, in fact, Osama bin Laden likely exists; the area al-Qaida is operating in, crossing back and forth along that border in order to attack our troops in Afghanistan; and also because of the Taliban. So we have clear national security interests as it relates to that part of the world.

We all agree the situation in Pakistan is probably at the top of the list of our most serious national security challenges because this is where al-Qaida has reconstituted itself, and this was the entity, along with bin Laden, that struck us on that fateful day of September 11.

Late last month, the Secretary of State warned us that Pakistan's government is facing an ''existential threat'' from Islamist militants who have established operations dangerously close to the capital city of Islamabad. These are militants who wish to do us harm, plot new terrorist attacks or, God forbid, seize control of that country's nuclear arsenal. There are plenty of reasons for the United States to be engaged. Since 2001, Pakistan has received more than $12 billion in assistance from the U.S. Government. The idea behind the assistance has been to support democratic institutions, human rights, economic development, along with counterterrorism operations to fight the Taliban and al-Qaida and create the conditions for stability in the country.

Unfortunately, under the lax oversight of the Bush administration, that assistance had very few strings attached to it, and under that administration it is hard to see what kind of results we actually achieved for the money we spent. Democracy and institutions of civil society are as fragile as

ever, the Taliban is expanding its reach, and we have heard reports about the Pakistani Government expanding its nuclear arsenal. So $12 billion later, the way we sent assistance may or may not have worked for Pakistan, but it certainly didn't work for us.

So, Madam President, we have to constantly ask ourselves: How are we using our money in pursuit of our national interests and our national security interest, and what type of benchmarks and progress are we making so that we can, in fact, respond both as fiduciaries to the taxpayers of the country and, at the same time, in measuring benchmarks toward our national security goals?

It is our responsibility to see that there is transparency and accountability in whatever assistance we are providing, and as the administration makes the case to reverse what it acknowledges are ''rapidly deteriorating security and economic conditions'' there, we have to make sure the funding we are sending over is actually doing its part to make the situation better.

We have to ask those questions about the Pakistan funding in this current supplemental bill as well. For starters, in this supplemental, I think when we look at it, it is pretty significant. There is over $1.6 billion in the supplemental for Pakistan, including $400 million for the Pakistan Counterinsurgency Capability Fund, $439 million in economic support funds, and $700 million in coalition support funds.

I am concerned about the funding, but I want to specifically talk about the $700 million in coalition support funds. Those funds are used to reimburse the Pakistani Government for the logistical and military expenses of fighting Islamist militants.

As the Pakistani military increases these activities—and we have seen those military activities finally take place in a way that we think is moving in the right direction—those coalition support funds are expected to increase substantially as well. So if we are going to have a shot at the militants, we are going to need to provide support. And we are agreed on that, I think. But that does not mean we should be sending out blank checks.

Along with my distinguished colleague from Iowa, Senator HARKIN, and several colleagues in the House, we suggested the Government Accountability Office look into the assistance we provided to Pakistan, including the $6.9 billion in coalition support funds it received. In a June 2008 report, the GAO found that the Pentagon did not consistently verify Pakistani claims for reimbursement, and additional oversight controls were needed.

Here is an example from that report. The United States was reimbursing the Pakistani Government $19,000 per month for each of about 20 passenger vehicles, about $9 million in total, even though we later found out that we were paying for the same 20 vehicles over and over.

A February 2009 report that we also asked for echoed and confirmed those findings and said that the Pentagon needed to improve oversight of coalition support funds reimbursements.

Earlier today at a Foreign Relations hearing I asked Admiral Mullen, and he acknowledged we have not had good controls in the past on coalition support funds, but he assured the committee the controls have improved and additional steps are being taken to make sure the funds are being used wisely.

The Deputy Secretary of Defense outlined these steps in a letter to Chairman KERRY last month, including new guidelines, additional face-to-face meetings with Pakistani counterparts, and additional visits by the Department of Defense to Pakistan to refine the coalition support fund claim processing and validate procedures.

Personally, I have met with Ambassador Holbrooke, our special envoy to this region, as well as questioned Secretary Clinton yesterday before the Foreign Relations Committee, and they both assured me this administration is developing metrics to measure success and change the way we engage in Pakistan so we can defeat the militants and bring stability to the country and the region. I am pleased to see these steps being taken and I look forward to closely monitoring them as we move forward.

Let me conclude by saying we all realize that conditions on the ground make detailed reporting and accountability a major challenge. We cannot expect to be getting daily comprehensive spreadsheets e-mailed from every remote mountain region. But as best as we can, it is the responsibility of this Congress to ensure that all of our funds are being used in a manner that is advancing our national interests and our national security interests.

With these changes that have taken place, I think—partly because we have asked for these reports, partly because of the questioning at these hearings, partly because of the new leadership of the administration—I plan to vote for the supplemental. In doing so, however, I want to send a very clear message that it is not and should not be construed as a blank check. I have concerns with the coalition support fund program and concern about Pakistan's nuclear program. Money is fungible, and I am concerned as we send money to Pakistan for one purpose that frees up their money to be buying nuclear weapons, something that is not in our interest or in the interest of that part of the world. I am glad the Obama administration is taking steps to ensure accountability and in the future we need to do even more. We need to be sure we do not wind up right back here a year from now, having to say the same things. We cannot afford to yet again take one step forward and two steps back, and above all we cannot afford to be sending such resources without achieving the national goals of security and the interests we have. That is the best way to make sure we do not lose sight of our goal here and that is also the best way we keep America safe.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CHRISTENING OF THE USS ''GRAVELY''

Mr. BURRIS. Madam President, as we prepare to return home to our constituents and to celebrate the Memorial Day weekend, remembering all those who have served and sacrificed in the name of the United States, I would like to single out one veteran in particular.

It is with deep and abiding pride that I rise to salute the late VADM Samuel Gravely, and to mark the christening of a new and remarkable U.S. Navy destroyer, the USS *Gravely*.

At a ceremony last weekend, the *Gravely* became the first Navy ship in U.S. history to bear the name of an African American officer.

When she receives her commission, the vessel will be the most technologically advanced warship on the planet.

It is a fitting honor for the destroyer's namesake, the late VADM Samuel L. Gravely, Jr., who was the first African American to become a Navy officer.

Beginning his career as a seaman apprentice in 1942, amid the chaos of the Second World War, Admiral Gravely first knew a segregated U.S. Navy in which people of color served mainly as cooks and waiters.

Only one ship had a black crew.

That vessel was the USS *Mason*, whose 160 men served under the command of white officers, In 1944, the brave crew of the *Mason* escorted support ships to England during a vicious storm.

They completed this daring mission with valor, even when cracks in the hull threatened to tear their ship apart.

Because of the racial politics of the age, and despite the recommendation of their commander, it took more than 50 years for these brave sailors to receive official commendation.

It was in this climate that Samuel Gravely began his naval career. He retired from a very different U.S. military 38 years later.

Admiral Gravely's years of service included many notable firsts.

He was the first African American to command a combatant ship, the first to command a major warship, the first to achieve flag rank, and the first to command a numbered fleet.

These are remarkable accomplishments by any account, but they are

made all the more impressive when they are considered in the context of the U.S. Navy at the time.

This exemplary sailor achieved greatness in a time when the policies of our Armed Forces too often limited the opportunities available to people of color.

He understood the obstacles he was facing, but he was determined not to bow to the limits imposed by others. He did not let those difficulties stand in his way.

Instead, he turned each challenge into an opportunity to excel.

We should all learn from the example set by this great American hero, who started as an enlisted sailor and overcame extraordinary odds to finish his career as a three-star admiral.

His accomplishments should resonate with all Americans.

Admiral Gravely proved that respect will come to those who work hard to earn it.

His legacy serves as an example for countless young men and women serving bravely in the Armed Forces. Soon, the destroyer USS *Gravely* will stand guard on the high seas, a striking symbol to the world of the remarkable and enduring truth of the American dream.

Generations of sailors will serve on her decks, and as they stand aboard the *Gravely*, they also stand on the shoulders of the man for whom it was named.

Thankfully, the divided society of years past has given way to a new America built on equality, a Nation more free, more fair and more equal, a Nation that cherishes the contributions of all men and women regardless of race, creed or color.

A Nation built through the hard work and bravery of real life trailblazers like Admiral Gravely.

I am extremely proud of Admiral Gravely's achievements, and I am deeply moved by the Navy's tribute to his service.

Like many, I share in the joy that Mrs. Gravely must have felt as this state-of-the-art destroyer was christened with her husband's name.

When this warship is commissioned, it will be more than a fighting tribute to its accomplished namesake.

It will ensure that the outstanding legacy of Samuel L. Gravely, Jr., lives on in the service of the U.S. Navy for years to come.

I can think of no better way to memorialize a true American hero.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Madam President, I wish to speak for a few moments regarding the President's remarks on national security today and about some national security issues in general.

At the outset, let me note that there are some points in the President's message I do not agree with and some points of plain fact he made that should help us clarify some of the issues that have been raised in recent debates over national security. President Obama endorsed the continued use of military commissions with some minor changes. These commissions are historic and certainly appropriate and have been used by nations all over the world. I will reserve judgment on those changes until I see the details, but the President is right when he states that military commissions are ''an appropriate venue for trying detainees for violations of the laws of war,'' though some have not agreed with that.

The President correctly noted: ''Military commissions have a history in the United States dating back to George Washington and the Revolutionary War.''

As the President also noted, military commissions ''allow for the protection of sensitive sources and methods of intelligence gathering.'' That is absolutely true, and it is an important principle in defending America. He also noted that the commissions allow ''the presentation of evidence gathered from the battlefield that cannot be effectively presented in a Federal court.''

In other words, we have strict rules of evidence in Federal courts. Our soldiers are in a life-and-death struggle on the battlefield. They are not police investigators. They are not homicide investigators. They can not be expected to be able to comply with every rule regarding the collection of evidence. Military commissions account for that difference.

It is also reassuring to see that President Obama has stated he will exercise his power as Commander in Chief to detain as war prisoners those al-Qaida members who continue to pose a danger to the United States, but who cannot be tried by a military commission. Some detainees may not be able to be tried by military commissions for legal reasons. For years, we have heard criticism from some of the fringe groups on the left—criticisms that have been echoed occasionally in this Chamber—that we must either try every enemy war prisoner or release them. That has never been the practice in the history of war, and that is not what our law says. This is a notion that cannot be sustained and one that would pose a threat to us if it were ever adopted as policy.

I am glad to see President Obama rejected that notion. As he noted in his remarks today:

> There may be a number of people who cannot be prosecuted for past crimes, but who nonetheless pose a danger to the security of the United States. Examples of that threat include people who have received extensive explosives training at al-Qaida training camps, commanded Taliban troops in battle, expressed their allegiance to Osama bin Laden, or otherwise made it clear they want to kill Americans. These are people who, in effect, remain at war with the United States.
>
> As I said, I am not going to release individuals who endanger the American people. Al-Qaida terrorists and their affiliates are at war with the United States and those we capture—like other prisoners of war—must be prevented from attacking us again.

That is fundamentally true, but some people have a confused notion about that.

Under the Geneva Conventions, even lawful combatants can be detained throughout the duration of a war. When illegal combatants conduct a war outside the laws of the Geneva Conventions and other treaties and laws that deal with the conduct of civilized warfare by deliberately and intentionally bombing innocent men, women and children who are noncombatants, those people are not entitled to be released.

President Obama also stated this morning that:

> We are not going to release anyone if it would endanger our national security, nor will we release detainees within the United States who endanger the American people.

Well, that is hard to know for certain. Attorney General Holder has talked about releasing the Uighurs, a terrorist group focused primarily on China. I don't believe the administration has the legal authority to release these detainees. Recently, according to the Los Angeles Times, some of the Uighurs were watching a soccer game—they allow them to watch television at the Guantanamo Bay facility—and a lady came on with short sleeves. This offended one of the Islamic Uighurs and they jumped up and grabbed the television and threw it on the floor. I point that out simply to say it is difficult to know for certain who is a threat. Many may well harbor a secret determination to attack America as soon as they are released.

I think the President has made clear that he does not have the full and free discretion to simply release al-Qaida members and their fellow travelers into the United States. Federal law expressly bars admission to the United States of anyone who is a member of a foreign terrorist organization. A Federal law we passed some years ago bars admission of any person who is a member of a foreign terrorist organization—pretty common sense, right? If you are going to have lawful immigration policy, you don't want terrorists to be able to immigrating into the country. The law bars admission of anyone who has provided material support to a foreign terrorist organization, and it also bars from this country anyone who has received military-style training at a camp operated by one of these terrorist organizations. The United States Congress decided that these individuals, ones who have ties to or have assisted or who have been trained by groups such as al-Qaida pose a danger to the American people and should not be admitted into this country. That congressional enactment is now the law. It is binding upon the President and the Attorney General, who is charged by the Constitution with enforcing the law.

So when the President states he will not release detainees within the United States, I can only state that I would expect no less. The law requires the President to bar admission to al-Qaida members or material supporters or those who trained in a terrorist camp, and I think he will follow that.

I note his speech also is rather selective, however, in how it cites to: ''The court order to release 17 Uighur detainees that took place last fall.''

The President referred to a court order to release these Uighurs, but he inexplicably failed to acknowledge what happened to that case on appeal. A lower district court judge ordered that they must be released, but the Federal appellate court reversed that order which would have allowed these terrorist to be released into the United States. This February, a couple of months ago in Kiyemba v. Obama, the United States Court of Appeals for the District of Columbia held that the district court did not have legal authority to order the release of the Uighur detainees into this country. These are individuals who have trained in a terrorist camp, a terrorist group that is connected to al-Qaida. A month ago, the U.S. Department of Treasury reaffirmed the determination that they are a terrorist organization. The appeals court could not have been more clear when it wrote:

> Never in the history of habeas corpus has any court thought it had the power to order an alien held overseas brought into the sovereign territory of a Nation and then released into the general population. As we have also said, in the United States, who can come in and on what terms is the exclusive province of the executive branches.

There are other things the President said today that I disagree with. First, President Obama committed himself to banning the enhanced interrogation of al-Qaida detainees. I certainly oppose torture of any detainees. But he went on to state: ''Some have argued'' that these techniques ''were necessary to keep us safe,'' and he said he ''could not disagree more.''

Well, that is not exactly accurate, I have to tell my colleagues.

On September 6, 2006, when President Bush announced the transfer of 14 high-value al-Qaida detainees to Guantanamo, he also described information that the United States had obtained from these detainees as a result of these enhanced interrogation programs. Most people agree many of these enhanced techniques clearly are not torture. Some argue that a few of the techniques may amount to torture; but many say they are not torture. We have a statute that prohibits torture and it defines it pretty clearly.

President Bush noted then that Abu Zubaydah was captured by U.S. forces several months after the September 11 attack. Several months later he was captured. Under interrogation he revealed that Khalid Shaikh Mohammed was a principal organizer of the September 11 attacks. Zubaydah also described a terrorist attack that al-Qaida operatives were planning to launch inside this country—an attack of which the United States had no previous knowledge. Zubaydah described the operatives involved in this attack and where they were located. This information allowed the United States to capture these terrorists, one while he was traveling in the United States. Under enhanced interrogation, Zubaydah also revealed the identity of another September 11 plotter, Ramzi bin al Shibh, and provided information that led to his capture. U.S. forces then interrogated him. Information that both he and Zubaydah provided helped lead to the capture of Khalid Shaikh Mohammed, the person who orchestrated the 9/11 attacks.

Khalid Shaikh Mohammed also provided information to help stop another planned attack on the United States when he was interrogated. KMS provided information that led to the capture of a terrorist named Zubair, and KMS's interrogation also led to the identification and capture of an entire 17-member Jemaah Islamiya terrorist cell in Southeast Asia.

According to President Bush, information obtained as a result of enhanced interrogation techniques also helped stop a planned truck bomb attack on U.S. troops in Djibouti. Interrogation also helped stop a planned car bomb attack on the U.S. Embassy in Pakistan, and it helped stop a plot to hijack passenger planes and crash them into Heathrow Airport in London. On September 6, President Bush said:

> Information from terrorists in CIA custody has played a role in the capture or questioning of nearly every single al-Qaida member or associate detained by the United States and its allies.

He concluded by noting that al-Qaida members subjected to interrogation by U.S. forces have painted a picture of al-Qaida's structure and financing, communications and logistics. They identified al-Qaida's travel routes and safe havens and explained how al-Qaida's senior leadership communicates with its operatives in places such as Iraq. They provided information that has allowed us to make sense of documents and computer records that have been seized in terrorist raids. They have identified voices in recordings of intercepted calls and helped us understand the meaning of potentially critical terrorist communications. Were it not for the information obtained, our intelligence community believes that al-Qaida and its allies would have succeeded in launching another attack against the American homeland. By giving us information about terrorist plans we would not get anywhere else, this program has saved innocent lives.

Well, this was information obtained in the last administration as a result of the enhanced interrogation techniques of al-Qaida detainees. It allowed us to stop terrorist attacks. It allowed us to learn about al-Qaida communications, how it responded and operated. It even allowed us to capture Khalid Shaikh Mohammed, the organizer of 9/11. I don't think anybody here can reliably contend that this information was not valuable. It was valuable.

We have to be careful how we conduct interrogations. I believe the debate over this has helped us clarify the responsibility we have to not participate in torture. But it does not mean that we cannot used enhanced techniques to move a person to the point they are providing information that can help protect this country. We have to be careful that we don't go too far. We have a history of going too far in reaction to matters like this.

One of the things we did is we put a wall between the CIA and the FBI. We said the CIA should not deal with dangerous thugs around the world to get information. After 9/11 it was clearly determined that both of those were bad ideas, and we reversed them immediately.

Nobody in this Congress should suggest that we are incapable of making a mistake. But we have gone 8 years without an attack. That is something of significance. We should be proud of that. We have men and women in the CIA, in the FBI, and in the U.S. military, who are putting their lives on the line right now. I remember being, several years ago, in a foreign country with a history of some violence and terrorism. A man from the CIA met with us. He worked 7 days a week. He had dinner with us at 8 o'clock. He said that was the earliest he had been off duty since he had been there.

They are putting their lives at risk for us, and we need to back them up when we can. If they make a mistake, they need to be held to account for it.

Madam President, I see my colleague from Texas. I assume she would like to make some remarks. I am not sure what the expectation is, but I will just wrap up and say a few more things. This is an important issue. I just don't believe this issue has only one side. I have to tell you, I believed that the President's remarks today reflected a view that only he had the correct view of how these matters should be conducted, and that everybody else who disagreed had less decency than he. I don't think there is any doubt that the work this Nation did after 9/11 stopped further attacks and saved the lives of Americans. It can and should be done, consistent with the laws of this country. But that doesn't mean that unlawful terrorists—not legitimate prisoners of war—cannot be subjected to interrogation. They can be and they have been. I trust that they will be in the future.

The President argued today that releasing the Office of Legal Counsel memos from the Department of Justice and exposing the details of the interrogation and actually tricks that CIA has used will not harm national security because this President has decided not to use those techniques. I simply point out that the war with al-Qaida will not

end with this administration, and future administrations—and even this administration—may need to have access to reasonable interrogation techniques, and providing this information is not the right thing.

It is odd that of all the material released, we have not had further information released from the intelligence agencies that would provide evidence of interrogations that have enabled us to stop other attacks on our country. I don't know why they would not want to release that; they want to release the techniques and a lot of other things.

When the President released the legal counsel's interrogation memos, he excised certain information from the memos and left out other memos entirely. These other memos describe in detail the information that was obtained as a result of the enhanced interrogation of al-Qaida detainees.

If the President really believes these interrogations don't work, I urge him to release these other memos, the ones Vice President Cheney called on to be released. If he believes in full transparency, why don't we see that? We know some of it because it was in President Bush's September 2006 remarks.

Madam President, to sum up, we are in a great national effort. We are now sending 17,000 more troops to Afghanistan. I think President Obama studied that carefully. I know he, like myself and most of us, doesn't look forward to having to send more troops there. He decided it was important for America and our allies and stability in the region and the world that they be sent there. This Congress supported that. So we continue the struggle. It is going to be a long time.

Intelligence is a critical component of our success against the war against the terrorists. That is what the 9/11 Commission told us. That is what the American people understood with clarity. Good intelligence prevents attacks and saves lives. Good intelligence is so valuable, it is almost invaluable. We have to be careful when we set about passing more and more rules that chill the willingness of our investigators and military people to do their job. As we have found from previous spasms, harm to our intelligence community can be the result of irrational, reactionary decisions. We didn't wisely consider this when we put a wall between the FBI and we limited the CIA in these dangerous areas of the world in getting information. I share a deep concern about that.

There is one more thing I will conclude with. The President talked repeatedly in his speech, in a most disparaging manner, about Guantanamo. I think inadvertently, and I am sure unintentionally, I believe he has cast a shadow over the fabulous men and women who serve us there, who participate in running a very fine facility. I would have appreciated it if he had taken the opportunity to clear the air about Guantanamo, our military prison.

Do you know that not one single person was subjected to waterboarding at Guantanamo? Actually, there were only three instances of it, all done by our intelligence agency in a different place. None of that occurred there. I wish he had said that. I wish he had quoted from one of the investigative reports of what happened at Guantanamo.

This is what the finder found: They found one incident in which a series of techniques were used during interrogation, not one of which would have amounted to torturing that person, but all together they concluded it put too much stress on that individual and that it violated the law against torture. Well, that should not have been done.

But to hear the talk about Guantanamo, you would think we are waterboarding people and torturing people constantly. That is just not what happened there. I have been there twice. These are great men and women down there trying to serve our country. They are absolutely committed to trying to extract as much good information as they could to protect America. They are not abusing detainees nor are they violating the law. If they cross that line, they should be disciplined for it. But it is not the kind of thing that is or was systematically occurring.

I wish the President had taken the opportunity—as Commander in Chief of our men and women who sends them into harm's way—to defend and explain that a lot of the allegations about Guantanamo were exaggerated and false.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Madam President, I ask unanimous consent to add more cosponsors to amendment No. 1189. They are Senators COLLINS, SPECTER, KOHL, DORGAN, WEBB, WICKER, and CORNYN.

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

Mrs. HUTCHISON. Madam President, we are up to 35 Members, over one-third of the Senate, who are saying we need to help the Chrysler dealers who got the blow on May 14 saying they had 3 weeks to basically shut down an entire dealership.

I have been talking to so many of my colleagues on the floor since I offered this amendment who have had stories of friends and people they know, people who sometimes own the largest employer in a city or a county, and the hardship these people are facing. They are facing the likelihood—unless we can get some closure—that they are going to lose, perhaps, their dealerships, and many are going into bankruptcy. They all have big real estate investments, we know that. A car dealership has large amounts of real estate. Usually, it is very expensive real estate. They still owe money, and they are in dire straits right now.

What the negotiation is right now is this: I talked to the president of Chrysler this morning at 8:30. I have talked to the people at the White House who are the task force, the people overseeing the Chrysler and General Motors project, and to Senator STABENOW from Michigan, who has been so helpful in trying to put this together and work with me in a bipartisan way because while she has a Chrysler manufacturing plant, she also has dealers in Michigan, as does Senator LEVIN. So the 35 cosponsors of the amendment are completely bipartisan because we all have these stories, and we know these dealers are not getting a fair chance.

I talked to the President of Chrysler, and he said there would be a letter forthcoming where he would lay out how Chrysler is going to help take the inventory off the books of these dealers that are being shut down—789 across the country. We are talking about 40,000 people working in these dealerships.

We are talking about a lot of lives that are being affected. He said they would put out a letter today—he didn't say close of business, but we agree we both want something out today—that would give these dealers a definitive plan so they would know what they could count on. Not having to worry about inventory was No. 1 on the list. These dealers buy these cars and trucks. They buy them. It is their expense. They buy the parts. They buy the equipment that is unique for the repair of these cars. So they have the risk. Yet they could be stuck with 30 cars or 100 cars. This is sinking them.

I said: I hope you are going to give us something definitive. He said and I believe he is trying to do just that without in any way delaying or disrupting the exit out of bankruptcy, which is in everyone's interest because the taxpayers are paying for the exit out of bankruptcy, and the quicker the better, that is for sure. But these dealers are about to go bankrupt too. We are talking about 40,000 employees of these dealers. I think it is important that we look at them as effective people.

It is now a quarter of six. I just talked again with the president of Chrysler. He says we will have a letter within minutes. Actually, it was 15 minutes ago that I talked with him. He said it would be just a few minutes and they would get something to me.

I am going to tell you right now, Madam President, and I am going to tell all of my colleagues, we are not passing this bill. We are not going to shorten the time. We are not going to have a unanimous consent agreement until I have a letter that will assure these dealers of what they can expect from Chrysler that will, hopefully, give them the clarity they need to be able to say: OK, I don't have to worry about cars and trucks and parts and specialized equipment. I can now worry about making the payments on my real estate. I can worry about my employees

whom we are having to let go and worry about the effect on the community. I can worry about all those things, but the big things that can be handled by Chrysler and the task force will be handled. That is what I am looking for.

I am putting everyone on notice that this bill is not going to have any shortened time period under a UC until I can see that letter. Senator STABENOW stands with me to try to make sure we are doing something that will be adequate.

I will say, Senator ROCKEFELLER, too, is very concerned. He and Senator BYRD sent a letter to the CEO of Chrysler and General Motors to object strongly to the handling, the treatment of the dealers. Senator ROCKEFELLER as the chairman and I as the ranking member of the Commerce Committee are now talking about having a hearing with those CEOs and representatives of the dealership group as soon as we get back. That will be the week after next.

I am waiting, hoping, with all of the good-faith efforts that have been made today by the White House, by the president of Chrysler and his team, and all of the Senators who have signed on as cosponsors of this amendment.

I ask unanimous consent that Senator LINCOLN be added as a cosponsor of this amendment.

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

Mrs. HUTCHISON. Madam President, I think the Senator from Arkansas, who is working very hard on trying to get an amendment into this bill as well. She is in the Chamber. I appreciate her also coming in and saying: We are a bipartisan team, and we want results for these dealers who have been so badly treated up to this point. I am hoping that will change in the next few minutes and we will see a light at the end of the tunnel for these dealers.

Madam President, 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.

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

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

Mrs. HUTCHISON. Madam President, I state for the record that the Commerce Committee hearing on the auto dealerships has been set for June 2 at 2:30 p.m. This is a very important hearing where we are going to have representation from the automobile manufacturers, as well as the automobile dealers. I hope that will shed some light on what we can do to help these dealers.

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

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

Mr. NELSON of Florida. Mr. President, we have an emergency situation all over, in about 20 or 25 States, that I explained to the Senate yesterday, involving imported Chinese drywall which, when exposed to heat and humidity, is emitting gases that are making people sick in their homes, that is in fact corroding all of the metal, that is going after the copper tubing in the plumbing and the air conditioners—so much so that they are having to replace the air conditioners—in some homes, over the course of the last 3 or 4 years, having to replace the air conditioner three times.

We had, in front of Senator INOUYE's former committee, the Commerce Committee, of which he obviously is still a member but he is now the chairman of the Appropriations Committee—we had in front of the committee a panel of the people from the various agencies, and the representatives from the Consumer Product Safety Commission as well as the EPA wanted to do the next test. They did the first test and they compared Chinese drywall to American drywall and they found out that what was different is that the Chinese drywall had sulfur, it had strontium, and it had elements found in acrylic paint. But they drew no conclusions, so they want to do the next test.

The next test would be under controlled conditions, to put it in a situation where they simulate heat of the United States summer, and humidity, and then see the gases that are emitted from it and determine to what degree, then, are they harmful to people who are having all these effects of respiratory problems, they can't breathe—it is exacerbating their allergies, it is exacerbating things such as asthma—and in some cases their pediatricians have said to the mom and the daddy: Get these children out of the house. Yet they still have a mortgage payment and where are they going to go? If they don't have other family to move in with, they have to rent, yet still pay on the mortgage. And oh, by the way, the bank is not working with them to give them some relief on their mortgage. So we have homeowners who, as we say in the South, are in a fix; they do not know what to do.

We need to go to the second test. That second test is estimated to be $1.5 million.

Senator LANDRIEU, Senator VITTER, and a whole bunch of us had offered an amendment that was going to say it had to come out of the CPSC's funds, no new appropriation, but we can't get this passed here since we are in gridlock over this supplemental appropriations bill and we are down to the wire.

What I would like to do—and only by the gracious generosity of the chairman of the Appropriations Committee—he has offered to indicate his interest and willingness to make sure that the EPA and the CPSC are being directed by the Congress to do this test so we can get it to the next step without wasting any more time.

The CPSC told us today, in the Commerce Committee, they have plenty of money to do it. The EPA said they have funds to do it. And they are both willing to do it. The problem is we don't know, since they are midlevel managers, if the head of the CPSC is going to be willing to do this, since the head is a short termer and she has not been that cooperative in the past.

So I invite the very distinguished Senator from Hawaii, the chairman of the Appropriations Committee, to state if he, as he indicated so graciously, would be willing to pour the full weight of the Appropriations Committee behind this effort not to waste any time and to have the EPA and CPSC do this test for the sake of the health of our people.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I shall be honored and privileged to join the Senator in his mission. It is a valid one and I hope one this full Senate can approve at some later date. I will be most pleased to join him in any sort of letter he will be writing to the authorities. I can assure my colleague that the full impact of my office will be at his disposal.

Mr. NELSON of Florida. The Senator is so gracious, and he always has been, I say to my colleague, Senator INOUYE.

Mr. DURBIN. Will the Senator from Florida yield?

Mr. NELSON of Florida. Yes, absolutely, to the distinguished Senator from Illinois.

Mr. DURBIN. I happen to chair the subcommittee responsible for the Consumer Product Safety Commission and I have listened to the Senator's presentation. The Senator told me last night that some of this suspect Chinese drywall may be in my home State so I want to get ahead of the curve and join him in this effort. Let's get this analyzed as quickly as possible, and if it poses any danger we ought to know it. I put the Consumer Product Safety Commission on notice, with Senator INOUYE and yourself and many others, that we expect them to take this very seriously on a timely basis.

Mr. NELSON of Florida. With those very generous assurances by these esteemed Senators, I am grateful, Mr. President, and I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

HUMAN RIGHTS

Mr. DURBIN. Mr. President, for the past year, I have been working to bring attention to the human rights abuses occurring around the world, including little-known political prisoners who are languishing in prisons in farflung reaches.

Too many jails still overflow with prisoners of conscience whose only crime is to expect basic freedom, human rights, and due process. I undertook this effort with the understanding that it would not be easy. I have dealt with these governments in the past, and many times they are unresponsive. Few repressive regimes want to address human rights records, and in some of the smaller countries where these human right abuses are taking place, it takes quite an effort to get their attention.

Through our annual human rights reporting at the State Department, our diplomacy and steady public pressure on basic human rights, the United States has traditionally been a champion and source of hope around the world for those suffering human rights violations.

I might add, parenthetically, that I wish to thank Senator PATRICK LEAHY for, again, this morning reauthorizing my Subcommittee on Human Rights and the Law, a subcommittee which I chaired over the last 2 years.

I worried that in recent years America has not raised its voice enough in these kinds of cases, and we should not forget that for some people whose lives seem so desperate, a little effort on our part can make a dramatic difference.

Take, for example, the appeal made by Burmese Nobel Prize winner Aung San Suu Kyi, who has remained under house arrest in Burma for most of the last 19 years. She is in deteriorating health and was apparently moved to a notorious prison this week.

I think this is clearly a situation where we know she needs our attention and help. Most people have read the account in the newspapers about her problems and understand she was victimized by an American who somehow managed to get into her home, and in entering her home and staying overnight, violated the law, or apparently violated the law.

I certainly hope, at the end of the day, that her house arrest will come to an end and this poor woman will be given a chance to have freedom which she richly deserves. I am not going to read this entire statement, as it contains many names of foreign origin that may be difficult for me to pronounce and for our reporter to keep up with.

Today, I am pleased to report the release of one of the first of the political prisoners my efforts have focused on, specifically a case in Turkmenistan.

Earlier this year I raised my concerns with the Government of Turkmenistan about four Turkmen political prisoners. These prisoners have languished in jail for years after being convicted of spurious charges at trials that failed to meet minimum international standards. Some have families with children; some are of advanced years and reportedly in poor health.

I had hoped that the new government in Turkmenistan would take important and forward-thinking steps toward releasing political prisoners from an earlier era.

Earlier this month, one such political prisoner in fact, the longest serving political prisoner in Turkmenistan Mukhametkuli Aymuradov, was unconditionally released after 14 long years of confinement.

I want commend this decision and strongly encourage the Government of Turkmenistan to take similar actions for all other remaining political prisoners, including: Gulgeldy Annaniyazov, a long-time political dissident who was arrested, apparently on charges that he did not possess valid travel documents, and sentenced to 11 years imprisonment; and Annakurban Amanklychev and Sapardurdy Khadzhiev, members of the human-rights organization Turkmenistan Helsinki Foundation, who were sentenced to 6-to-7 years in jail for reportedly ''gathering slanderous information to spread public discontent.''

The freeing of Mr. Aymuradov is an important first step, but more are needed.

I want to conclude by returning to the still unresolved case with which I started this effort, that of journalist Chief Ebrima Manneh from the small west African Nation of The Gambia.

Mr. Manneh was a reporter for the Gambian newspaper, the Daily Observer. He was allegedly detained in July 2006 by plainclothes National Intelligence Agency officials after he tried to republish a BBC report mildly critical of President Yahya Jammeh.

He has been held incommunicado, without charge or trial, for 3 years. Amnesty International considers him a prisoner of conscience and has called for his immediate release.

Three years without the government even acknowledging it took one of its own citizens, without telling his family where he is being held, this is reprehensible. It is outrageous.

The Media Foundation for West Africa, a regional independent nongovernmental organization based in Ghana, filed suit on Mr. Manneh's behalf in the Community Court of Justice of the Economic Community of West Africa States in Nigeria. This court has jurisdiction to determine cases of human rights violations that occur in any member state, including The Gambia.

In June 2008 the Court declared the arrest and detention of Mr. Manneh illegal and ordered his immediate release. A petition has also been filed on his behalf with the United Nations Human Rights Council's Working Group on Arbitrary Detention, and a decision from this body is expected soon.

Yet despite the judgment of the court, as well as repeated requests by Mr. Manneh's father, fellow journalists, and me, the Gambian Government continues to deny any involvement in his arrest or knowledge of his whereabouts.

Mr. President, America has been wrongly defined by our critics since 9/11. We need to define our values as a caring Nation, dedicated to helping improve the lives of others overseas, including those living under repressive governments. Doing so is an important statement of who we are as a Nation.

Five other Senators, including Senators FEINGOLD, CASEY, MURRAY, LIEBERMAN, and KENNEDY, joined me in a letter last month to Gambian President Jammeh about the detention of a Mr. Manneh. Our request was simple, and I hope the Gambian leadership will respond to it.

We are in contact with them in an effort to try to come to some reasonable conclusion to this situation. Doing so is so important for the people whose lives are at risk and for our reputation in the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

TRADE POLICIES

Mr. BROWN. Mr. President, our economy, as we know so well, struggles with massive job losses, a shrinking middle class, and an economic crisis that undermines the pursuit for far too many Americans and the American dream.

In 2006, voters in my State of Ohio, from Marietta to Cleveland, from Van Wert to Youngstown, spoke out with one voice demanding a change in our Nation's trade policy. In 2008, they reaffirmed that call with good reason, as Senator Obama, again, pointed out the problems with Bush trade policy that our trade deficit was literally $2 billion a day during the last 2 years in the Bush administration.

Ohio has suffered more than 200,000 manufacturing job losses since 2001. The first President Bush pointed out that a billion dollars in trade deficit translates into 13,000 lost jobs. Do the math. For too long we have been without a coherent trade strategy with no real manufacturing policy.

Most of our trade deficit is due to a manufacturing deficit. Current policies have failed to deliver on good jobs and on stability.

Today, in committee, the Senate Finance Committee held a hearing on the

Panama Free Trade Agreement. I do not think the American people are demanding a trade agreement with Panama. What I hear people in Ohio demanding is a new direction. I hear people demanding change on trade, change on our economic policy, change on our Nation's economic strategy. I hear people asking lots of questions about the economic course we are on.

I hear people worried about our manufacturing base. I hear Ohioans say that for every day not spent enforcing trade law and not reforming our trade policy, there are manufacturers eliminating jobs.

Since 2000, the United States has lost 4 million manufacturing jobs, not all because of trade but for a lot of reasons—but much because of trade. In the last decade, some 40,000 factories have closed nationwide, 40,000 factories have shut down.

A continuing loss of U.S. manufacturing means more unsafe imports, a greater dependence on foreign factories to produce both our everyday consumer goods and for our national security and military hardware.

A 2008 EPI study found the United States has lost more than 2.3 million jobs since 2001 just as a result of our trade deficit with China. Again, our trade deficit with China is over $200 billion. The first President Bush said that a billion-dollar trade deficit was 13,000 lost jobs.

China uses illegal trade practices, such as dumping, such as subsidies, such as currency manipulation, to undercut U.S. manufacturers.

When Congress approved China's PNTR, Permanent Normal Trade Relations—when Congress approved the legislation to start the ball rolling on China's inclusion into the World Trade Organization, then it made commitments, China made commitments to gain greater access to U.S. markets. They got the access to the U.S. markets, but, unfortunately, China has not been held to those commitments.

Think about toxic toys, think about the toys with lead-based paint on them that came into the United States, think about the ingredients made in China put in Heparin, the blood thinner that killed several people in Toledo, OH, and others around the Nation.

These are the trade issues people want action on, on jobs, on safety, on consumer protection. These are the trade issues I hope the Obama administration is focused on, not the trade agreement with Panama.

Let's talk for a moment about the Panama agreement. It is, of course, an agreement negotiated under the Bush administration's fast-track negotiating. This is not an Obama trade agreement, this is a Bush trade agreement. As we remember, Senator Obama in his campaign was very critical of the Bush administration's trade policy.

The Presiding Officer was in the House of Representatives in those days, as I was, in 2002, when fast track—the negotiating authority extended to President Bush to give him more power to negotiate trade agreements—passed the House by three votes in the middle of the night, and the rollcall was kept open for over 2 hours in the last week before the August recess.

The Panama agreement was one of the last deals negotiated and signed by President Bush. Under the fast-track authority given to him that night in 2007, there were important improvements to the labor and the environment chapters of the Panama agreement. This reflected the work of many in Congress, including the Finance Committee in the Senate, the Ways and Means Committee in the House.

Yet there remains serious concerns about this agreement. Many in Congress have expressed concerns about the safe haven Panama affords to companies looking to skip out on their taxes. What does that mean? It means there is a way to evade taxes by moving business activity offshore.

Yesterday, Congressman SANDER LEVIN and Congressman LLOYD DOGGETT wrote the Panama's serious tax evasion issues require a serious remedy before Congress can even consider the Panama trade agreement.

The issues about tax evasion are even more serious when the Panama Free Trade Agreement includes rules on corporate investor protections. These are rules that shift more power to corporations and away from the democratic process. In other words, these trade agreements have loaded up in them all kinds of protection for the drug companies, the insurance companies, the energy companies, not so many protections for workers, for the environment, for consumer protection, for food safety.

It is part of the old model that gives protections to the large companies, protections to large corporations, protections to Wall Street, while not ensuring protections for workers and food and product safety.

Panama and the free-trade agreement, as it is written, means more of the same failed trade policies rejected by working families across the Nation. For too long we have seen the pattern: the North American Free Trade Agreement, NAFTA; the Central American Free Trade Agreement, CAFTA; China PNTR, the Panama Free Trade Agreement.

We need to stop the pattern where the only protectionism in free-trade agreements are protecting the drug companies, protecting the oil industry, protecting the financial services companies, many that have created the economic turmoil we now face.

Let me explain it another way. This is not actually the Panama Free Trade Agreement, but it is about this length. It looks about that much. If we were concerned with tariffs, which is what they always say when they talk about the Panama trade agreement, this trade agreement, to eliminate tariffs on American products in Panama, this trade agreement would only need to be about three or four pages.

But it is much longer. You know why? You have to have this section for protection for oil companies. You have to have this section for the protections for the insurance companies. You have to have this section for the protection for the banks. You have to have this section for the protection for the drug companies.

But there is nothing left protecting consumers, protecting food safety, protecting workers, protecting the environment. These are protectionist trade agreements, all right, but they are protecting again the drug companies, the insurance companies and other financial institutions and others.

If this trade agreement were solely about trade and tariffs, literally, it would be only this long. It would simply be a schedule of how you eliminate these tariffs, just repeal the tariffs that apply to American goods that are sold in Panama.

When people say Panama has access to the U.S. market, all we are asking is to eliminate the tariffs so we have access to the Panama market. People who tell you that are the same lobbyists around here who represent the drug companies and the insurance companies and the banks and the oil companies. Remember that.

For too long we have seen the status quo in trade policy that gives protections to big oil and big business. That is not acceptable.

A status quo trade policy that suppresses the standards of living for American workers, and I would also say suppresses the standard of living of what we should do in the developing nations for workers, that is not acceptable. A status quo trade policy that fails to effect real change on how we do business in China is not acceptable.

For 8 years, the Bush trade policies were, in fact, protectionist—protecting the oil industry, protecting the insurance companies and the banks and the drug companies. They were protectionist and they were wrong-headed.

We should not continue these Bush trade policies. That is what is disturbing about this body. Even considering the Panama Free Trade Agreement, we know the Bush economic policies did not work and look at the damage to our economy. Look at our trade deficit. Look at our budget deficit. Why would we adopt a Bush trade agreement when we know its trade policies failed us abysmally?

In November 2008, voters from Toledo to Athens, from Lorain all the way down south to Ironton demanded real change, not symbolic change. We need agreements to be reshaped by the Obama administration, not just tinkered with around the edges and then stamped ''approved.'' Make no mistake, as Senator DORGAN from North Dakota says, we want trade, and we want plenty of it. But we don't want trade under rules that protect insurance companies, drug companies, financial institutions, and the oil industry. We want agreements that work for workers and

consumers, for children, with safer toys. It is not a question of if we trade but how we trade and who benefits from trade. We must create a trade policy that helps workers and businesses thrive, especially small businesses and manufacturing, that will raise standards abroad, increase exports, and rebuild middle-class families in Ohio communities.

Our new trade policy must provide critical solutions to the Nation's economic recovery strategy. Reforming trade policy starts with a comprehensive review of the overall trade framework. We need a review of trade negotiating objectives. That is what I am bringing to the floor in legislation. We need a review of the programs responsible for enforcing trade rules and promoting exports. I am asking the GAO to look at many of these questions as we prepare for the trade act and other legislation we will consider. It is only one step.

We have a responsibility to deliver on the demand to change trade strategy. Recycling of Bush-negotiated trade agreements such as that with Panama is not a first step. It is the wrong step. The Obama administration, I hope, will join with Congress in review and reform of our trade strategy. The days of turning away from our responsibility are over.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, the Senator from Michigan, Ms. STABENOW, and I have been working all day with the Chrysler president and his team and with the White House and their team and the task force and their team to try to give the assurances to the 789 dealers who are going to be put out of business across our country by Chrysler—with the 3-week notification—that they will be able to recoup the cost of the inventory that has been left on their property and in their dealerships.

I said I was going to hold up any shortening of time period for this bill to be considered until I got a letter of assurance. The original amendment, for which we have 37 cosponsors, was to extend the time by 3 weeks to allow the dealers to be able to sell more inventory, have a more orderly transition.

In fact, what we have done, in consultation with the dealers, I think is going to be much better. It is not everything they had hoped for, but if there is good faith in this effort, it is going to be good for the dealers. But it will take good faith.

Here is the letter the president of Chrysler, James Press, has sent to me. And Senator STABENOW as well has been one of the people who has been talking about this and negotiating.

The letter says:

Dear Senator Hutchison:

I assure you that our process for redistributing the product from OldCo dealers—

Who are the old company dealers who are going to be put out of business—

to NewCo dealers—

Who are the dealers who will survive—

is designed to assure that products flow quickly and efficiently from every OldCo dealer. As part of this process, we will ensure that the OldCo dealers receive a fair and equitable value for virtually all of their outstanding vehicle and parts inventory. We have more than 200 representatives in the field that are working to ensure that we make good on this commitment as quickly as is practical. We have a very robust system in place to manage the sales to NewCo dealers as well as the inspection and shipment to the new dealer.

Thanks to your input today we have added a new set of assurances and information for the OldCo dealers, with the intention of removing some of the uncertainty that naturally surrounds this process. Each OldCo dealer will receive a daily report which specifically outlines each unit of inventory and its place in the transition process.

We share the objective of selling these vehicles as quickly as possible to protect residual values. We are committed to sell every unit possible by June 9, prior to resumption of production [of the company].

Thank you for your time and interest today. Our goal is to ensure that every dealer realizes a soft landing and is able to transition smoothly.

Senator STABENOW and I called Mr. Press for a clarification of some of the parts of this letter. The biggest concern, of course, that the dealers have is getting the inventory they have paid for off their books. That is their biggest concern.

We were assured that the 200 representatives who are going out to help this orderly and quick transition will make every effort to expedite the transition to the surviving dealerships as quickly as possible. This will include specialized tools, as well as parts, inventory, and outstanding vehicles.

I said: What happens after June 9? Because the June 9 deadline is good when you are trying to expedite, but then you are not saying that you will not keep helping after June 9. They said: Absolutely not. Mr. Press said they will certainly continue to help until every part of this transition of this inventory is disposed of. And the help will be there after June 9. That was the assurance that was given.

The major thing that has happened that has been helpful is that GMAC has received—as we all know because it is public—in the range of $7.5 billion for financing, which will be available to the new surviving dealerships—Chrysler, and I am sure General Motors as well—and so the new dealers will have the ability to finance the taking of the inventory off of the dealers who are going to be put out of business.

So that is probably one of the most important components here because there had to be a lending source for the new dealers to absorb the new inventory.

I think the biggest concern left for the dealers is the floor plan loans they have for the inventory that is there and how that would change after June 9. I asked that question. And basically the answer is: We are going to try to do everything possible to get these transitions out before June 9 so you will not have, hopefully, the problem of loans being modified.

So that is the essence of the conversation and questions I asked for clarification. I ended by saying that I think we are much further ahead now than we were when the letter arrived on May 14 to the dealers saying: We are not going to buy inventory, we are not going to buy parts, and we are not going to buy the specialized tools, and you have 3 weeks to deal with this. We have come a long way from there.

I said to Mr. Press, and to his team, that I did appreciate this effort and the better clarification, but we will know in 2 weeks if the good faith that is represented in this letter is, in fact, implemented. And they agreed with that.

I think we have made a step in the right direction—when my dealers call and say: Under the circumstances, it is not what we had wanted, but we have been treated as fairly as possible and have certainly gotten the relief from the burden of inventory so we can deal with the employees who will not be with us anymore, and the land and the real estate and the other costs of closing an ongoing business.

So I will say to my colleague from Michigan, I do not think any of this would have happened without her stepping in. And hands-on efforts were made to bring the White House in, Chrysler in, my staff, her staff. So it was certainly a team effort.

I want to thank the 37 cosponsors of my amendment because I think that was a clear indication that over one-third of this Senate was not going to let this go the way it had been left at the time. So if there is good will in this whole effort for the next 2 weeks, then I am optimistic it will have a good result.

Mr. President, I ask unanimous consent that the letter written to me by James Press today be printed in the RECORD.

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

CHRYSLER,
MAY 21, 2009.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUTCHISON: I assure you that our process for redistributing the product from OldCo dealers to NewCo dealers is designed to assure that products flow quickly and efficiently from every OldCo dealer. As part of this process, we will ensure that the OldCo dealers receive a fair and equitable value for virtually all of their outstanding vehicle and parts inventory. We have more than 200 representatives in the

field that are working to ensure that we make good on this commitment as quickly as is practical. We have a very robust system in place to manage the sales to NewCo dealers as well as the inspection and shipment to the new dealer.

Thanks to your input today we have added a new set of assurances and information for the OldCo dealers, with the intention of removing some of the uncertainty that naturally surrounds this process. Each OldCo dealer will receive a daily report which specifically outlines each unit of inventory and its place in the transition process.

We share the objective of selling these vehicles as quickly as possible to protect residual values. We are committed to sell every unit possible by June 9, prior to resumption of production.

Thank you for your time and interest today. Our goal is to ensure that every dealer realizes a soft landing and is able to transition smoothly.

Please feel free to contact me anytime.

Sincerely,

JAMES E. PRESS,
Vice Chairman & President.

Mrs. HUTCHISON. I yield for Senator STABENOW.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Thank you, Mr. President.

Of course I want to thank Senator HUTCHISON. Without her leadership, without her effort and her amendment, we would not have what I believe and am very hopeful will be an important, positive solution to help our dealers rather than leaving them on their own in the middle of what has been a very horrible time as it relates to Chrysler and General Motors and actually the auto industry around the world in terms of what has been happening.

I thank Senator HUTCHISON because she has been very tenacious and very effective, and it has been my pleasure to partner with my friend from Texas to achieve something that I believe is positive.

Before we started this process, the dealers were on their own. That was wrong. As a result of working together, and I should say working with Chrysler—and I appreciate all of their efforts in, obviously, an extremely difficult time for them. I appreciate their working with us. I appreciate President Obama and the auto task force for being the linchpin in terms of giving us a solution in terms of what they were able to do around financing. And I thank all of our colleagues who have been involved.

But we basically have two things. We have the dealers being able to get floor plan financing, which we have been working on for a long time—to be able to get that so, as Senator HUTCHISON said, the 75 percent of the dealers who will remain in business will have the opportunity to finance the purchase of the acquisition of inventory from the dealers who are going to be going out of business.

The second thing is there is now a plan and a commitment to work through this process in terms of inventory and being able to support the dealers in a very difficult time.

I feel very close to this issue, not just because I represent Michigan, an automobile State, but my father and grandfather were car dealers in a small town in northern Michigan. I grew up on a car lot. My first job was washing the automobiles on the dealership lot. I know what this is about: small businesses all across Michigan, all across this country, folks who do sponsor the Little League teams. Senator HUTCHISON and I were talking about the ads in the paper, and the supporting the community, and all that goes on. I lived it. I saw it. It is absolutely critical we do everything we can in this incredibly difficult time to support them.

So I am very pleased we have been able to come together with this. I do wish to put in one little plug for when we come back from this next week. Senator BROWNBACK and I are offering a bipartisan effort in the form of an amendment to incentivize purchasing vehicles which, I believe, is really the second stage to helping these dealers. It has been dubbed the ''cash for clunkers'' or fleet modernization. The bottom line is we want to be able to incentivize getting people back into those dealerships to be able to buy automobiles. I am going to put a big sign out saying ''Buy American'' because that is what we want everybody to do.

So I am hopeful phase 2 will come after the break. This is very important. I would again say it would not have happened without Senator HUTCHISON and all of her leadership. It has been my great pleasure to work with her in crafting this solution.

Mrs. HUTCHISON. Mr. President, I wish to thank again the Senator from Michigan. It was certainly a difficult position for her to, of course, have the manufacturers—GM and Chrysler—but also to have the dealers that are all over Michigan. I think the tireless efforts we had all day today will hopefully end in the next 2 weeks with the implementation of as fair as possible dealings with the dealers that we could possibly have.

Mr. President, I wish to add Senator THUNE as a cosponsor of amendment No. 1189.

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

Mrs. HUTCHISON. Mr. President, I appreciate my colleague, and I so appreciate the 39 cosponsors of this amendment who stepped up to the plate and said this has to be fixed. In the end, that made a big difference. I wish to thank my colleagues who have been very bipartisan.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The majority leader is recognized.

Mr. REID. Mr. President, I ask it be in order to make a point of order en bloc against the pending amendments.

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

Mr. REID. Therefore, Mr. President, I make a point of order en bloc that all pending amendments are not in order postcloture except the following: Leahy, No. 1191; Brown, No. 1161; Corker, No. 1173; Kaufman, No. 1179, as modified; McCain, No. 1188; and Lieberman-Graham, No. 1157; further, that amendments No. 1161, No. 1173, No. 1188, and No. 1157 be modified with changes at the desk, and once those are modified, the above six amendments, as modified if modified, be agreed to en bloc; that the motions to reconsider be laid on the table en bloc; and the following amendments be considered and agreed to in the order listed: Lincoln, No. 1181 and Hutchison amendment No. 1176, as modified; and that the motion to reconsider be laid on the table; further, that the bill, as amended, be read a third time and the Senate proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House, and that the Chair be authorized to appoint conferees, with the Senate Appropriations Committee appointed as conferees.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, regretfully I have to reserve the right to object. I have to check on one thing. Shall we enter a quorum call?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. I renew my unanimous consent request.

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

Amendments Nos. 1167, 1189, 1143, 1147, 1156, 1164, 1144, and 1139 are nongermane, and they fall for that reason.

Amendment No. 1185 is ''sense of the Senate'' language and is therefore dilatory under cloture. It falls for that reason.

AMENDMENTS NOS. 1191; 1161, AS MODIFIED; 1173, AS MODIFIED; 1179, AS MODIFIED; 1188, AS MODIFIED; AND 1157, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. Under the previous order, amendments Nos. 1191; 1161, as modified; 1173, as modified; 1179, as modified; 1188, as modified; and 1157, as modified, are agreed to en bloc, and the motions to reconsider are considered made and laid upon the table.

The amendments Nos. (1191 and 1179, as modified) were agreed to.

The amendments as modified, were agreed to as follows:

AMENDMENT NO. 1161, AS MODIFIED

On page 107, line 16, insert the following:

(d) The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund to a Heavily Indebted Poor Country that imposes budget caps or restraints that do not allow the maintenance of or an increase in government spending on health care or education; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the Fund's activities with respect to Heavily Indebted Poor Countries.

AMENDMENT NO. 1173, AS MODIFIED

On page 97, between lines 11 and 12, insert the following:

AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 60 days after the date of the enactment of this Act, the President shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 120 days thereafter until September 30, 2011, the President, in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

AMENDMENT NO 1188, AS MODIFIED

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading ''Assistance for Europe, Eurasia and Central Asia'' may be increased by up to $42,500,000, with the amount of the increase to be available for assistance for Georgia.

AMENDMENT NO. 1157, AS MODIFIED

At the appropriate place, insert the following:

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term ''covered record'' means any record—

(A) that is a photograph that was taken between September 11, 2001 and January 22, 2009 relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (3) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(4) A timely notice of the Secretary's certification shall be provided to Congress.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) Nothing on this section shall be construed to preclude the voluntary disclosure of a covered record.

(f) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

SEC. _____. SHORT TITLE.

This section may be cited as the ''OPEN FOIA Act of 2009''.

SEC. _____. SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.

Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) specifically exempted from disclosure by statue (other than section 552b of this title), if that statute—

''(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

''(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

''(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.''.

AMENDMENTS NOS. 1181 AND 1176, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. Under the previous order, amendments Nos. 1181 and 1176, as modified, are agreed to, and the motions to reconsider are considered made and laid upon the table.

The amendment (No. 1181) was agreed to.

The amendment (No. 1176), as modified, was agreed to, as follows:

AMENDMENT NO. 1176, AS MODIFIED

At the appropriate place in the bill, insert the following:

SEC.__. For purposes of qualification for loans made under the Disaster Assistance Direct Loan Program as allowed under Public Law 111–5 relating to disaster declaration DR–1791 (issued September 13, 2008) the base period for tax determining loss of revenue may be fiscal year 2009 or 2010.

AMENDMENT NO. 1139

Mr. LEAHY. Mr. President, this week, Senator CORNYN insisted on offering an amendment to the emergency supplemental appropriations bill that is most unfortunate. It is an amendment that is so broad in scope and, I believe, wrongheaded, that I felt I should note my disagreement. As a former prosecutor, I am troubled that the Senate is being called upon to prejudge matters that have yet to be fully investigated. This amendment is a classic example of putting the cart before the horse.

I have proposed a Commission of Inquiry in order to move these debates outside of partisan politics. An independent and nonpartisan panel taking a comprehensive approach is better positioned to determine what happened. Before the Senate starts pontificating about who should and should not be investigated, sanctioned, ethically disciplined or prosecuted, would it not be a good idea to know what took place?

I was encouraged to hear Senator CORNYN call for ''an end to the poisonous environment that has overtaken the debate about detention and interrogation policy in the aftermath of September 11th, 2001.'' I agree and that is why I proposed taking the matter out of partisanship and away from political institutions. That is not what the amendment does, however. First, Senator CORNYN styled this as a sense of the Senate making overly broad findings, now he has stripped those findings from this amendment, and is doing something even more nonsensical, trying to prohibit the use of funds for something that funds are not even provided for in the emergency supplemental.

An amendment politicizing decisions about investigations and prosecutions is not the right approach. We should have closed the book on efforts to have partisan interests infect Federal law enforcement decisions when we lifted

the veil on the Bush White House's manipulation of U.S. attorney firings. Some of us have worked very hard to restore the U.S. Department of Justice to be an institution worthy of its name and to again command the respect of the American people.

Senator CORNYN spoke on the floor this week about learning together from our past mistakes. I, again, invite all Senators from all parts of the political spectrum to join my call for a nonpartisan investigation to do just that.

The Justice Department has yet to finish a 5-year inquiry regarding whether some of the lawyers responsible for the Office of Legal Counsel opinions that justified brutality acted in ways that failed to meet professional and ethical standards. It was a Republican ranking member on the Judiciary Committee who earlier this year said that if the news reports of how those memoranda came to be generated are true, there may have been criminal conduct involved. President Obama and the Attorney General have been very forthright in saying that those who relied on and followed the legal advice in interrogating prisoners would not be prosecuted.

What needs to be determined, and has not, is how we came to a place where the United States of America tortured people in its custody in violation of our laws. Those legal opinions have been withdrawn. One of the earliest was withdrawn by the Bush administration in advance of the confirmation hearing on Alberto Gonzales to be Attorney General, and others were limited in the final days of the Bush administration. What we do not know and what this amendment is geared toward covering for, is the role of the former Vice President and his staff, the role of the Bush White House in generating those opinions legalizing brutal interrogations.

Last week, the Judiciary Committee held our most recent hearing into these matters. I thank Senator WHITEHOUSE for chairing the hearing before the Subcommittee on Administrative Oversight and the Courts. Philip Zelikow testified about how dissent over the legal justifications and implementation of these practices was stifled and overridden. Ali Soufan, the FBI interrogator of Abu Zubaydah, testified about his success using traditional interrogation techniques, and about how ineffective and counterproductive the use of extreme practices was in that case. And Professor David Luban critiqued the released memoranda as legally and ethically dishonest.

Last week also evidenced, yet again, why the approach of an independent, nonpartisan review is the right one. Partisans defending the Bush-Cheney administration's actions chose not to look for the truth, but to mount partisan attacks. They have succeeded in fulfilling the prophecy they created—that any effort to consider these matters would break down into partisan recriminations—by themselves doing just that. They elevated the minor role of a former minority member of the House Committee on Intelligence into their principle concern, thereby ignoring the driving force of the former Vice President, other officials in the Bush-Cheney administration, and the complicity of the Republican congressional officials who were in control of both the House and the Senate. They raised straw men, went on witch hunts, and sought to distract from the fundamental underlying facts. All they really succeeded in demonstrating is that they will continue to view these matters through a partisan lens, and that they have yet to show any willingness to join in a fair, nonpartisan inquiry. Their recent actions reinforce why we need the independent, nonpartisan inquiry for which I have been calling over the last several months.

For those who have reflexively opposed my proposal for a comprehensive, nonpartisan, independent inquiry, I ask these questions: If we never find the truth and understand the mistakes we have made, what incentive is there to avoid them in the future? What guarantee is there that the Government will not repeat the same mistakes? What incentive will future administrations have to respect the very rule of law that distinguishes us as a nation? The risk that the past will again be prologue is too great to take simply because it is not easy to face the truth.

I continue to believe that we must know what happened, and why, to ensure that America does not go down this dark road, again. Before we turn the page, we need to read the page. We should proceed without partisanship, not as Republican or Democratic politicians, but as Americans who recognize, as Philip Zelikow testified last week, that torture was ''a collective failure and it was a mistake.''

During the last several weeks, we have seen the release of the Senate Armed Services report documenting the complicity of top Bush-Cheney administration officials. News reports have indicated that in April 2003, after the invasion of Iraq, the U.S. arrested a top officer in Saddam Hussein's security force, and that some acting on behalf of then Vice President Cheney urged the use of waterboarding in an effort to coerce a ''confession'' supporting the link between al-Qaida and Iraq. That link, of course, has proven to be an illusory justification for the war, as were the nonexistent stockpiles of nuclear weapons and others weapons of mass destruction. Likewise, COL Larry Wilkerson, former chief of staff to President Bush's first Secretary of State, has written that these brutal interrogations, conducted in the spring of 2002 before the legal authorizations of the OLC memoranda were crafted, were aimed at the ''discovery of a smoking gun linking Iraq and al Qaida.'' Perhaps these reports help explain why former Vice President Cheney continues to adamantly support these discredited practices. Perhaps they explain why the proposed amendment's language is so vague with regard to those who, in its words, ''provided input into the legal opinions.''

There are strong passions on all sides. It is not only former Vice President Cheney and his apologists who feel strongly. There are those who will not be satisfied by anything less than prosecutions for war crimes. I have always believed that there is a fundamental middle ground, one that focuses on the most important issue at stake—finding out what happened and why.

I appreciate the support of so many who have rallied to this idea of a nonpartisan commission and a comprehensive review of what took place. Ambassador Thomas Pickering and Philip Zelikow, the executive director of the 9/11 Commission and a former State Department counselor, have both testified in favor of this idea. Former Bush administration official Alberto Mora, and the former FBI Director under President Reagan, Judge William Sessions, have both recognized the need for accountability. Distinguished former military officers, who are familiar with commissions of inquiry, have been supportive. These officers include ADM Lee Gun and MG Antonio Taguba, as well as the National Institute of Military Justice. Senators FEINGOLD and WHITEHOUSE, both members of the Senate Judiciary and Intelligence Committees, have strongly endorsed the idea, as has Senator ROBERT BYRD. The Speaker of the House has spoken favorably about getting to the bottom of these matters, and she has shown her willingness to cooperate with such an inquiry.

Human rights leaders and organizations have endorsed the approach, including Amnesty International, the Constitution Project, the International Center for Transitional Justice, Human Rights Watch, Physicians for Human Rights, the Open Society Institute, the Brennan Center, Human Rights First, and others. Prominent religious leaders such as those represented by the National Religious Campaign Against Torture, which is composed of a broad spectrum of religious denominations, support this idea.

Thoughtful commentators like Jon Meachem, Nicolas Kristof, Tom Ricks, Frank Rich, and Maureen Dowd have come to endorse a nonpartisan commission. Editorials in support of a nonpartisan commission have appeared over the last several weeks in The New York Times, The Washington Post, the Los Angeles Times, Newsweek, and in Vermont's Rutland Herald.

Last week, the Attorney General of the United States testified that the Justice Department would, of course, cooperate with such a commission were Congress to establish one. The President of the United States has said that he, too, feels that such a pursuit would be better conducted ''outside of the typical hearing process'' by a bipartisan body of ''independent participants who are above reproach and have credibility.''

I urge those Republicans who truly believe, as Senator CORNYN said, that in looking at these matters we must ''maintain our sense of perspective and objectivity and fairness'' to join in a bipartisan effort to provide for a nonpartisan review by way of a commission of inquiry. Such a commission would allow us to put aside partisan bickering, learn from our mistakes and move forward.

Just as partisan Republicans were wrong to try to hold up the confirmation of Attorney General Holder to extort a pledge from him that he would not exercise independent prosecutorial judgment, it is wrong to shoe horn this amendment onto this emergency spending bill. I opposed the effort by some Republican Senators who wanted the Nation's chief prosecutor to agree in advance that he would turn a blind eye to possible lawbreaking before investigating whether it occurred. Republican Senators asked for such a pledge, a commitment that no prosecutor should give. To his credit, Eric Holder did not.

Similarly, passing a broad and unrelated amendment on an emergency appropriations bill that seeks to instruct the Attorney General how to fulfill his constitutional responsibilities is not the path forward. Before we even know how these legal opinions were generated and who was responsible for what, this amendment calls for the Senate to usurp the Justice Department's role in determining whether and, if so, who to investigate or prosecute. Any former prosecutor, any lawyer and any citizen should know that it is not the decision of or an appropriate role for the U.S. Senate.

AMENDMENT NO. 1156

Mr. MCCAIN. Mr. President, I support Senator LIEBERMAN's amendment relating to Army end strength. By clarifying existing law contained in the National Defense Authorization Act for fiscal year 2008 and providing $400 million for personnel and O&M costs, it ensures soldiers already on Active Duty or who are about to be enlisted are able to serve. It does not create new authority for more Active-Duty soldiers, rather it corrects an erroneous legal interpretation about which end strength number should be used to calculate percentages for additional troops. I applaud Senator LIEBERMAN's commitment to this goal.

STATUS OF FORCES AGREEMENTS

Mr. MERKLEY. Mr. President, I commend the chairman of the Appropriations Committee for all of the great work he has done to put this supplemental together.

It is my understanding that the House version of the bill includes a study aimed at examining how the terms of the Status of Forces Agreement will be met, specifically as the agreement relates to withdrawal timelines.

As the conferees work to resolve the differences of the two bills, I look forward to working with the gentleman to ensure this report remains in the final bill language.

Mr. INOUYE. I thank the gentleman from Oregon for his request. I appreciate his concerns and look forward to working with him on this matter.

MRAP-ALL TRERRAIN VEHICLE

Mr. LEAHY. Mr. Chairman, I was very pleased to see that the committee provided more than $3 billion for smaller, more agile, but still highly protective vehicles know as the MRAP-all-terrain-vehicle. That is $1.55 billion above what the administration requested in the fiscal year 2009 supplemental. We received a lot of testimony on this armored vehicle program from witnesses before our subcommittee, including the Chief of Staff of the Army, and I had a personal conversation with Secretary of Defense Gates. Everyone said that the MRAP-ATV, as it is known in short, is absolutely critical to achieving our goals in Afghanistan.

Mr. INOUYE. I appreciate that comment from my good friend and colleague, the senior Senator from Vermont. The MRAP-all-terrain-vehicle is very important to protecting our forces in Afghanistan. Since 2005, the Defense Appropriations Subcommittee has allocated well over $25 billion to purchase MRAP vehicles, which have a V-shaped bottom and several unique features that deflect energy from roadside bomb blasts, prevent fragments from penetrating, and, in turn, save people from attack.

The original versions of the MRAP have saved thousands of lives in Iraq; however, they are very large, and this array of vehicles does not fully suit the more rugged environment our deployed forces faces in Afghanistan. There, we see very few paved roads. Many are simple dirt roads, slit through the sides of mountains at higher altitudes. Our forces need a vehicle that possesses a lower center of gravity and that can go off-road, but possesses the same level of protection as the original version of the MRAP.

Mr. LEAHY. The Senator is so right, and I appreciated the way the subcommittee thoroughly looked at the administration's budget request, scrubbed the numbers, and listened to what our senior defense leaders had to say. The 86th Infantry Brigade Combat Team of the Vermont National Guard—the only Army brigade in the Army with a ''Mountain'' fighting designation, comprised of upwards of 1,800 proud citizen-soldiers from Vermont—will begin a yearlong deployment to Afghanistan next year. They will help train the Afghan National Army, which is critical to our success there. We want all our deployed forces—from Vermont, Hawaii, and every State, and every armed service—to have the best protection from roadside bomb attacks. That need is reflected in the urgent request from Central Command, in the so-called Joint Urgent Operational Needs Statement.

Mr. INOUYE. We have seen a rise in roadside bomb attacks in Afghanistan this year, and it was very clear that, as we went through the request, we had to accelerate this critical force protection program. The administration's request in the fiscal year 2009 supplemental includes $1.5 billion for approximately 1000 vehicles. The fiscal year 2010 overseas contingency operations budget request included roughly $1.5 billion for about the same number of vehicles. The Defense Subcommittee added $1.55 billion for the MRAP ATV to accelerate the procurement of these critical vehicles.

Mr. LEAHY. I think it is tremendous that the subcommittee has shown such leadership on working to secure funds that we all know is essential to protecting our brave men and women deployed abroad. I look forward to continuing to work with my good friend and colleague from Hawaii to hold this funding in our conference negotiations with the House of Representatives.

I thank the esteemed chairman.

Mr. FEINGOLD. Mr. President, I intend to vote against the current emergency supplemental spending bill—the second one of this fiscal year—and I would like to briefly list my concerns before explaining them in more detail. For years I have been fighting to bring an end to our involvement in the misguided war in Iraq. While I am pleased that President Obama has provided a timeline for redeployment of our troops, I am concerned that he intends to leave up to 50,000 of the United States troops in Iraq. I am also concerned that this supplemental may pad the defense budget with items not needed for the war. We should be paying for such items through the regular budget, not running up the deficit to purchase them. Finally, while the President clearly understands that the greatest international security threat to our Nation resides in Pakistan, I remain concerned that his strategy regarding Afghanistan and Pakistan does not adequately address, and may even exacerbate the problems we face in Pakistan, problems made even more clear by the current rising tide of displaced civilians.

I do want to make clear, however, that there are a number of provisions in the bill I support, including funding for humanitarian and peacekeeping missions. In addition, I am pleased that the bill addresses the increased demand for direct farm loans through the USDA's Farm Service Agency, FSA. As of May 7, the FSA reports backlogs of nearly 3,000 loans, including $250 million in ownership loans and over $100 million for operating loans. With many States having already completely utilized their initial fiscal year 2009 allocations of direct loan funds, the emergency addition of $360 million for direct farm ownership loans and $225 million for direct operating loans in the supplemental will help ensure that credit is available to farmers and ranchers. I was also encouraged that an additional $49.4 million was included for the costs associated with modifying existing

FSA farm loans, which will help ensure that FSA is able to work with farmers who are viable to avoid foreclosure.

Let me start by focusing on Iraq. President Obama has taken a necessary and overdue step by outlining a schedule to safely redeploy our troops from Iraq. This will help us focus on al-Qaida and its affiliates elsewhere, which continue to be the main threat to U.S. national security. I was disappointed, however, that the President decided to draw out the redeployment over 3 years. Furthermore, recent press reports indicate that in order to meet the June 30 deadline for U.S. combat troops to be out of Iraqi cities, certain military officials may redraw city borders instead of relocating nearly 3,000 Americans, as required under the Status of Forces Agreement. This kind of fluidity is troubling as it would further delay an already too long schedule for redeployment. While we have an obligation to help stabilize the region over the long term, we must not lose sight of the fact that our very presence has a destabilizing impact and the vast majority of Iraqis support a prompt withdrawal of U.S. troops. I am concerned that if the United States does not appear to be moving to redeploy consistent with the bilateral agreement negotiated with Iraq, there could be a surge in violence against the troops of the United States.

Finally, I note that the Bush administration chose to negotiate that deal as an executive agreement when its scope clearly exceeds that of any previous Executive agreement and extends far beyond the kinds of issues addressed in a mere status-of-forces agreement. It should have been submitted to the Congress as a treaty and been subjected to the requirement of approval by two-thirds of the Senate. The Congress always retains the ultimate authority to determine whether to continue to fund military operations abroad so it is in the interest of the President to seek Senate approval. Our national security is best served when the two branches work together to determine our policy on matters of such profound importance to the United States. The Congress should make clear that, in the future, any such agreements must be submitted for ratification.

President Obama's strategy review for Afghanistan and Pakistan finally focuses the Government's attention and resources where they are most needed. After years of our country being bogged down in Iraq, President Obama has brought to the White House an understanding that the key to our national security is defeating al-Qaida, and that to do so we must refocus on this critical region.

But while the President clearly understands that the greatest threat to our Nation resides in Pakistan, I am concerned that his announced strategy has the potential to escalate rather than diminish this threat without making things better in Afghanistan. According to credible polls, the majority of Afghans do not support a surge in U.S. forces and a majority in the south even oppose the presence of U.S. troops. For years, the Bush administration shortchanged the mission in Afghanistan, with disastrous results. But we cannot simply turn back the clock. Sending significantly more troops to Afghanistan now could end up doing more harm than good—further inflaming civilian resentment without significantly contributing to stability in that country.

Furthermore, sending 21,000 additional troops to Afghanistan before fully confronting the terrorist safe havens and instability in Pakistan could very well make those problems even worse. And don't just take my word for it. When I raised this point with Ambassador Holbrooke during a recent hearing, he replied:

> [Y]ou're absolutely correct that . . . an additional [number] of American troops, and particularly if they're successful in Helmand and Kandahar could end up creating a pressure in Pakistan which would add to the instability.

By providing additional funds for our troops in Afghanistan, this supplemental may actually undermine our national security as increasing numbers of the Taliban could seek refuge in Pakistan's border region. Already, the Taliban's leadership has safe haven in Quetta, while the Pakistani military fights militants in the north. Without a concurrent plan for Pakistan, the movement of Taliban across the border could further weaken local governance and stability, while a flood of refugees from Afghanistan would compound Pakistan's already dire IDP problem. And let's not forget, we are talking about instability in a country with a nuclear arsenal that according to the Chairman of the Joint Chiefs of Staff is being expanded.

The emergence of a new civilian-led government offers the United States an opportunity to develop a balanced and sustained relationship with Pakistan that includes a long-term counterterrorism partnership. I am pleased that this administration, unlike the last, has extended its engagement to a broad range of political parties and encouraged the development of democracy. I am also pleased that there are efforts to significantly increase nonmilitary aid and to impose greater accountability on security assistance. After years of a policy that neglected Pakistan's civilian institutions and focused on short-sighted tactics that were dangerous and self-defeating, this is a refreshing step in the right direction. Make no mistake about it, the threat of militant extremism has been and continues to be very real in Pakistan, but by embracing and relying on a single, unpopular, antidemocratic leader we failed to develop a comprehensive counterterrorism sustained strategy that transcended individuals. As a result, we must now recover from a policy that led Pakistanis to be skeptical about American intentions and principles.

While I support efforts to build a sustained relationship with Pakistan, I remain concerned that, even as we continue to provide support to the Pakistani military, elements of the Pakistani security forces remain unhelpful in our efforts to cut off support for the Taliban. During a recent hearing before the Senate Armed Services Committee, Senator MCCAIN asked Admiral Mullen if he still worries about the ISI cooperating with the Taliban. Admiral Mullen responded that that he did. This bill contains over $1 billion for the Pakistani military, and while we must not over generalize or take an all or nothing approach, it would be unwise and very dangerous to convey to the Pakistani military that it has our unconditional support.

That would be especially dangerous now as recent fighting between militants and Pakistani forces has reportedly displaced nearly 1½ million people—the greatest displacement there since 1947. This is very troubling, and has potentially grave strategic implications for U.S. national security. As General Petraeus has said, ''We cannot kill our way to victory.'' As we continue to provide assistance to Pakistan's military, we must ensure they—and we—have the support of the Pakistani people. No amount of civilian aid after the fact can make up for military operations that are not tailored to protect the civilian population in the first place.

We must also recognize that, while the Pakistani security forces are undertaking operations in the Swat Valley, there are individuals in Baluchistan who also present a significant threat to our troops in Afghanistan. When I asked Ambassador Holbrooke if he knew whether the Pakistani Government was doing everything it could to capture Taliban leaders in Baluchistan, he replied that he did not know and that while they have ''captured . . . killed and eliminated over the years a good number of the leaders of the Taliban and al-Qaida [while] others have been under less pressure.'' I encourage the Obama administration to engage in tough negotiations with the Pakistani Government on this issue and to prepare contingency plans in the event that we continue to see members of the security services supporting militants.

We must continue to ensure al-Qaida and the Taliban are the key targets in Pakistan, but strategic success will also depend in part on the ability of the Pakistani military to demonstrate they are pursuing a targeted approach that seeks to protect the civilian population. For example, we should work to ensure that the Pakistani Government has taken steps to detain known militant leaders and is providing assistance to those who have been displaced by the ongoing violence. On the civilian side, working to help reform and strengthen vital institutions, including

the judiciary and education and health care systems, is essential. We must also work to reform the police, whose permanent presence in the community is less likely to engender hostility than the military's. In short, we must focus on helping to build the civilian institutions that are part of a responsive, accountable government needed to ensure al-Qaida and militant extremists do not find support among the Pakistani people.

Lastly, I would like to address an issue that has received much attention. A number of my colleagues have spoken on the floor in opposition to the President's commitment to close the detention facility in Guantanamo bay. I believe it is time for Guantanamo to be closed. Senator MCCAIN, Senator GRAHAM, Colin Powell and James Baker share this view. The facility has become a rallying cry and recruiting tool for al-Qaida. It contributes to extremism, anti-American sentiment and undermines our ability to build the international support we need to defeat al-Qaida.

Secretary Gates has testified that ''the announcement of the decision to close Guantanamo has been an important strategic communications victory for the United States.'' The Director of National Intelligence, Admiral Blair, has stated that:

The detention center at Guantanamo has become a damaging symbol to the world and that it must be closed. It is a rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security.

And, former Navy General Counsel Alberto Mora testified to the Senate Armed Services Committee in June 2008 that

There are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively the symbols of Abu Ghraib and Guantanamo.

There are many unresolved questions about the process we will use to prosecute these detainees. We need to resolve those tough questions, but we should not use them as an excuse to avoid taking a step that is so important to our national security.

Mr. SCHUMER. Mr. President, I wanted to make a brief statement today on the Homeland Security and Governmental Affairs Committee's consideration of S. 692, a bill to ensure that a valuable collection of historical papers pertaining to President Franklin Roosevelt, known as the Grace Tully Archive, can be transferred to the Roosevelt Presidential Library in Hyde Park. NY.

The Grace Tully Archive is considered the most important collection of documents and memorabilia related to President Franklin Delano Roosevelt currently in private hands. The collection was directly given to and/or gathered by FDR's personal secretary for decades, covering both his private and public career as Governor of New York and President. The donation of the collection to the Roosevelt Presidential Library has been supported by the National Archives—NARA—and described as a matter of ''overwhelming public interest.''

The acting Archivist of the United States, Adrienne Thomas, wrote to Chairman LIEBERMAN and Ranking Member COLLINS about this bill earlier this month, and I will ask that a copy of that letter be printed into the RECORD at the conclusion of my remarks.

After Grace Tully died in 1981, her collection was sold into private hands, and it has since changed hands several times. The current private owner obtained the collection in 2001 from a well-known New York rare book dealer in a widely publicized sale.

Although no previous claims had been made after other sales, the Archives stepped forward in 2004 to make a claim of ownership to certain specific documents contained in the larger Tully collection. They claimed that certain documents were ''Presidential papers'' and should have originally been given to the Archives, not Grace Tully yet the laws governing such documents and the establishment of Presidential libraries was not passed until after the death of President Roosevelt. So there are some legal ambiguities. But for several years, this dispute over the ownership of a small portion of the collection has prevented the donation of the entire collection.

Both sides wish to avoid litigation, since the collection is being donated to the FDR Library anyway indeed, the collection is already at the Roosevelt Library in sealed boxes waiting for the matter to be resolved. Both sides prefer that the matter be solved via Federal legislation that will clarify the ownership issue and ensure that the Archives and the American people receive this important historical collection.

Since the papers are already at the FDR library, my bill seeks only to clarify the ownership issue in order to facilitate the completion of the donation of a collection of immense value to historians. The current owner of the collection will have to abide by current tax rules governing such donations, including obtaining appropriate appraisals. All my bill seeks to accomplish is to allow the donation to move forward without the time and expense of litigation.

Last year, the Homeland Security and Governmental Affairs Committee also reported out this bill, but it was stalled by year-end disputes over unrelated unanimous consent requests. Since there is no objection to this bill, I am hopeful that the Senate can take it up and pass it unanimously very soon, so the gift of the papers can be completed this year.

Mr. President, I ask unanimous cnsent to have the letter to which I referred printed in the RECORD.

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

NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION,
College Park, Maryland, May 18, 2009.

Hon. JOSEPH I. LIEBERMAN,
Chairman,
Hon. SUSAN M. COLLINS,
Ranking Member, United States Senate, Committee on Homeland Security and Government Affairs, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS:

Last September, former Archivist of the United States Allen Weinstein wrote to Senator Schumer to express NARA's strong support for his effort to facilitate the donation of the ''Tully Archive'' to the Franklin D. Roosevelt Presidential Library (located in Hyde Park, NY), a part of the National Archives and Records Administration, through legislation that was pending in the last Congress. I write now to express NARA's continuing support of this effort in the current Congress, as encompassed in S. 692 (introduced by Senator Schumer).

As we have explained, the Tully Archive is a significant collection of original FDR-related papers and memorabilia that had been in the possession of President Roosevelt's last personal secretary, Miss Grace Tully. Due to the efforts of your committee to move the issue along, we are now very close to resolving this matter after several years of uncertainty.

Successful resolution of this case through a donation to the National Archives, as facilitated by this legislation, would culminate several years of serious discussion between the Government and the private parties involved. It will also result in substantial savings to the government, by obviating the need for a lawsuit to claim and assert government ownership over a small portion of the collection—an action that would take years, require substantial resources, and result in our obtaining only a limited portion of the Tully Archive. I recognize that there are complex issues involved in this case and consider the Committee's approach to be the best available under the circumstances.

The entire Tully Archive includes some 5,000 documents, including over 100 FDR letters with handwritten notations; dozens of speech drafts and carbons; hundreds of notes (or ''chits'') in FDR's handwriting; letters from cabinet officials and dignitaries, including a letter from Benito Mussolini congratulating FDR on his 1933 inaugural; Eleanor Roosevelt family letters; and photographs, books, framed items, etchings, and other memorabilia.

Although Miss Tully died in 1984, the extent of the collection only came to the attention of the National Archives in 2004 when a team from the Roosevelt Library and NARA's Office of General Counsel had the opportunity to examine the materials. Although there has been a minor dispute over ownership of a small portion of the collection, this is very close to being resolved. The entire collection is currently in sealed boxes at the Roosevelt Library waiting for the gift to be completed. I believe that the National Archives and the American people are best served by receipt of the entire collection.

It is very important to NARA, and for future historians that might want to study these papers, for the Tully Archive to be kept intact and made fully accessible to the American people in a public government archives. This result will increase the ability of scholars to learn about our 32nd president and his extraordinary life and times.

There is an overwhelming public interest in making this collection available to the

public. I personally thank you for your efforts to ensure that the issue is finally resolved in the 111th Congress.

Sincerely yours,

ADRIENNE THOMAS,
Acting Archivist of the United States.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. CARPER), the Senator from North Carolina (Mrs. HAGAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mrs. MURRAY), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New Hampshire (Mrs. SHAHEEN), and the Senator from Colorado (Mr. UDALL) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote ''aye.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''aye.''

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

The result was announced—yeas 86, nays 3, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—86

Akaka	Dorgan	Lugar
Alexander	Durbin	Martinez
Barrasso	Ensign	McCain
Baucus	Enzi	McCaskill
Bayh	Feinstein	McConnell
Bennet	Gillibrand	Menendez
Bennett	Graham	Merkley
Bingaman	Grassley	Mikulski
Bond	Gregg	Murkowski
Boxer	Harkin	Nelson (NE)
Brown	Hutchison	Nelson (FL)
Brownback	Inhofe	Pryor
Bunning	Inouye	Reed
Burr	Isakson	Reid
Burris	Johanns	Risch
Cantwell	Johnson	Roberts
Cardin	Kaufman	Schumer
Casey	Kerry	Sessions
Chambliss	Klobuchar	Shelby
Cochran	Kohl	Snowe
Collins	Kyl	Specter
Conrad	Landrieu	Stabenow
Corker	Lautenberg	Tester
Cornyn	Leahy	Thune
Crapo	Levin	Udall (NM)
DeMint	Lieberman	Vitter
Dodd	Lincoln	Voinovich
Webb	Wicker	
Warner	Whitehouse	Wyden

NAYS—3

Coburn	Feingold	Sanders

NOT VOTING—10

Begich	Hatch	Shaheen
Byrd	Kennedy	Udall (CO)
Carper	Murray	
Hagan	Rockefeller	

The bill (H.R. 2346), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair appoints Mr. INOUYE, Mr. BYRD, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, Mr. REED, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. PRYOR, Mr. TESTER, Mr. SPECTER, Mr. COCHRAN, Mr. BOND, Mr. MCCONNELL, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. BROWNBACK, Mr. ALEXANDER, Ms. COLLINS, Mr. VOINOVICH, and Ms. MURKOWSKI conferees on the part of the Senate.

Mr. RISCH. Mr. President, I come to the Senate floor today to speak about the National Guard and the need for this Federal Government to better equip our Guard and Reserve units. Senate amendment No. 1143, which I offered to the supplemental appropriations bill, would have done just that. Although the Senate did not adopt this sensible measure, I will continue to seek creative ways to support the National Guard and pursue this responsible and reasonable expenditure.

Simply put, my amendment would have appropriated $2 billion to the National Guard and Reserve equipment account. This money would have come from unobligated funds made available by the American Recovery and Reinvestment Act of 2009. The rescissions would not have applied to amounts relating to the Department of Defense, the Department of Homeland Security, Military Construction, or the Veterans Administration.

In recent years, our National Guard and Reserve forces have faced substantial shortfalls in equipment, and the military budget requests have been insufficient to remedy the problem. Even prior to 9/11, our National Guard and Reserve forces had equipment deficiencies. Since 9/11, due to an especially high operational tempo in the Iraqi and Afghan Theaters of Operations, our National Guard and Reserve equipment is being worn out and exhausted more quickly than anticipated. Combat losses are also contributing to shortfalls. Compounding the problem, in order to provide deployable units, the Army National Guard and the Army Reserve have had to transfer large quantities of their equipment to deploying units, exacerbating shortages in nondeploying units. Also, some National Guard and Reserve units, at the end of their deployments, have had to leave significant quantities of equipment overseas. If these equipment shortfalls are not remedied, our National Guard and Reserve forces run the risk of further deterioration of readiness levels and capability.

In my estimation, it seemed reasonable to move $2 billion in unobligated stimulus spending to fund necessary procurement of new National Guard and Reserve equipment, which was tragically overlooked during the stimulus debate. The National Guard and Reserve equipment account is a critical resource for funding procurement of new equipment for our National Guard and Reserve forces. This $2 billion increase in equipment funding would have provided much-needed modern equipment for our National Guard and Reserve forces, better enabling them to meet mission and readiness requirements. In addition, this funding, which would have to have been spent by the end of fiscal year 2010, would have provided a stimulative effect to the U.S. economy.

New equipment would also directly benefit our Nation's homeland security missions and disaster response efforts, both of which are frequently assigned to National Guard forces. The Guard's ability to carry out these responsibilities depends on the availability of necessary equipment. Much of the equipment that would otherwise be used in these missions remains deployed overseas and is therefore unavailable.

In closing I want to reiterate my commitment to the National Guard and Reserve. Going forward, I will continue to fight to ensure that our Guard and Reserve units have the resources and equipment necessary to complete their missions. They make every American proud, and I am committed to maintaining a healthy and well-equipped National Guard and Reserve for years to come.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

The PRESIDING OFFICER Without objection, it is so ordered.

DARFUR

Mr. REID. Mr. President, I met briefly this week with the actress and activist Mia Farrow, who has dedicated so much time lately—and even put her own health at risk—to raise awareness of the atrocities in Darfur.

Like Ms. Farrow, my good friend Pam Omidyar—the founder and chair of the Board of Humanity United—has also fasted for more than a month in solidarity with the Darfurian refugees.

Mia Farrow and Pam Omidyar enjoy liberty and wealth. They do not need to do this. But through their actions, they both so generously speak for those the world ignores.

The terrible situation in Darfur deteriorates with each passing day. But we don't hear much about it. It has long since faded from the front pages in the face of everything else going on in our economy and the two wars we wage in the Middle East.

We cannot ignore this crisis. The United States has officially and appropriately recognized that what is happening in Darfur is genocide. For the more than 2.4 million people who have been displaced against their will, we cannot look the other way and cannot stand idly by.

Most of the people of Darfur depend on international aid to survive day-to-day. The United Nations has agreed to send 26,000 peacekeepers to Darfur, but they face an uphill fight—they have struggled to get the resources they need to ensure the safety of those who live in Darfur and to end this crisis.

Making matters worse, when the International Criminal Court recently issued a warrant to arrest the President of Sudan—President Bashir—for war crimes and crimes against humanity, he responded by expelling 13 nongovernmental organizations that had been distributing food and medicine to the people in Darfur.

Because of its economic investments, China has unique leverage with Sudan. It is important that China uses that influence to help the people of Darfur.

I appreciate the work of Major General Jonathan Scott Gration—the President's special envoy to Sudan—but we must do more to put Darfur at the forefront of our foreign-policy agenda. And we must be clear about our objectives.

The Sudanese government has repeatedly proven untrustworthy at the negotiating table. As the administration and our special envoy develop a new policy, we must consider how we can get Khartoum to change its behavior.

There have been too many people in too many camps for too many years—and the world has been silent for far too long.

We have no excuse to do anything short of all we can do to ensure aid groups are on the ground in Darfur, and that they can do their jobs—to ensure a political process is in place, and that it can work—and to help save the lives of millions.

TRIBUTE TO HONOR FLIGHT

Mr. MCCONNELL. Mr. President, I would like to take a moment to recognize the first Honor Flight from Kentucky for the 2009 operational season. Many members of this body have had the chance to see their constituents at the World War II Memorial because of the noble work Honor Flight does in transporting surviving World War II veterans from around the country to see their memorial free of charge. I am honored to have been invited to participate in previous flights from the Commonwealth, and I regret that my schedule prevented me from attending the one that took place this past weekend. I hope to have the chance once again to visit with Kentucky Honor Flight participants.

On Saturday, May 16, Honor Flight's Bluegrass Chapter arrived in our Nation's Capital with 79 World War II veterans from my home State of Kentucky to see the memorial which they inspired. It is my hope that these veterans felt a sense of pride in seeing their memorial after all, pride is the very same feeling these men and women inspire in their fellow Americans.

In my previous experiences in meeting with the participants of Honor Flight trips, people of all ages have been humbled by the presence of these veterans at the memorial. School children have shook hands with the men and women who served in World War II and thanked them for their service. Others have asked for the privilege of taking a photo with a real-life American hero. Still more, including myself, have shared stories that have been passed down through generations about how World War II affected their family. In watching these interactions, one thing is clear: the sacrifices that these men and women made will never be forgotten.

I wish to express my sincere gratitude to the Kentucky veterans who were here over the weekend for having served to protect our great nation's principles from the enemies of freedom. I ask unanimous consent that the names of the 79 World War II veterans from the Commonwealth be printed in the RECORD.

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

WORLD WAR II VETERANS

Allen Courts, Robert Adams, Charles Alessandro, Donald Cobb, Kenneth Gillespie, Guthrie Catlin, Joe Terrell, Donivan Mahuron, George Spaulding, George Schembari, Dale Tinkle, Jack Distler, Walter Pearce, Joseph Crouse, Kathleen Drummond, Clarence Lange, Leroy Lange, Marcus Shearer, Garland Lewis, Gordon Lewis.

Herbert Lewis, William Morris, Dewey Smith, Roy Ricketts, Frank Mellon, Jr., Hugo Becker, Robert Byrum, Carl Kiesler, Nelson Moody, Murrell Ramsey, George Pearl, Chesterfield Pulliam, John Canary, William Grantz, Jack McQuair, William Miller, John Noonan, Irvine Stevens, Joseph Blincoe, Richard Burnett,

Charles Branson, Francis Kindred, Gustave LaFontaine, Carojean MacDonald, Carroll Hackett, Ira Johnston, Billy Turner, William Fender, John Hinkebein, Richard Yann, Edwin Casada, Fitzhugh Roy, Henry Anderson, Marvin Lawson, George Greathouse, Paul Berrier, Sr., Thomas Napier, Thomas Roberts, Ralph Stengel, Chester Sublett.

Frederick Kleinschmidt, James Williams, Elmer Givan, Leslie Powers, Marion Crockett, Edward Goldner, Loren Charley, Edgar Hodges, Joseph Johnson, Alvin Lawyer, Orin Bond, Antonio Martinez, John Eckert, Lee Bumpus, Donald King, Marcus Combs, Norman Miller, Allen Jones, Roy Vance.

CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

Mr. KYL. Mr. President, I opposed this legislation because it will likely have the unintended consequence of restricting credit to those who need it most. The major economic issue at play is the ability of financial institutions to utilize risk-based pricing to determine how much to charge an individual for credit. Risk-based pricing essentially permits a lender to charge a higher price to individuals who are at a great risk for nonpayment. More sophisticated pricing has also expanded credit to those who otherwise would not be eligible for a credit card.

Financial institutions that offer credit cards face four major risks. One, the lending they provide is not secured by collateral. Two, a creditor has no way of knowing when a cardholder loses his job and the income he would need to repay his debt. Three, a borrower can max out the full amount of his limit without advance notice. And four, unlike other forms of lending, credit cards are relatively more susceptible to fraud.

Since it is impossible for a lender to know when a borrower will default, credit card companies carefully monitor their cardholders' activity. A delinquent payment, exceeding one's credit limit or bouncing a check acts as an early warning sign that help firms identify higher risk cardholders. In order to manage these risks, credit card companies use certain practices to protect themselves from the possibility of default.

Any legislation or regulation that restricts the ability of credit card issuers to adequately price risk could have several unintended consequences. Investors who in the past may have been attracted to the relatively higher returns afforded securitized credit card assets may shift their funds into alternative sources of lending. As a result, credit card companies may increase interest rates on all card holders, increase monthly minimum payments, reduce credit limits or simply issue fewer cards.

HEALTH CARE REFORM

Mr. LEAHY. Mr. President, very few people in America today would argue that our health care system is not in need of reform. It is a travesty that in the richest, most powerful country in the world, there are more than 47 million people without health insurance. That is an absolutely shocking number. It represents roughly one in six people who are going without regular trips to the doctor, forgoing needed

medications and resorting to emergency rooms for care because they have nowhere else to turn. These are our friends, our neighbors, and millions of our children.

An estimated 87 million people—one in every three Americans under the age of 65—were uninsured at some point in 2007 and 2008. While my home State of Vermont has made significant strides in creating a plan for comprehensive coverage, there are still far too many Vermonters without health insurance. While we beat the national average, roughly 10 percent, or 66,000 Vermonters remain uninsured.

Those Americans who are fortunate enough to have health coverage often cannot afford to access care. Every day, Americans across this country are struggling to afford premiums for health insurance, which have nearly tripled since 2000. In fact, new estimates show that the cost for health care for the average American family is more than $16,000 per year—an increase of over $1,100 from the previous year. Health care reform has been put on hold for far too long and cannot be delayed any further.

It is encouraging that this Congress has already taken a few constructive steps toward insuring more Americans and making our health care system more effective. One of the first bills that President Obama signed into law was the reauthorization and expansion of the Children's Health Insurance Program. This bill has extended and renewed health care coverage for over 10 million children and provided 4 million more with new coverage. As part of the American Recovery and Reinvestment Act, Congress extended health benefits for Americans who lost their jobs as part of the economic downturn and invested over a billion dollars to help States implement electronic health records to help make care more efficient with strong personal privacy protections, which I was proud to coauthor with others. While these bills have moved our country in the right direction, it would be a mistake to stop short of larger scale changes to our health system. The need for comprehensive reform has never been more urgent.

Health care reform legislation must create a system where all Americans have the opportunity to access health insurance that is affordable and provides adequate coverage. For far too long, an unregulated health insurance market has cherry-picked healthy Americans to provide coverage to, while offering unaffordable coverage to individuals with ''pre-existing conditions.'' Many others who have insurance do not have adequate coverage and are insured only for certain conditions. Others have high premiums or unaffordable deductibles so accessing care is unrealistic.

Competition among private insurers has not driven down costs to consumers and the current private insurance market has a clear incentive to offer coverage only to the healthiest Americans. Comprehensive health care reform can change this calculus and that is why I support the creation of a federally backed, public health insurance option. For those who are satisfied with their current insurance there is no need to change. A public option would only give consumers more choices to purchase an affordable and quality health insurance plan and will help drive down overall health care costs by introducing real competition into the health care market. I was proud to join Senator BROWN and over twenty other Senators to introduce a resolution stating our support of a public option as part of comprehensive health care reform legislation.

I appreciated the recent news that leaders of the health care industry are working with the Obama administration and have unveiled a plan to voluntarily trim roughly $200 billion in health care costs per year. While this is a movement in the right direction, this should not distract from the fact that coverage must be affordable for Americans or the larger goal of reducing overall costs will not be realized. A public option should recognize an individual's ability to pay and offer subsidies for those who are still unable to afford care. Leaving individuals without insurance drives up health care costs for us all, and we must work toward a goal of insuring all Americans.

Insuring more Americans is of no use unless we work toward incentivizing people to become nurses, doctors, and health care professionals. My wife Marcelle is a nurse, and I understand the threat that nursing shortages pose to health care access and safety. Additionally, with the costs of a medical education rising, many aspiring physicians are choosing to specialize instead of pursuing a career in primary care. Especially in a rural State like Vermont, we are struggling to maintain primary and preventative care services throughout the State. I have heard from far too many Vermonters who use the emergency room for everyday health care needs because there are not enough primary care physicians to handle the demand for services. I support efforts to establish programs to help students repay their loans should they choose to practice in underserved fields or areas high in need of physicians and nurses across the country.

Strengthening our primary care workforce will also help Americans access preventative services to help maintain good health and reduce the incidence of debilitating chronic conditions. Chronic diseases are often preventable or manageable with treatment, yet currently account for 75 percent of our health care spending. Already we have seen a movement to target preventable diseases by focusing on ways to promote healthy lifestyles and choices. As part of its Blueprint for Health, Vermont has begun a series of pilots across the State to enhance health care coordination and patient outcomes through patient centered medical homes. Vermont is seeing good results and is finding that a coordinated approach to health care prevents repeated hospital visits and the emergence of chronic conditions. Prevention must be seen as a cornerstone to both reducing costs and keeping Americans healthy.

Some argue that in our current economic climate it would be irresponsible to reform health care because we simply cannot afford it. What we cannot afford is to stick with the status quo, which is crippling our economy and neglecting millions of Americans who want coverage but cannot afford it. Health care costs currently consume 16 percent of the United States's gross domestic product, which is expected to double in the next decade if nothing is done to slow the trend.

Strengthening our enforcement efforts to crack down on rampant fraud, waste, and abuse in the health care system is vital to lowering costs associated with health care. The scale of health care fraud in America today is staggering. According to conservative estimates, about 3 percent of the funds spent on health care are lost to fraud—that totals more than $60 billion a year. For the Medicare Program alone, the Government Accountability Office estimates that more than $10 billon was lost to fraud just last year. Unfortunately, this problem appears to be getting worse, not better.

The answer to this problem is to make our enforcement stronger and more effective. We need to deter fraud with swift and certain prosecution, as well as prevent fraud by using real-time internal controls that stop fraud even before it occurs. We need to make sure our enforcement efforts are fully coordinated, not only between the Justice Department and other agencies, but also between federal, state, and private health care fraud investigators. Much has been done to improve enforcement since the late 1990s, but we can and must do more.

Health spending cannot be controlled without a comprehensive approach that focuses on all aspects of our health system. We cannot afford to stop the growth in health spending without ensuring that Americans have access to primary care to prevent and treat chronic conditions before they begin. We must target inefficiencies and fraud within the system and incentivize quality of care not necessarily quantity of care.

We have the opportunity to create a system that maintains patient choice, gives all Americans access to quality care and reduces overall health spending. We cannot afford to neglect true reform to our health system any longer.

I look forward to working with the Finance and HELP Committees and all Senators to pass a comprehensive health care reform bill this year.

NATIONAL SMALL BUSINESS WEEK

Ms. SNOWE. Mr. President, this week we celebrate National Small Business Week, a time that affords us the opportunity to reflect not only on the countless contributions that small businesses have made, and continue to make, to the economic strength of our great country—but also on how the Federal Government is assisting these companies to be successful in their own right. As such, I rise today as ranking member of the Senate Committee on Small Business and Entrepreneurship to discuss the status of our Nation's 27 million small businesses, and to elaborate on the role the Federal Government is playing, can play—and must play—in providing these critical firms with the resources and tools they require to lead us out of our deep economic morass.

The facts and figures are enlightening. Small businesses represent 99.7 percent of all employer firms nationwide. They generate two-thirds of net new jobs annually. And they create over half of our Nation's nonfarm private gross domestic product—GDP. So there can be no question that small businesses are critical to our nation's economic vitality and success.

Yet we face an economic landscape that is unlike any other we have seen in decades. The unemployment rate stands at 8.9 percent—the highest level in over 25 years. More than 13.7 million Americans are without jobs, 5.7 million of which have been lost since the beginning of this recession in December 2007. We are in an economy that contracted 6.1 percent in the first quarter of 2009—after having contracted 6.3 percent in the fourth quarter of 2008. During what is the deepest and longest recession since the Great Depression, small businesses struggle in accessing capital to purchase equipment and expand their operations; providing affordable and quality health insurance to their employees; and complying with complex tax laws and regulations.

Without healthy small businesses, our economy cannot—and will not—recover. We must design comprehensive and thoughtful initiatives to aid small businesses during these difficult times. President Obama and this Congress have already taken several steps, but these cannot represent the totality of our efforts.

The central focus and priority of our efforts must be thawing frozen credit markets and increasing lending volume. The flow of credit is critical to the well-being of small businesses because when companies cannot access credit, jobs are lost and businesses suffer. What last year was a ''credit crunch'' for small businesses has all too rapidly ballooned into a full-blown crisis. This calamity threatens to continue shuttering storefronts all across Main Street America—the very last thing we need at this critical juncture. At a time when small businesses should be turning to the safety of government-backed lending, Small Business Administration—SBA—loan volume is showing mixed results.

Recently, Congress and the White House have taken a number of steps to address this crisis. Specifically, in the American Recovery and Reinvestment Act, Small Business Committee Chair LANDRIEU and I worked together to eliminate fees and increase guarantee rates to a maximum of 90 percent for the SBA's flagship 7(a) and 504 loan programs. The Obama Administration quickly implemented these vital provisions. As a result, average weekly SBA loan volume has increased 25 percent since their implementation.

This is significant progress. Nonetheless, as I continue to hear from entrepreneurs, including during four small business roundtables I recently held in Maine, credit remains constrained. Accordingly, I am calling on the Obama administration to immediately implement the remaining small business provisions from the Recovery Act, something our committee members urged of SBA Administrator Mills just last week.

And it appears that the administration is listening. On Monday, Administrator Mills announced the official roll-out of the new Business Stabilization Loan Program, otherwise known as the America's Recovery Capital, or ARC, loan program, to provide interest-free loans, up to a maximum of $35,000, to firms having difficulties making loan payments. These stabilization loans include deferred repayment schedules, to help small businesses weather this recession. A critical provision that Chair LANDRIEU and I worked together to include in the Recovery Act, the ARC loan program will act as a bridge for hundreds of small business owners that just need a small infusion of capital to stay afloat.

Chair LANDRIEU and I also worked together to increase funds for microlending within the SBA, and ease refinancing restrictions for 504 loans, allowing more small businesses to access credit and other resources through the SBA. These are crucial measures that, if implemented soon, could have a dramatic effect on the flow of credit.

I am pleased that President Obama recognizes the credit crisis and held a White House Summit that I participated in last March to address the concerns of the small business community. In a step for which I advocated in conversations with the administration, he used the occasion to announce that Treasury will directly purchase, through the Troubled Asset Relief Program, TARP, $15 billion in securitized SBA 7(a) and 504 loans. A witness before our Committee recently testified that this essential step is a ''great launch pad'' for promoting liquidity in the secondary markets to spur new financing dollars, and I agree. I encourage the administration to roll out this program as quickly as possible.

The provisions in the stimulus and the President's announcement are positive steps addressing different facets of the problem we are addressing here today, but more must be done.

During a private meeting I had with President Obama in the Oval Office recently, I implored the President to create a competitive lending platform at the SBA. Too often, potential SBA borrowers are stymied by the limited number of SBA lending options in their community. In the traditional lending sphere, this problem has been addressed by the emergence of private for-profit Web sites that aggregate lending offers for potential borrowers, giving banks the opportunity to compete for lending business. A lending platform that allows SBA lenders nationwide to ''bid'' on potential borrowers would increase potential SBA borrowers' access to SBA lenders and would increase the pool of applicants for banks. This platform would create more competition and availability for borrowers, and in turn lead to a likely reduction in interest rates for SBA-backed loans.

At a Small Business Committee hearing in March, we heard testimony about the difficulty small business owners face in maintaining existing lines of credit during these uncertain economic times. Small businesses are reporting that banks are ''calling'' back loans, by requiring outstanding loans to be repaid within compressed and expedited timeframes. Unfortunately, with banks demanding payment and little access to other credit, the survival of numerous small businesses is being threatened.

As such, another solution to the credit crisis worth considering is using TARP funds to guarantee lines of credit for small businesses. The Treasury Department could use funds from TARP to support guarantees on credit lines and in return, the bank receiving this guarantee would agree to help craft a payment schedule that would help the affected small business. This program would be completely voluntary but would benefit both the borrower, who would continue to receive credit, and the lender who would receive a guarantee on an outstanding loan. Chair Landrieu and I sent a letter to Treasury Secretary Geithner in March, and he has been extremely helpful in working to assess the viability of this proposal.

Among the many issues we have been discussing here in the Senate is the onerous burden of taxes—a topic that arises every time I speak with small business owners. Frankly, small businesses suffer under the weight of our Nation's tax burden. The undeniable and regrettable fact is, tax compliance costs are 67 percent higher for small business than for larger firms. A horrendously complicated Tax Code fosters evasion that then builds skepticism among Americans about the validity of the whole system. Much of our Tax Code is also due to expire in less than 2 years. And as a senior member of the Senate Finance Committee, I am

ready to work on a bipartisan basis to forge a new tax code that is progrowth with the fewest number of economic distortions and that raises sufficient revenue to finance our Nation's spending priorities.

I must say that I am particularly concerned about raising taxes on small business owners when the tax cuts expire at the end of 2010. Raising personal tax rates from 33 to 36 percent and from 35 to 39.6 percent results in a 9 percent tax increase on small business because 93 percent of small businesses are organized as flow-through entities such as partnerships and Subchapter S corporations. Taking another 9 percent out of small business leaves fewer resources available to small business owners to reinvest in America's greatest job generators.

There are lots of conflicting studies, but Treasury data indicates that almost 70 percent of flow-through income is earned by 9 percent of small business owners, and these are the owners who are generating jobs. Furthermore, according to data Senator GRASSLEY received from the Joint Committee on Taxation, small business owners would pay more than half the taxes from higher marginal rates. That data indicates that $187 billion of the $339 billion raised from increasing the top two tax rates would come from small business. Notably, I offered an amendment during the budget debate that would have prevented tax increases on small business owners if more than 50 percent of their income came from a small business. The amendment, which would have allowed this proposal to go forward if offset, passed by voice vote but was inexplicably dropped in conference. Nonetheless, it is imperative that we work together to preserve the tax cuts for all small businesses, and I hope that we can.

I would also like to add that although the Recovery Act made some vital changes to the Tax Code to help small businesses—such as extending bonus depreciation and expensing—it fell short in its treatment of net operating losses. The Recovery Act allows small businesses to carryback 5 years losses they incurred in 2008, a provision for which I successfully fought. This indispensable cash flow tool allows businesses that have been profitable—but are currently facing losses—to file for a refund of taxes paid in the last 5 years. Yet, this relief remains incomplete as it was limited to businesses with gross revenues less than $15 million. So I commend the President for proposing to allow all businesses to carryback their 2008 and 2009 losses for 5 years. That is also why I introduced a bill to address this situation, and I thank Senators BAUCUS, HATCH, STABENOW, ENSIGN, LINCOLN, CANTWELL, and BILL NELSON, for cosponsoring this significant legislation.

The bottom line is that at the end of the day, if small businesses cannot gain greater access to capital, our economic recovery will be slowed, stagnated, or worse. I have made several suggestions today that, when coupled with the small business provisions passed in the Recovery Act, can hasten a revitalization of our Nation's economy. I sincerely hope that we take to heart the critical role small businesses play in the creation of a healthy and stable economy, and work in a bipartisan fashion to seek new ways of ensuring that we in Congress are providing them with the right kind of assistance.

ROTARY KEYNOTE ADDRESS

Mr. BAYH. Mr. President, I wish to call the attention of my colleagues to a most thoughtful address delivered in my State of Indiana recently by a fellow Hoosier, one who served as a Member of Congress from Indiana for 22 years, 1959 until 1981. I refer to Dr. John Brademas, who represented the district centered in South Bend.

A Democrat, John Brademas served throughout those years on the Committee on Education and Labor of the House of Representatives where he took part in writing most of the measures then enacted to support schools, colleges, and universities; the arts and the humanities; libraries and museums; Head Start; and education of children with disabilities as well as others.

In his last 4 years, John Brademas was majority whip of the House of Representatives, third-ranking member of the Leadership.

Seeking election in 1980 to a 12th term, John Brademas lost that race. He was shortly thereafter invited to become president of New York University, the Nation's largest private, or independent, university.

He served as president until 1992 when he became president emeritus, his present position. I believe it is recognized by those in the higher education world in the United States that John Brademas led the transformation of NYU, as it is known, to one of the most successful institutions of higher learning in our country.

A graduate of Harvard University where, as a Veterans National Scholar, he earned his B.A., magna cum laude, in 1949, he went on to Oxford University, England, where as a Rhodes Scholar, he earned a Ph.D. with a dissertation on the anarchist movement in Spain.

John Brademas is married to Dr. Mary Ellen Brademas, a physician in private practice, a dermatologist, affiliated with the NYU Medical Center.

On May 2, 2009, John Brademas delivered the keynote address, ''Rotary: Pathfinder to Peace,'' for a statewide conference in Indianapolis of members of Rotary Clubs from throughout Indiana.

I believe my colleagues will read with interest John Brademas' address on this occasion, and I ask unanimous consent to have the text of his remarks printed in the RECORD.

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

ROTARY: PATHBUILDER TO PEACE

KEYNOTE ADDRESS OF DR. JOHN BRADEMAS, PRESIDENT EMERITUS, NEW YORK UNIVERSITY AND FORMER MEMBER (1959–1981), U.S. HOUSE OF REPRESENTATIVES (DEM.–IND.)

ROTARY INTERNATIONAL DISTRICT 6506 CONFERENCE

(Indianapolis, Indiana, May 2, 2009)

Rotary District Governor, Judge Tom Fisher; Rotarians all, I am greatly honored to have been invited to open your conference in Indianapolis today.

In the first place, I am a fellow Hoosier. My mother was born in Grant County, Indiana, and my two brothers, sister and I, while students in school in South Bend, would spend summers in the small Grant County town of Swayzee at the home of my mother's parents, Mr. and Mrs. William Chester Goble.

As my grandfather had been a school principal and college history professor, he had a library in their home of some 6,000 books. My brothers, sister and I practically lived in that library during those summers—an invaluable experience.

My mother was a schoolteacher and my father ran a restaurant. My dad, Stephen J. Brademas, was born in Greece, and although we four children grew up with a strong sense of pride in our Hellenic ancestry, we were all members of the Methodist Church.

I must add that I am the first person of Greek origin elected to the Congress of the United States, and only last month I was at the White House for a reception hosted by President Obama to mark Greek Independence Day, while some days after that, I attended a similar reception at Gracie Mansion, the home of Mayor Bloomberg of New York City.

You may also be interested to know that when I was a senior at South Bend Central High School, P. D. Pointer, our school principal, invited me to join him at the regular luncheons of the Rotary Club of South Bend.

ROTARY CLUB OF SOUTH BEND

Indeed, on inquiry of the Rotary Club of South Bend about those luncheons, I learned that 65 years ago, the students who attended them were not called ''Junior Rotarians'' but ''High School Boys'' even as I was reminded that in January 1945, 65 years ago, I gave the farewell for the ''High School Boys'' who graduated from Rotary luncheons that week.

So it's obvious that my link with Rotary goes back a long way!

After high school, with World War II still on, I enlisted in the Navy and was sent to an officers' training program at the University of Mississippi, in Oxford, Mississippi.

Following my freshman year at ''Ole Miss'', with the war over, and discharged, I went to Cambridge, Massachusetts and Harvard where I completed college, graduating in 1949. And I'll be back at Harvard next month for the 60th reunion of my graduating class.

While at Harvard, I spent a summer working with Aztec Indians in rural Mexico, wrote my college honors thesis on the Sinarquista movement there and four years later, at the other Oxford, in England, as a Rhodes Scholar, wrote my Ph.D. dissertation on the anarchist movement in Spain, which was centered in Catalonia.

My study of the anarchists was published thirty-five years ago, in Spanish, in Barcelona, and, in fact, only last December, I was awarded an honorary degree by the University of Barcelona.

I like to say that although I studied anarchism, I did not practice it! For only months after returning to South Bend, I was running for Congress.

Just old enough under the Constitution to be a candidate, I lost my first race, in 1954,

by half a percent. Not surprisingly, I decided to run again two years later and lost a second time, in 1956.

My political godfather, you may be interested to know, was a Hoosier who became Chairman of the Democratic National Committee, the late Paul M. Butler of South Bend.

Indeed, as I've said, one reason I was so pleased to accept the invitation to address you today is that it's good to be back home in Indiana—and surrounded by fellow Hoosiers!

After a brief stint serving in Chicago on the presidential campaign staff of Adlai Stevenson, I again ran for Congress and, as I told you, I lost a second time—as did he—in 1956. But I still thought I could win, and on my third try, in 1958, was first elected, then ten times reelected, and so was a Member of Congress for twenty-two years.

I am delighted in this respect to see here today a distinguished member of the Supreme Court of the State of Indiana, Justice Frank Sullivan, and his wife, Cheryl. Justice Sullivan was at one point my top assistant when I was a Member of Congress and, indeed, his wife, Cheryl, was also a member of my staff. She now serves on the staff of Senator Evan Bayh as Policy Director.

I served on Capitol Hill during the Administrations of six Presidents: three Republicans—Eisenhower, Nixon and Ford; and three Democrats—Kennedy, Johnson and Carter.

MAJORITY WHIP, HOUSE OF REPRESENTATIVES

During my last four years, I was the Majority Whip of the House of Representatives, third-ranking position in the House Democratic Leadership.

Every other week, as Whip, I would join Speaker ''Tip'' O'Neill of Massachusetts, House Majority Leader Jim Wright of Texas, Senate Majority Leader Bob Byrd of West Virginia and Senate Majority Whip Alan Cranston of California for breakfast at the White House with President Carter and Vice President Mondale. All Democrats, we talked politics and policy. It was a fascinating experience and I've just written to President Obama to urge, respectfully, that he follow the same practice.

Indeed, because, as you may know, President Obama will, in two weeks, give the commencement address at the University of Notre Dame, in my old Congressional District, I hope, as I plan to be there, to review my suggestion with him then.

Beyond serving as Whip, I found my principal responsibility in Congress was on the Committee on Education and Labor of the House of Representatives. There, for more than two decades, I helped write all the Federal laws then enacted to support schools, colleges and universities; libraries and museums; education for handicapped children; the National Endowments for the Arts and the Humanities; Head Start; the War on Poverty; the Drug and Alcohol Abuse Education Act; the Environmental Education Act; and the Pell Grants for aid to college students.

INTERNATIONAL EDUCATION ACT

But of particular interest, I trust, to Rotarians is that I was also chief author of the International Education Act of 1965, a measure that authorized Federal grants to colleges and universities to offer courses about other countries.

This legislation is, in my view, directly in harmony with the central mission of Rotary International.

For, as you Rotarians know better than I, the fundamental mission of Rotary, as it describes itself, is ''to build world peace and understanding through its network of over 1.2 million members in over 32,000 clubs in 200 countries and geographical areas.''

The description continues: Rotary club members, coming from all political, social and religious backgrounds, are united in their mission to promote international understanding through humanitarian and educational programs. Rotary clubs initiate projects both locally and internationally, to address the underlying causes of conflict including illiteracy, disease, hunger, poverty, lack of clean water and environmental concerns.

PRESIDENT, NEW YORK UNIVERSITY

I leap ahead. Following my defeat in my campaign for reelection in 1980, I was invited to become President of New York University, the largest private, or independent, university in the United States.

Located in Manhattan, headquartered on Washington Square Park, NYU, as it is familiarly known, I found an exciting place to be, and to lead it, an exciting challenge.

You will not be surprised, in view of what I've told you, that I gave particular attention to NYU's programs for the study of other countries and cultures.

I found on arrival in 1981 that New York University was already strong in French and German Studies.

Two years later, in 1983, I awarded an honorary degree to King Juan Carlos I of Spain, announced a professorship in his name and in 1997, in the presence of Their Majesties, the King and his Greek Queen, Queen Sofia, and of the then First Lady of the United States, now Secretary of State, Hillary Rodham Clinton, I dedicated the King Juan Carlos I of Spain Center at NYU for the study of the economics, history and politics of modern Spain.

All this was the result of my having, as a schoolboy in South Bend, read a book about the Maya! So I know what early exposure to another culture, another country, another language has meant in my own life.

And I believe that among the reasons—I do not say the only one—the United States suffered such loss of life and treasure in Vietnam and does now in Iraq is ignorance—ignorance of the cultures, histories and languages of those societies.

I add that the tragedies of 9/11, Madrid, London, Bali and Baghdad must bring home to us as Americans the imperative, as a matter of our national security, of learning more about the world of Islam.

But it is not only for reasons of national security that we must learn more about countries and cultures other than our own. Such knowledge is indispensable, too, to America's economic strength and competitive position in the world.

The marketplace has now become global. Modern technology—the Internet, for example—has made communication and travel possible on a worldwide basis. In the last few years, I myself have visited Spain, England, Greece, Jordan, Morocco, Cuba, Kazakhstan, Japan, Turkey and Vietnam.

INTERNATIONAL STUDIES AT NYU

Reflecting on my commitment to international education, I can say that during my presidency of NYU, my colleagues and I established a Center for Japan-U.S. Business & Economic Studies, a Casa Italiana Zerilli-Marimò, Onassis Center for Hellenic Studies, a Remarque Institute for the Study of Europe, a Center for Dialogue with the Islamic World. And with a gift from a foundation established by the late Jack Skirball, an Evansville, Indiana rabbi, who went into the motion picture business and became very successful, the Skirball Department of Hebrew and Judaic Studies.

NYU has also opened several campuses abroad—in Madrid, Florence, Prague, London, Paris and most recently, Dubai, Ghana and Shanghai. We have established an NYU base in Buenos Aires and will shortly do so as well in Tel Aviv.

Moreover, when I last looked, New York University is among the top half-dozen universities in the United States in hosting students from other countries.

Now if as a Member of Congress and as president of New York University, I pressed for more study of other countries, cultures and languages, I continued—and continue—to do so wearing other hats.

Appointed, by President Clinton, chairman of the President's Committee on the Arts and the Humanities, which in 1997 produced a report, Creative America, with recommendations for generating more support for these two fields in American life, I was naturally pleased that our committee recommended that our ''schools and colleges . . . place greater emphasis on international studies and the history, languages and cultures of other nations.''

As for seven years chairman of the National Endowment for Democracy, the Federally financed agency that makes grants to private groups struggling to build democracy in countries where it does not exist, I had another exposure to the imperative of knowing more about other countries and cultures.

I continued that interest through service on the World Conference of Religions for Peace; on the advisory council of Transparency International, the organization that combats corruption in international business transactions; and by chairing the American Ditchley Foundation, which helps plan discussions of policy issues at Ditchley Park, a conference center outside Oxford, England.

SENATORS RICHARD LUGAR AND EVAN BAYH

Here I must note that citizens of Indiana can take pride in the leadership in the shaping of our national foreign policy offered by three distinguished legislators in Washington. Senator Richard Lugar is former chairman of, and now ranking Republican on, the Senate Foreign Relations Committee, while Lee Hamilton was for a number of years chairman of the House Committee on Foreign Affairs and is now director of the Woodrow Wilson International Center in Washington, D.C.

Moreover, Indiana's junior Senator, Evan Bayh, has important assignments in foreign affairs through membership on four committees—Armed Services, Intelligence, Banking, and Energy and Natural Resources.

Preparing for my visit with you today, I had a good conversation with Harriet Mayor Fulbright, the widow of another distinguished Congressional leader in foreign affairs, the late Senator J. William Fulbright. Harriet told me about a forthcoming—November 1 to 3—Global Symposium of Peaceful Nations.

The purpose of the Symposium, to be held in Washington, D.C., will be ''to call attention to the value of peace and the strategies available to achieve a more peaceful world.'' The Symposium, to be sponsored by the Alliance for Peacebuilding and the J. William & Harriet Fulbright Center, will focus on measuring, defining and quantifying ''peace'', in order, Mrs. Fulbright added, that countries can understand ''the elements of peacefulness''. When I told her I would be speaking to you today, Mrs. Fulbright strongly affirmed the role that Rotarians can play in this effort to recognize and press for the achievement of these elements for global peace. We can, she said, learn how countries are organized to find peace and we can stimulate the leadership to promote peace.

Clearly, business and the professions have a deep moral interest as well as business and professional interests in building a world of peace.

I hope that Rotarians will pay attention to the forthcoming Global Symposium because

its mission is so much in harmony with the stated goals of Rotary. For I remind you that among the objectives of Rotary is ''the advancement of international understanding, goodwill and peace through a world fellowship of business and professional persons united in the ideal of service.''

Here are some specific suggestions for what Rotary Clubs and individual Rotarians can do to achieve those objectives. Certainly, Rotary should continue to support current programs such as Polio Plus, Rotary Youth Exchange, for students in secondary education, and the Rotary Foundation's Ambassadorial Scholarships as well as Rotary Fellowships, which support graduate fellowships in other countries.

ROTARY WORLD PEACE FELLOWS

I draw particular attention to a relatively new initiative, the ''Rotary Peace and Conflict Resolution Program'', which provides funds for graduate study in several universities around the world. I note that Rotary World Peace Scholars are to complete two-year studies, at the Master's level, in conflict resolution, peace studies and international relations, and that only five years ago, the Rotary World Peace Fellows Association was established to encourage interaction among scholars, Rotarians and the public on issues related to peace studies.

ROTARY GRADUATE FELLOW, JOAN BRETON CONNELLY

Here let me cite an example with which I am familiar of the impact of a Rotary Fellowship.

In 1979, the Rotary Club of Toledo, Ohio awarded Joan Breton Connelly a Rotary International Graduate Fellowship enabling her to spend a year of study in Athens, Greece. The fellowship supported her participation in the American School of Classical Studies distinguished program in Classical Archaeology. The generous terms of her fellowship allowed her to go to Athens three months early for intensive language training in modern Greek, an utterly transformative experience for Connelly.

She has returned to Greece every one of the 30 years that have followed, participating in and now, leading, archeological expeditions. A Professor of Classics and Art History at New York University, Connelly has taken hundreds of her own students to Cyprus where she has directed the Yeronisos Island Excavation Field School for nineteen summers.

Rotary International's investment in the young Joan Connelly has certainly paid off. In 1996, she was awarded a MacArthur Foundation ''Genius'' Award for pushing the boundaries of our understanding of Greek art and myth, reinterpreting the Parthenon frieze. She has become a leader in the preservation of global cultural heritage, having served on the President's Cultural Property Advisory Committee, U.S. Department of State, since 2003.

In 2002, the Republic of Cyprus awarded Dr. Connelly a special citation for her leadership in the exploration and preservation of Cypriot cultural heritage.

In 2000, she was granted honorary citizenship by Municipality of Peyia, Republic of Cyprus, singling her out as the only American citizen to enjoy this status. Professor Connelly attributes all these successes to that first break, the Rotary International Graduate Fellowship that so generously opened for her a new world and gave her, through rigorous language training, the all-important gift of communication.

So I think that Rotary International, Rotary Clubs and Rotarians are on the right track!

Here I remind you that there are 33,000 Rotary Clubs in over 200 countries and geographical areas with over 1.2 million business, professional and community leaders as members.

I must also tell you that a few years ago (2006), I co-chaired the Subcommittee of the Committee for Economic Development (CED) which produced a report entitled, Education for Global Leadership: The Importance of International Studies and Foreign Language Education for U.S. Economic and National Security, and that our report made these recommendations:

1. That international content be taught across the curriculum and at all levels of learning, to expand American students' knowledge of other countries and cultures.

2. That we expand the training pipeline at every level of education to address the paucity of Americans fluent in foreign languages, especially critical and less commonly taught ones such as Arabic, Chinese, Japanese, Korean, Persian/Farsi, Russian and Turkish.

3. That national leaders—political, as well as business, philanthropic and media—educate the public about the importance of improving education in foreign languages and international studies.

You will not be surprised, in view of what I have already said, that to these recommendations I say anew, ''Amen!''

Indeed, only a few days ago, former Congressman Lee Hamilton, with whom I spoke about my visit with you today, observed that one aspect of the foreign policy of the United States that pays the highest dividend is our support for international exchanges.

CONGRESSMAN LEE HAMILTON

Lee Hamilton, as you know, one of the most highly respected Members of Congress of our era, told me, ''A foreigner who has studied in the United States will become an ally.'' Lee said that Rotary Clubs were one of the key groups with whom he met in Indiana and added, ''Rotary Clubs in Indiana are movers and shakers, civic-minded leaders in their communities.''

Now you all know that I am a Democrat but speaking to you today, I am pleased to recall the budget recommendation of President Bush for Fiscal 2007 for programs to strengthen international and foreign language study and to remind you that just four years ago, President Bush told a group of university presidents in the United States how important it was to strengthen the study of foreign languages, particularly Arabic and other critical languages.

Here I echo the final sentence of the CED Report of which I earlier spoke, ''Our national security and our economic prosperity ultimately depend on how well we educate today's students to become tomorrow's global leaders.''

To that again I say, ''Amen!''

CSIS COMMISSION ON SMART POWER

As I reflected further on my remarks today, I recalled a most thoughtful report, issued a couple of years ago by the Center for Strategic and International Studies (CSIS), entitled the CSIS Commission on Smart Power. The report, produced by an impressive group of American leaders, co-chaired by Richard L. Armitage, former Deputy Secretary of State and Assistant Secretary of Defense for International Security Affairs, and Joseph S. Nye, Jr., distinguished service professor at Harvard, former dean of the Kennedy School of Government there, and also former Assistant Secretary of Defense for International Security Affairs and the chairman of the National Intelligence Council, and including such other figures as former Supreme Court Justice Sandra Day O'Connor, Senators Jack Reed and Chuck Hagel and several prominent leaders of business and industry, asserted:

The United States must become a smarter power by once again investing in the global good—providing things people and governments in all quarters of the world want but cannot attain in the absence of American leadership. By complementing U.S. military and economic might with greater investments in soft power, America can build the framework it needs to tackle tough global challenges.

You will not be surprised that among the recommendations of the CSIS Commission on Smart Power is greater investment in education at every level.

The authors of the report assert: ''Countries with a higher proportion of 15-to-29 year-olds relative to the adult population are more likely to descend into armed conflict. Education is the best hope of turning young people away from violence and extremism. But hundreds of millions of children in the developing world are not in school or else attend schools with inadequate teachers or facilities. . . . An annual meeting could help increase the saliency of U.S. bilateral and multilateral efforts to increase education levels worldwide . . .

The report goes on to observe:

''. . . [T]he number of U.S. college students studying abroad as part of their college experience has doubled over the last decade to more than 200,000, though this still represents slightly more than 1 percent of all American undergraduates enrolled in public, private and community institutions. One way to encourage U.S. citizen diplomacy is to strengthen America's study abroad programs at both the university and high school levels . . .''

In addition to increasing the number of American students going abroad, the next administration should make it a priority to increase the number of international students coming to the United States for study and research and to better integrate them into campus life.

America remains the world's leading education destination, with more than a half-million international students in the country annually.

We urge the next president of the United States to make educational and institutional exchanges a higher priority . . .

The American private sector also has a responsibility to educate the next generation of workers. The next president should challenge the corporate sector to develop its own training and internship programs that could help teach the skills that American workers will need in the decades to come. The next administration should consider a tax credit for companies to make their in-house training available to public schools and community colleges.

The concluding paragraph of the report of the CSIS Commission on Smart Power is also worth quoting here: ''America has all the capacity to be a smart power. It has a social culture of tolerance. It has wonderful universities and colleges. It is has an open and free political climate. It has a booming economy. And it has a legacy of idealism that channeled our enormous hard power in ways that the world accepted and wanted. We can become a smart power again. It is the most important mandate for our next president.''

I think you can see from what I have told you of the recommendations in this report how closely they harmonize with the goals and mission of Rotary.

ROTARY CLUBS, ROTARIANS: PATHBUILDERS TO PEACE

So I hope that individual Rotarians and Rotary Clubs will, wherever they are, among their other commitments, lend support to efforts, both private and public, to encouraging education about other countries and

cultures and in this way, in the language of Rotary International, ''provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world.''

In this way, Rotary Clubs and Rotarians can be pathbuilders to peace.

Now both because of the pressures of the economic recession and the commitment of Rotary International and, indeed, of our conference in Indianapolis to ''World Peace and Understanding'', I want to call to your attention a development only several days ago that I believe directly relevant to our discussions.

I could, of course, speak of President Obama's stimulus plan with its several features designed to put more cash into the pockets of taxpayers, laid-off workers, and first-time homebuyers as well as college students. But I want rather to take note of the action only last month of Congress in voting, by overwhelming bipartisan majorities, approval of the Serve America Act of 2009. This legislation, co-sponsored by Senators Edward M. Kennedy, Democrat of Massachusetts, and Orrin Hatch, Republican of Utah, would by 2017 triple the number of participants in AmeriCorps, our major national service program, and create a number of new volunteer programs. AmeriCorps members work for ten months to one year for a modest stipend, and when they finish, get a grant for education.

JOHN BRADEMAS CENTER FOR THE STUDY OF CONGRESS

Finally, I shall take advantage of this forum to say just a word about what is now my own major initiative in my capacity as president emeritus of New York University. It is the John Brademas Center for the Study of Congress, located in NYU's Robert F. Wagner Graduate School of Public Service.

For I think it is not as widely understood as it should be that in our American separation-of-powers constitutional system, Congress—the Senate and House of Representatives—the legislative branch of our national government, can be a source of national policy as well as are the President of the United States and members of the executive branch.

I've earlier given you one example directly related to the commitment of Rotary, the International Education Act. This measure did not originate in the White House but on Capitol Hill.

It is, however, not easy for even informed Americans to understand the operation of Congress. After all, there are 100 Senators and 435 Representatives and we do not, customarily, have the strict party discipline commonly found in parliamentary democracies.

So how does Congress make policy?

Our Center sponsors lectures, symposia and research on the ways in which the Congress of the United States initiates and shapes national policy.

A modest example: While in Congress I was chief author in the House of Representatives of the Arts and Artifacts Indemnity Act of 1975. This law enables museums, galleries, and universities to borrow art from abroad as well as lend parts of their collections to museums in other countries without paying the prohibitive cost of private insurance. The Federal Government, under this legislation, indemnifies the works on loan.

So, last January, we convened, at NYU, under the auspices of the Brademas Center, a colloquium, which examined the impact of this legislation and ways to expand it. The session was led by former National Endowment for the Arts Chairman Bill Ivey and brought together leaders from the museum, foundation and performing arts worlds as well as scholars of arts and public policy and public officials. Based on our discussions, we are preparing a report to the President and Congress with recommendations for expanding international arts and cultural exchanges as part of a renewed strategy for U.S. public diplomacy.

To reiterate, in view of the commitment of Rotary ''to encourage and foster the ideal of humanitarian service'' and ''to help build goodwill and civil peace in the world'', I believe it wholly fitting that Rotarians as individuals and Rotary Clubs as community organizations, wherever located, encourage and support education about other countries and cultures.

To conclude, as I reflected on what I might say to you today, I realized that such is the role of the United States in the world today that challenges never cease.

For example, in light of President Obama's recent encounter with President Hugo Chávez of Venezuela, we must ask where is United States policy toward Cuba going?

Given the recent attacks on American vessels by Somali pirates operating off the coast of Somalia, what is our appropriate response?

Then comes the controversy over the correct action—if any—to take with respect to Central Intelligence Agency interrogators who apparently tortured detainees during the presidency of George W. Bush.

And beyond these challenges in foreign policy is, of course, the economic challenge here at home—the recession. That is the subject for another speech and one I shall certainly not inflict on you today.

Clearly, as we look at the challenges our country faces both at home and abroad, we can all agree that dealing with them requires the most knowledgeable and intelligent responses our country can make. And that's why I believe that the commitment of Rotarians ''to bring together business and professional leaders to provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world'' is still as valid, indeed, essential today as when I was one of the ''High School Boys'' attending luncheons at the South Bend Rotary Club.

Again, I count it an honor to have been invited to address you and I wish you, my fellow Hoosiers, all the best in the years ahead!

ALASKA DECORATION OF HONOR CEREMONY

Mr. BEGICH. Mr. President, it is my pleasure to rise today in honor of the military men and women serving our country across the country and overseas. As Memorial Day approaches, I want to personally recognize the sacrifice these service men and women and their families are making for our Nation.

In 233 years of American history, the struggle for freedom has remained ever present. During this time, our Nation has surrendered its bravest men and women to liberate the oppressed and to ensure freedom for future generations. In doing so, battle lines were drawn and blood was spilled on both U.S. and foreign soil.

I am certain the dedicated service and sacrifice of our men and women who met the challenges defined by those battle lines safeguarded the freedom and democracy we all cherish. In recognition of that fact, we pause each year on Memorial Day to recognize and honor those who have given their all on the field of battle.

There is simply no greater service and no braver act than a warrior willing to stand in the face of evil and selflessly make the ultimate sacrifice.

We must never forget these brave Americans and their actions which have earned them a place in our hearts and their names on the role of honor for this State and this Nation.

This year we also pause to specifically honor those Alaskans who have given the last full measure of devotion on the battlefield in defense of freedom and democracy. We recognize them with the Alaska Decoration of Honor.

Alaska celebrates the 50th anniversary of its statehood this year. There will be hundreds of events and celebrations to mark this anniversary, but one of the most important ones is this weekend in Anchorage when every Alaska soldier killed in action is presented with the Alaska Decoration of Honor.

I thank the families of these soldiers for traveling to Alaska to be part of the ceremony, and again honor our current service men and women on this Memorial Day.

2008 ALASKA DECORATION OF HONOR MEDAL RECIPIENTS

Shawn G. Adams, Jesse Bryon Albrecht, Christopher M. Alcozer, Eugene Henry Eli Alex, Charles D. Allen, Carl Anderson Jr., Thomas Edward Andrson, Kurtis Dean Kama-O-Apelila Arcala, Brian D. Ardron, Michael Dean Banta, Edward Nasuesak Barr, Thomas M. Barr, Daniel D. Bartels, Richard Gene Bauer, Ryan J. Baum, Shane R. Becker, Larry LeRoy Betts, Jeffrey Dean Bisson, Alan R. Blohm, Jeremiah J. Boehmer.

Matthew Charles Bohling, Matthew T. Bolar, John G. Borbonus, Christopher Robert Brevard, James L. Bridges, David Dee Brown Jr., Charles Edward Brown, William F. Brown, Gary Edwin Bullock, Jaime L. Campbell, William Steven Childers, Johnathan Bryan Chism, Donald Georg Chmiel, Donald V. Clark, Brad A. Clemmons, Adare William Cleveland, Ryan D. Collins, Clinton Arthur Cook, Jason Jarrard Corbett, Daniel Franklin Cox.

Shawn R. Creighton, Eric B. Das, George W. Dauma Jr., Carletta S. Davis, David J. Davis, Michael W. Davis, Wilbert Davis, Dustin R. Donica, William Bradley Duncan, Scott Douglas Dykman, William Albert Eaton, Michael Ignatius Edwards, Cody J. Eggleston, David Henry Elisovsky, Robert Thomas Elliott III, Shawn Patrick Falter, Sean Patrick Fennerty, David Lynn Ferry, Sean P. Fisher, Nick Ulysses Fleener.

Victor M. Fontanilla, Phillip Cody Ford, Kraig D. Foyteck, Lucas Frantz, Grant B. Fraser, Jacob Noal Fritz, Charles F. Gamble Jr., Brennan Chriss Gibson, Micah S. Gifford, Dale Anthony Griffin, Howard Wayne Gulliksen, Daniel Lee Harmon, Dustin J. Harris, Raymond L. Henry, Irving Hernandez Jr., Adam Herold, Patrick W. Herried, Kenneth Hess, William Earl Hibpshman, Michael Thomas Hoke.

Jaron D. Holliday, Jerry Verne Horn, Michael R. Hullender, Christian P. Humphreys, Kurt Int-Hout, Sam Ivey, Steven R. Jewell, Christopher C. Johnson, Jeremiah Jewel Johnson, Wayne Elmer Jones, Alexander Jordon, Jason A. Karella, Adam P. Kennedy, Gilbert Ketzler Jr., George Gregory Kilbuck, Jeremiah C. Kinchen, Donald Harry Kito, Howard Mark Koslosky, Russell A. Kurtz, Kermit Harold La Belle Jr.

Jason K. LaFleur, Mickey Daniel Lang, Jason Lantieri, David Alen Lape, Michael H.

Lasky, Aaron Latimer, Robert Edward Lee, Henry W. Linck, James T. Lindsey, Norman Lewis Lingley, Joseph I. Love-Fowler, Jeremy M. Loveless, Bryan C. Luckey, Bradley W. Marshall, Thomas M. Martin, Brian McElroy, Jackie L. McFarlane Jr., Patrick M. McInerney, Jacob Gerald McMillan, Phillip David McNeill.

Benjamin E. Mejia, Jacob Eugene Melson, Kenneth Bruce Millhouse, Johnathon Miles Millican, Robert J. Montgomery, Trista L. Moretti, Christopher R. Morningstar, Shawn Matthew Murphy, Jason L. Norton, Toby Richard Olsen, Warren Paulsen, Joshua M. Pearce, Coty J. Phelps, William Francis Piaskowski, Heath K. Pickard, Larry Joe Plett, David Shelton Prentice, Cody A. Putman, Lloyd Steven Rainey, Daniel F. Reyes.

Stanley B. Reynolds, Andrew William Rice Jr., Floyd Whitley Richardson, Norman Franklin Ridley, Michelle R. Ring, Timothy J. Roark, Donald Robert Robison, Jessy S. Rogers, Jonathan Rojas, Donald Ray Sanders, Daniel R. Sexton, Frederick M. Simeonoff, Nicholas R. Sowinski, Donald Walter Sperl, Clifford A. Spohn III, Lance Craig Springer II, Derek T. Stenroos, Joseph A. Strong, Stephen Sutherland, William Arthur Thompson.

Douglas L. Tinsley, Chester William Troxel, Colby J. Umbrell, Joe Wayne Vanderpool, John S. Vaughan, Dustin S. Wakeman, Mark A. Wall, William Francis Walters, Shannon Weaver, Mason Douglas Whetstone, Arthur Joseph Whitney Jr., Jamie Duggan Wilson, Daniel Eugene Woodcock, Shane William Woods, James R. Worster, David Reese Young Jr.

POST-DEPLOYMENT HEALTH ASSESSMENT ACT OF 2009

Mr. JOHANNS. Mr. President, I rise today to offer my support for the Post-Deployment Health Assessment Act of 2009. I am pleased to join my colleague, the senior Senator from Montana, in cosponsoring this important legislation.

The Post Deployment Health Assessment Act requires the Defense Department to increase mandatory mental health screenings for military personnel who deploy to combat. This legislation is important and necessary because of the alarming increase in combat-related psychological injuries suffered by our soldiers overseas.

A RAND study in 2008 concludes that nearly 20 percent of Iraq and Afghanistan veterans suffer from Post Traumatic Stress Disorder or depression. That is nearly 300,000 returning American servicemembers. It also finds that rates of marital stress, substance abuse, and suicide are all increasing.

According to a report released earlier this year, the Army's suicide rate hit a record high last year, putting the suicide-per-capita rate higher than the national population. In the first three months of this year, there have already been 56 reported suicides in the Army. If that rate is maintained for the rest of this year, we will have another unfortunate, record-breaking year for military suicides.

Soldiers returning from deployment are already required to receive an in-person mental health assessment when they return home. The Post Deployment Health Assessment Act requires that soldiers receive an assessment from personnel trained to conduct such screenings before they deploy. That way, the screening personnel has a reference point and can monitor the soldier's progress and any serious changes that may have occurred during the soldier's deployment. The Post Deployment Health Assessment Act also requires soldiers to receive mental health assessments every six months for two years after they return from combat. The periodic assessments allow health personnel to monitor a soldier's adjustment from the combat zone back into normal society. By providing the mental health screening program called for in the Post Deployment Health Assessment Act, we will give the Defense Department an effective system for diagnosing the unseen scars that are so prevalent amongst our combat veterans.

The program proposed by this bill is based on a pilot program developed by the Montana National Guard. When I heard about it, the program made a great deal of sense to me. That unit has improved the mental health care its servicemembers receive, and it seems natural to implement such a program to benefit all of our warriors and veterans.

Since the beginning of the wars in Iraq and Afghanistan, Congress has acted to protect the physical health of the soldiers on the front lines. Congress responded to the needs of our fighting men and women by funding more body armor and reinforced vehicles. Now, we must do more to protect the mental health of our war fighters by giving them the access to mental health screenings that can help them get ahead of debilitating depression and other disorders that result from intense combat experiences.

Finally, I point out that my colleagues need look no further for support than to the veterans whom this bill will help. It has been endorsed by groups representing our brave warriors such as the Iraq and Afghanistan Veterans of America, the Veterans of Foreign Wars, the National Guard Association, and the Enlisted Association of the National Guard.

I urge my colleagues to support the Post-Deployment Health Assessment Act of 2009, and I look forward to its swift passage so that our soldiers and veterans can get the treatment and protection they need.

TRIBUTE TO LTC JOHN H. BURSON III, MD

Mr. CHAMBLISS. Mr. President, I rise today to recognize the selfless commitment to the U.S. Army Reserve and to this Nation, of a true American patriot, LTC John H. Burson III, MD.

Lieutenant Colonel Burson is a citizen of Carrollton, GA, and earned his bachelor's, medical, doctor of philosophy and doctor of medicine degrees from the Georgia Institute of Technology and Emory University.

During his medical career, Dr. Burson pioneered a new health care facility with outpatient surgery in Villa Rica, GA, that served as the forerunner for a new Villa Rica hospital with multiclinic services.

Later, he led and personally funded college students to visit various World War II historical sites including an extended tour of Normandy and related battlefields in order to educate America's youth about American history, especially the military. I would like to yield to my friend, Senator ISAKSON for further remarks.

Mr. ISAKSON. Mr. President, I thank the Senator for yielding and also rise in recognition of Lieutenant Colonel Burson and his incredible life story. Lieutenant Colonel Burson volunteered for reserve duty in Operation Iraqi Freedom and Operation Enduring Freedom at the age of 70 in order to relieve active-duty doctors so they could carry out other duties. To this end, he searched nationwide for military units in need of a medical doctor and even delayed the celebration of his 50th wedding anniversary for his upcoming deployment with the medical unit of the Indiana National Guard.

Lieutenant Colonel Burson was assigned as medical officer for the U.S. Embassy in Iraq from November 2005 to March 2006 and served as one of the doctors overseeing treatment of former Iraqi President Saddam Hussein. During this time, he was part of the team that successfully convinced Hussein to end his hunger strike. He did this while also performing surgery and treating patients at a nearby trauma/emergency care unit. Lieutenant Colonel Burson was 71 by the time he completed this deployment.

At such a point in life, many men and women are well into their retirements. However, after his first deployment to Iraq, Lieutenant Colonel Burson instead renewed his search for a combat arms unit in need of a doctor during the 2007 troop surge in Iraq. He served an additional deployment with an Army Reserve military police battalion from Raleigh, NC, from August 2007 to November 2007 at age 73.

Today, as we stand before you on this floor, this extraordinary American will have just returned home after his third combat deployment. At 75 years of age, he has just completed another full tour, this time in Afghanistan.

MR. CHAMBLISS. Mr. President, I thank the Senator for his kind observations regarding Dr. Burson's service. Lieutenant Colonel Burson illustrates the selflessness, commitment to excellence, and courage that exemplifies American character. We applaud the altruistic manner with which he has undertaken and completed each mission. Three combat tours can wear on the best of men, but Lieutenant Colonel Burson has met these challenges head on and succeeded. As long as this great Nation has men like Colonel Burson, who hold true to the values that reveal the best in us, we will remain a world leader.

ADDITIONAL STATEMENTS

REMEMBERING DAVID D. RASLEY

• Mr. BEGICH. Mr. President, I pay tribute to a Mr. David D. Rasley, Sr., who passed away on May 8, 2009. Mr. Rasley was a 50-year resident of Alaska. Working in the construction field, he was highly regarded in the Fairbanks labor community. He also gave tirelessly to community causes before and after his retirement. Dave was very proud of his Army service.

I have included his obituary below and ask that it be printed in the RECORD. Interior Alaskans mourn the loss of Dave Rasley and join in offering condolences to his wife of nearly 58 years, Luella, sons David, Ron and Brian and his grandchildren, Michael and Carolyn.

The information follows:

David Dale Rasley Sr. died May 8, 2009, after a long battle with cancer.

He was born on December 2, 1928, in Deer River, MN. Dave lived in Fairbanks for more than 50 years and came to Alaska for good in 1959 shortly after statehood.

Dave had come first to Alaska in 1948 with some family and friends to work on post-World War II projects in Anchorage, Kodiak and Fairbanks. He returned to Minnesota and was drafted into the Army in 1950.

Dave married his wife, Luella, June 7, 1951, in Port Townsend, WA, while he was in the Army. He loved Luella very much, and they were married for almost 58 years. He was proud of his military service and was stationed at Camp Desert Rock, NV, and participated in at least three atomic bomb tests during the early 1950s. His unit helped build some of the test facilities and participated in what are now known to be dangerous post blast tests.

Shortly after moving to Alaska in 1959, he worked on the Cold War DEW line installations at Barter Island and Clear Air Force Station. In 1961 he was diagnosed with myasthenia gravis, a rare neuromuscular disease and was told he might not survive long, or would be wheelchair-bound. He underwent experimental surgery at the University of Washington and with medication was able to function normally.

He began classes at the University of Alaska Fairbanks and graduated with a bachelor of science degree in business in 1966. He worked in the construction industry for two years, then took a job with the Operating Engineers Union Local 302 as a field agent. He eventually became the head agent for the northern region of the state and was involved in the trans-Alaska oil pipeline and related work contract agreements for IUOE Local 302 until his retirement in 1989.

Dave was also proud of his 32 years of work as a board member of the Fairbanks Memorial Hospital and a past president of the board. He was involved in FMH projects such as the Denali Center, Imaging Center, Cancer Treatment Center and several general hospital expansions.

Dave and Luella were big sports fans supporting UAF hockey, men and women's basketball, volleyball, and other UAF activities. They were fixtures and season ticket holders for Gold Kings, Ice Dogs, UAF hockey teams and Fairbanks Goldpanners baseball team. Dave was a Goldpanner board member for many years and was not afraid to get involved when a volunteer was needed.

David is survived by his wife, Luella; sons, David Jr. (Beverly), Ron (Stephanie), Brian; and by his grandchildren, Michael and Carolyn. David was a true Alaskan and will be missed.•

REMEMBERING L. WILLIAM SEIDMAN

• Mr. BOND. Mr. President, today I pay tribute to the life of Bill Seidman who passed away last week.

Bill was a man whose love for his country was matched only by his love for his family. Bill's life is heavily marked with numerous accomplishments in both his personal and professional lives that had a profound impact on many individuals and families who knew him and on those who never knew him.

To many of my Senate colleagues, Bill will be most remembered as the man who rescued our economy during the Savings and Loan Crisis in the late 1980's. As the Chairman of the Federal Deposit Insurance Corporation, FDIC, and head of the Resolution Trust Corporation, RTC, he faced down a national economic crisis, the likes of which had not been seen since the Great Depression, and fundamentally changed the way the government dealt with failing banks.

In that time of fear and deep economic uncertainty, Bill stood out as the leader who stood on principle, talked straight, and told it like it was. It did not always make him popular and angered those who wanted him to ''toe the line.'' However, it earned him the trust, respect, and credibility of policymakers, government officials, financial industry officials, and millions of citizens all across America.

But there was more to Bill than his public service achievements. His accomplishments were so numerous—and his humility so great—that many of them went unnoticed. He served his country during World War II and received the Bronze Star for his service as a communications officer on a destroyer while serving in the invasion of the Philippines, Iwo Jima, and Okinawa. He spoke very little about his service during the war, like many of his great generation.

Bill earned degrees from some of the finest institutions in the Nation—his undergraduate degree from Dartmouth, a law degree from Harvard, and an MBA from the University of Michigan.

Bill was born in Grand Rapids, MI, where he maintained strong roots throughout his life. He began his career there at his family's accounting firm, Seidman and Seidman, and became a respected member of the local business community. But his greatest contribution to Grand Rapids was his role as a principal founder of Grand Valley State University in 1960. He was named the first honorary life member of Grand Valley's board, and the university's Seidman College of Business is named after his father.

In 1962, Bill ran unsuccessfully to be Michigan's State auditor general—his only attempt at elected office. He went on to become an economic adviser to Michigan Governor George Romney, and later joined President Gerald Ford's Administration as the Assistant to the President for Economic Affairs.

In the early 1980s, he returned to academia as dean of Arizona State University's College of Business.

These are just a few of the many things Americans may not know about Bill Seidman—and he accomplished all of this before becoming Chairman of the FDIC, establishing the RTC, and brilliantly guiding America out of the economic wilderness—the role which brought him fame.

But with all he had accomplished, Bill never stopped to rest. He went on to author two books, ''Productivity—The American Advantage,'' with Steven Shancke, and ''Full Faith and Credit,'' a memoir of his time at the FDIC and his role in establishing and running the RTC. President Gerald Ford hailed ''Full Faith and Credit'' as ''a fascinating story by a straight talker. The author dramatically tells how the Federal agencies sought to confront the challenge of the banking and S&L crisis.''

In recent years, already well into his eighties, Bill stayed as active as ever, working as CNBC's chief commentator, regularly contributing opinion pieces to major newspapers, serving on numerous boards, and advising top officials—and me—on the current economic crisis.

In his most recent piece, published by the Wall Street Journal on May 8, he addressed the staffing and management challenges now confronting the FDIC. In it, he drew parallels between the hurdles that current Chairman Sheila Bair faces and the obstacles he faced in getting the FDIC and the new RTC properly ''staffed up'' to deal with the S&L crisis nearly two decades ago.

Bill wrote ''The Resolution Trust Corporation had to handle the assets from failed institutions when I ran it in the aftermath of the savings and loan crisis of 1985–1992. The RTC experience provides a useful guide for what the FDIC has to do now.'' Amen.

With the country again facing the same fear and uncertainty that Bill saw during his tenure at the FDIC, he provided what few others could: a brilliant and straightforward voice with years of experience, wisdom, and unquestionable integrity. The loss of his voice simply cannot be replaced.

But perhaps what was most remarkable about Bill is that for all of his brilliance, myriad accomplishments and worldwide recognition, there was a deep humility and kindness about Bill that was evident the moment you met him. Although he had the ears of presidents and the respect of the elite, he famously rode his bike to work. When asked about his accomplishments at the FDIC in a 1991 interview, he dismissed them as ''primarily luck.'' But everyone knew better.

The passing of Bill Seidman is a loss for all of America. He dedicated his life

to his country and his family, and we are eternally grateful. I will especially miss Bill as he and I met in my office just 2 months ago to talk about the RTC and how we could apply those lessons to our current financial and economic crisis. I appreciated his wisdom, guidance, generosity, and the kindness and respect he paid to me.

It is my deepest hope that we can all learn from Bill, in not just his expertise on addressing the current financial crisis, but also in the way he treated others with kindness, humility, honesty, and passion.

Our hearts and prayers go out to his wife Sally, his six children, his many grandchildren and great grandchildren, and to all of his family. I will truly miss him.

It has been my honor today to offer this commemoration on the incredible life of Bill Seidman, and to salute this great American.●

REMEMBERING BRIAN O'NEILL

● Mrs. BOXER.: Mr. President, it is with a very heavy heart that I ask my colleagues to join me today in honoring the memory of an extraordinary National Park Service, NPS, leader, Brian O'Neill. Brian was a legendary conservationist and community builder whose legacy will serve as a source of inspiration for decades to come. Brian passed away on May 13, 2009. He was 67 years old.

Brian was born in Washington, DC, in 1942, where he lived for the first 27 years of his life. During his early years, Brian's family often took camping and road trips to many of our National Parks. It was on these trips that Brian first began to bond with the Great West that would eventually become his home. The deep love and respect for nature that Brian fostered in his youth continued to motivate his professional life and nurture his personal life for the remainder of his years.

Brian never kept his love of the out-of-doors to himself. From the beginning, he recognized the importance of sharing his enthusiasm for all things wild with his family, friends, and especially with young people. As a freshman at the University of Maryland, Brian and his twin brother Alan worked with their mother Mimi to establish a nonprofit organization that provided urban children with opportunities to visit national parks.

Brian began his career in Government service in 1965, when he was hired by what was then the Bureau of Outdoor Recreation, BOR. As Deputy Director of BOR's Office of Urban Park Studies, Brian was a crucial part of the team that persuaded President Nixon to support legislation establishing two major urban parks: Golden Gate in San Francisco and Gateway in New York City. Brian was also instrumental in the inclusion of 2,000 miles of rivers on California's north coast in the national scenic rivers system during the final days of President Carter's administration.

For the past 25 years, Brian O'Neill served as the superintendent of the Golden Gate National Recreation Area, GGNRA. Comprised of over 76,000 acres in Marin, San Mateo, and San Francisco counties, GGNRA is one of the largest urban parks in the country. GGNRA hosts over 16 million visitors annually and is home to 1, 250 historic buildings, or 7 percent of all designated historic structures in the country. With ever-growing expertise, Brian led GGNRA's 347 NPS employees and 8,000 volunteers.

Brian had a special skill for connecting people with parks. He understood that in order to garner lasting support for parks, community members must be personally invested and involved every step of the way. Brian's can-do attitude enabled him to create fruitful partnerships with business leaders, philanthropists, and community leaders. He consistently proved skeptics wrong, as he raised more and more money to create additional parklands. NPS recognized Brian's natural aptitude for building partnerships—when NPS created a new assistant director position focused on creating relationships with outside entities, Brian was asked to serve in this role for the first year of its existence.

I had the great pleasure of knowing Brian for many years, and will always remember his bright smile and cheerful optimism. Brian's warmth drew people to him—he was always surrounded by a rich circle of friends and colleagues of all ages. Though he will be deeply missed, Brian has left us with the priceless and timeless gifts of the parks he helped to build. Thanks in great part to Brian, GGNRA provides its visitors with endless opportunities for exploration, education, and getting in touch with life's deepest purpose and most rewarding opportunities.

Brian has no doubt left an indelible mark on our hearts, minds, and the bay area's natural treasures. He was an inspiring and wonderful man. For those of us who were fortunate to know him, we take comfort in knowing that hundreds of thousands of park visitors will continue to benefit from Brian's vision and determination for generations to come.

Brian is survived by his mother Mimi, twin brother Alan, wife Marti, daughter Kim, son Brent, daughter-in law Anne, and three grandchildren—Justin, Kieran and Sean.●

JESUSITA WILDFIRE FIREFIGHTERS

● Mrs. BOXER. Mr. President, today I ask my colleagues to join me in honoring the brave men and women firefighters who worked tirelessly to protect the residents of Santa Barbara County from the recent Jesusita wildfire.

The Jesusita wildfire has burned nearly 10,000 acres, destroyed and damaged dozens of homes, and at one point forced the evacuation of more than 30,000 local residents.

Firefighters are often called upon to protect our communities while putting themselves in grave danger. This is certainly the case when reflecting on the efforts of Firefighter Robert Lopez, Captain Ron Topolinski, and Captain Brian Bulger from the Ventura County Fire Department. Firefighter Lopez and Captain Topolinski were assigned to structure protection when their position was overrun by a fast-moving wall of fire. Firefighter Lopez and Captain Topolinski utilized their combined 40-years of firefighting experience to survive the initial fire blast and call for help. Captain Brian Bulger responded to the emergency call and risked his own life to ensure the safety of his fellow firefighters. Although all three firefighters suffered injuries due to fire and toxic smoke exposure, all three survived and are now on their way toward recovery. An additional 27 firefighters were injured during this event.

I want to give special thanks to the more than 4,000 Federal, State, local, fire protection district, and volunteer firefighters who have put their lives on the line to fight this fire. Their courage and swift action during this recent wildfire has been truly heroic. They have risked their health and well-being for the benefit of our communities, and we are grateful.

I invite all of my colleagues to join me in commending all men and women firefighters who risk their lives to protect our own.●

TRIBUTE TO JANE HAGEDORN

● Mrs. BOXER. Mr. President, I am pleased to recognize the career and contributions of Breathe California of Sacramento-Emigrant Trails, Inc., chief executive officer, Jane Hagedorn, for her 36 years of service to promoting clean air and preventing lung and air pollution-related diseases.

Jane Hagedorn began her affiliation with The American Lung Association of Sacramento-Emigrant Trails—later becoming Breathe California of Sacramento-Emigrant Trails—as a volunteer in 1973. During her 3 years as a volunteer, she served as president of the board and then became executive director in 1976.

Under Jane Hagedorn's leadership, Breathe California of Sacramento-Emigrant Trails, Inc. lead the fight to substantially reduce smoking and developed ''Thumbs Up! Thumbs Down!'' a nationally recognized tobacco research program developed to reduce the negative influence of tobacco use in film. Ms. Hagedorn also led Breathe California's collaboration with the Sacramento Metropolitan Chamber of Commerce to create the Cleaner Air Partnership, which brings elected officials, business leaders and nonprofit organizations together to collaborate on clean air initiatives for the Capital Region. She was also a leader in bringing light rail transit service to Sacramento to provide an environmentally friendly

public transportation alternative to the region.

Ms. Hagedorn's dedication to her community and California has also been demonstrated by her participation on the boards of many government and nonprofit organizations in the region such as, the Tahoe Regional Planning Agency, the Arden Park and Recreation District, Friends of Light Rail, and the Planning and Conservation League.

As her family, friends and the community gather to celebrate her retirement, I congratulate and thank Jane Hagedorn for her work to maintain clean air for our future generations.●

REMEMBERING HARRY KALAS AND CONSTANTINE PAPADAKIS

● Mr. CASEY. Mr. President, the city of Philadelphia lost two of its favorite sons recently. We are all saddened by the passing of longtime Philadelphia Phillies broadcaster Harry Kalas and the loss of Drexel University president Constantine Papadakis. It has been a sad time in Philadelphia with the loss of these two great pillars of the community, and I wish today to honor their memory.

Harry Kalas was the voice of the Philadelphia Phillies for four decades. His signature calls of ''Outta Here'' following a Phillies' home run and ''Struck hiimm out'' following a strikeout became fixtures on Phillies' broadcasts. Born in Chicago, Harry grew up the son of a minster in Naperville, IL. He began his broadcasting career in Hawaii and eventually moved to Houston, where he broadcasted Astros games from 1965 to 1970. The Phillies were the Astros' opponent in his first game as a Major League broadcaster.

Harry signed up as the Phillies play-by-play announcer in 1971. He quickly became a popular figure in Philadelphia. Together with Richie Ashburn, the Phillies' Hall of Fame outfielder, whom Harry worked with from 1971 until Asburn's passing in 1997, the pair formed a memorable team built upon what the Philadelphia Inquirer recently described as ''a special rapport in the broadcast booth that won over the fans' hearts.''

Fans, players, and sports writers have recounted over the past week just how deeply Harry was loved. One of the most poignant examples of just how beloved Harry was came after the 1980 World Series between the Phillies and the Kansas City Royals. Not a lot of people know that Harry was not permitted to call the Phillies' World Series victory over the Royals due to a Major League Baseball rule in place at the time that prevented local broadcasts of World Series games. The outcry from fans of baseball everywhere, particularly in Philadelphia, was so vociferous that Major League Baseball changed its rules. As a result, fans were treated to Harry's call of the Phillies' appearances in the 1983 and 1993 World Series games and the Phillies' victory in the 2008 World Series. Harry's now famous call of the final out of the 2008 series will forever ring in the minds of fans and players alike.

The Phillies have taken appropriate steps to honor Harry's memory for the rest of the season. Most notably, Harry's signature ''Outta Here'' will be played over the PA system each time a Phillies' player hits a home run. Thousands of fans paid their respects to Harry during a moving ceremony at Citizens Bank Park last Saturday. The tributes across Major League Baseball are fitting for a man of Harry's stature.

Harry was not only a great broadcaster, he was a great man. I personally will always remember Harry's faithful attendance and participation in the annual Veterans Day parade and ceremony in Media, PA. He loved the city of Philadelphia, and it loved him back.

No matter the score, Harry's passion for the game and unique voice kept the fans captivated for all nine innings. He made the tough seasons easier and the good years even better. To say he will be missed is an understatement. His is the voice that Phillies fans will forever associate with baseball. My deepest condolences go out to Harry's family and the Philadelphia Phillies.

I also wish to honor the life of Constantine Papadakis—known as ''Taki''—the longtime president of Drexel University in Philadelphia, PA, who passed away recently after a long and brave battle with lung cancer.

Taki was a creative and dynamic leader at Drexel University for 14 years. He was described by one of his colleagues as identifying himself completely with the university—''there was no Taki that wasn't connected to Drexel.'' His devotion to Drexel meant that for him, it was not enough to simply preside over the institution. Instead, he threw himself into building, expanding, and extending Drexel's reach, both its academic prowess and its role in the community of Philadelphia. Enrollment grew by more than 130 percent. Freshman applications increased by nearly 700 percent. Research funding went from $15 million to more than $100 million in each of the last three years. The size of the faculty doubled and the university is now the seventh largest private employer in the city of Philadelphia. During Taki's tenure, Drexel added both a law school and a medical school. Most recently, he spearheaded the effort to acquire a campus in Sacramento, CA.

Through the sheer force of his personality and his vision, Taki also brought renewed hope and optimism to Philadelphia's leaders and citizens. He established a leading role for Drexel in regional economic development, reaching out to business, academic, and community leaders to show what could be done by investing in growth. He knew that a university is not an isolated institution but a member of a larger community with the potential to transform a city and a region. He constantly pushed forward, never content, as one colleague said, to rest on the laurels of Drexel's gains, ''however meteoric.'' Government officials, business and community leaders, and ordinary citizens should be inspired by Taki's relentless drive toward improving our communities by strengthening our civic institutions and engaging in public life.

Taki's last year was emblematic of how he lived the rest of his life. His energy and charisma never waned, as he conducted business from his hospital bed, his office, and in board meetings. He had so much to work to finish, which is remarkable for an individual who had already achieved so much. He has been described as ''larger than life and taken from us too young,'' which is undoubtedly true. I extend my deepest condolences to his wife of 39 years, Eliana, and his daughter Maria and hope they will take some comfort in the fact that Taki not only built a well-respected academic institution but also made a city believe in what could be accomplished through hard work, devotion, and passion.●

TRIBUTE TO CHUCK MACK

● Mrs. FEINSTEIN. Mr. President, today I commend Chuck Mack for his contributions to the labor movement in California and his remarkable 47 years as a Teamster.

Chuck began his career as a Teamster in 1962 and has spent every year since working on behalf of his fellow union members, organizing and ensuring fair treatment and benefits for all.

First elected to a representative position in 1966, he worked as a business agent until 1971 when he briefly moved to Sacramento to lobby the legislature as part of the Teamsters Public Affairs Council.

Returning to the East Bay in 1971, Chuck successfully ran for the position of secretary-treasurer of Local 70, a position he has maintained ever since, which represents 5,000 members in Alameda County.

He was elected to the joint council in 1972, and became president of the council, which represents 55,000 members in San Francisco, in 1982. In 1996, Chuck was elected western region vice president. And, in 2003, he was appointed director of the Teamsters Port Division.

Chuck's responsibilities and leadership roles have steadily increased over the last four decades.

I know him to be a passionate, thoughtful, and committed advocate for all workers.

Whether through his efforts to protect the environment in port communities or preserve wages and benefits for truck drivers, Chuck Mack has always put the needs of his fellow Teamsters first.

Chuck will be stepping down from his Teamsters positions at Local 70, Joint Council 7, and the International Union at the end of this month.

Chuck is now moving on to another significant challenge as he becomes co-chair of the Western Conference of Teamsters Pension Trust.

I wish him the very best in this new endeavor and offer my heartfelt and sincere congratulations for a job well done representing Teamsters in the bay area and across northern California for the last four decades.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

REPORT RELATIVE TO A PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED ARAB EMIRATES CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—PM 21

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

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)) (the ''Act''), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of the United Arab Emirates Concerning Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written approval, authorization, and determination concerning the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. (In accordance with section 123 of the Act, as amended by Title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the Act and other applicable law. In my judgment, it meets all applicable statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States.

The Agreement provides a comprehensive framework for peaceful nuclear cooperation with the United Arab Emirates (UAE) based on a mutual commitment to nuclear nonproliferation. The United States and the UAE are entering into it in the context of a stated intention by the UAE to rely on existing international markets for nuclear fuel services as an alternative to the pursuit of enrichment and reprocessing. Article 7 will transform this UAE policy into a legally binding obligation from the UAE to the United States upon entry into force of the Agreement. Article 13 provides, inter alia, that if the UAE at any time following entry into force of the Agreement materially violates Article 7, the United States will have a right to cease further cooperation under the Agreement, require the return of items subject to the Agreement, and terminate the Agreement by giving 90 days written notice. In view of these and other nonproliferation features, the Agreement has the potential to serve as a model for other countries in the region that wish to pursue responsible nuclear energy development.

The Agreement has a term of 30 years and permits the transfer of technology, material, equipment (including reactors), and components for nuclear research and nuclear power production. It does not permit transfers of Restricted Data, sensitive nuclear technology, sensitive nuclear facilities, or major critical components of such facilities. In the event of termination of the Agreement, key nonproliferation conditions and controls continue with respect to material, equipment, and components subject to the Agreement.

In addition to the UAE's obligation to forgo enrichment and reprocessing—the first instance of such an obligation on the part of a U.S. cooperating partner in an agreement of this type—the Agreement contains certain additional nonproliferation features not typically found in such agreements. These are modeled on similar provisions in the 1981 United States-Egypt Agreement for Peaceful Nuclear Cooperation and include (a) a right of the United States to require the removal of special fissionable material subject to the Agreement from the UAE either to the United States or to a third country if exceptional circumstances of concern from a nonproliferation standpoint so require, and (b) confirmation by the United States that the fields of cooperation, terms, and conditions accorded by the United States to the UAE shall be no less favorable in scope and effect than those that the United States may accord to any other non-nuclear-weapon State in the Middle East in a peaceful nuclear cooperation agreement. The Agreement also provides, for the first time in a U.S. agreement for peaceful nuclear cooperation, that prior to U.S. licensing of exports of nuclear material, equipment, components, or technology pursuant to the Agreement, the UAE shall bring into force the Additional Protocol to its safeguards agreement.

The UAE is a non-nuclear-weapon State party to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The United States is a nuclear-weapon State party to the NPT. Article 12 of the proposed Agreement provides that the Agreement shall not be interpreted as affecting the inalienable rights of the United States and the UAE under the NPT. A more detailed discussion of the UAE's intended civil nuclear program and its nonproliferation policies and practices is provided in the NPAS and in a classified Annex to the NPAS to be submitted to the Congress separately.

The Agreed Minute to the Agreement provides U.S. prior approval for retransfers by the UAE of irradiated nuclear material subject to the Agreement to France and the United Kingdom, if consistent with their respective policies, laws, and regulations, for storage or reprocessing subject to specified conditions, including that prior agreement between the United States and the UAE is required for the transfer of any special fissionable material recovered from any such reprocessing to the UAE. The transferred material would also have to be held within the European Atomic Energy Community subject to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM).

In view of the fact that this consent would constitute a subsequent arrangement under the Act if agreed separately from the proposed Agreement, the Secretary of State and the Secretary of Energy have ensured that the advance approval provisions meet the applicable requirements of section 131 of the Act. Specifically, they have concluded that the U.S. advance approval for retransfer of nuclear material for reprocessing or storage contained in the Agreed Minute to the proposed Agreement is not inimical to the common defense and security. An analysis of the advance approval given in the Agreed Minute is contained in the NPAS.

This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations Committee and the House Foreign Affairs Committee as provided in section 123 b. Upon completion of the period of 30 days of continuous session provided for in section

123 b., the period of 60 days of continuous session provided for in section 123 d. shall commence.

BARACK OBAMA.
THE WHITE HOUSE, *May 21, 2009*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 131. An act to establish the Ronald Reagan Centennial Commission.

H.R. 627. An act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Under the authority of the order of today, May 21, 2009, the enrolled bills were subsequently signed by the Majority Leader (Mr. REID).

At 1:21 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2352. An act to amend the Small Business Act, and for other purposes.

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

H. Con. Res. 133. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

At 2:21 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

ENROLLED BILL SIGNED

At 5:19 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 454. An act to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

Under the authority of the order of today, May 21, 2009, the enrolled bill was subsequently signed by the Majority Leader (Mr. REID).

MEASURES REFERRED

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

H.R. 2352. An act to amend the Small Business Act, and for other purposes; to the Committee on Small Business and Entrepreneurship.

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

H. Con. Res. 103. Concurrent resolution supporting the goals and ideals of Malaria Awareness Day; to the Committee on Foreign Relations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 21, 2009, she had presented to the President of the United States the following enrolled bill:

S. 454. An act to improve the organization of procedures of the Department of Defense for the acquisition of major weapon systems, 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–1707. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Mushroom Promotion, Research, and Consumer Information Order; Correction to Referendum Procedures'' ((Docket No. AMS-FV-09-0019)(FV-09-703)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1708. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Honey Research, Promotion, and Consumer Information Order; Termination'' ((Docket No. AMS-FV-09-0006)(FV-09-701)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1709. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Onions Grown in South Texas; Change in Regulatory Period'' ((Docket No. AMS-FV-09-0012)(FV-09-959-1 IFR)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1710. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Walnuts Grown in California; Order Amending Marketing Order No. 984; Correction'' ((Docket No. AMS-FV-07-0004)(FV-06-984-1 C)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1711. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2009-2010 Marketing Year'' ((Docket No. AMS-FV-08-0104)(FV-09-985-1 FR)) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1712. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report on the Department's activities during Calendar Year 2008 relative to the Equal Credit Opportunity Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–1713. A communication from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting, pursuant to law, (3) reports relative to vacancy announcements within the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC–1714. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revisions to License Requirements and License Exception Eligibility for Certain Thermal Imaging Cameras and Foreign Made Military Commodities Incorporating Such Cameras'' (RIN0694-AD71) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1715. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Darfur Sanctions Regulations'' (31 CFR Parts 546) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1716. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Democratic Republic of the Congo Sanctions Regulations'' (31 CFR Parts 547) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1717. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Biennial Report On the 2008 Regulatory Status of National Transportation Safety Board Open Safety Recommendations Concerning 15-Passenger Van Safety, Railroad Grade Crossing Safety, and Medical Certifications for a Commercial Driver's License; to the Committee on Commerce, Science, and Transportation.

EC–1718. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Replacement Digital Television Translator Service'' (MB Docket No. 08-253) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1719. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Health Saving Accounts Inflation Adjustments for 2010'' (Rev. Proc. 2009-29) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC–1720. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Self-determination of Deficiency Dividend under 860(e)(4)'' (Rev. Proc. 2009-28) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC–1721. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the

report of a rule entitled ''Formless Conversion of Partnership to S Corporation'' (Rev. Rul. 2009-15) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC–1722. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Industry Director's Directive #2 on Enhanced Oil Recovery Credit'' (LMSB-4-0409-014) received in the Office of the President of the Senate on May 18, 2009; to the Committee on Finance.

EC–1723. A communication from the Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Acquisition Regulation: Security Clause'' (RIN1991-AB71) received on May 19, 2009; to the Committee on Energy and Natural Resources.

EC–1724. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to a proposed sale or export of defense articles and/or defense services to a Middle East country; to the Committee on Foreign Relations.

EC–1725. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to providing information on U.S. military personnel and U.S. civilian contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–1726. A communication from the Chairman, Committee on Public Safety and the Judiciary, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Bill 18-10, ''Disclosure to the United States District Court Amendment Act of 2009'' received in the Office of the President of the Senate on May 20, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–1727. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems: Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas'' (RIN3206-AL77) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–1728. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Office of Justice Programs (OJP) Annual Report to Congress for Fiscal Year 2008; to the Committee on the Judiciary.

EC–1729. A communication from the Chief, Office of Congressional Relations, Citizenship and Immigration Services, Department of Homeland Security, transmitting, the U.S. Citizenship and Immigration Services Annual Report for Fiscal Year 2008; to the Committee on the Judiciary.

EC–1730. A communication from the Federal Register Liaison Officer, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Reimbursement for Interment Costs'' (RIN2900-AM98) received in the Office of the President of the Senate on May 19, 2009; to the Committee on Veterans' Affairs.

EC–1731. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, a report relative to the Department of the Navy converting to contract the information assurance functions currently being performed by eight (8) military personnel of the Fleet Area Control and Surveillance Facility, located in Virginia Beach, Virginia; to the Committee on Armed Services.

EC–1732. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Acibenzolar-S-methyl; Pesticide Tolerances'' (FRL-8413-7) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1733. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cry1A.105 protein; Time Limited Exemption from the Requirement of a Tolerance'' (FRL-8417-3) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1734. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Longan From Taiwan'' (Docket No. APHIS-2007-0161) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1735. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; California; Determination of Attainment of the 1-Hour Ozone Standard for the Ventura County Area'' (FRL-8909-6) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Environment and Public Works.

EC–1736. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonably Available Control Technology Requirements for Volatile Organic Compounds: Correction'' (FRL-8909-5) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Environment and Public Works.

EC–1737. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Imported Directly Requirement Under the United States-Bahrain Free Trade Agreement'' (RIN1505-AC13) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Finance.

EC–1738. A communication from the Program Manager, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''State Parent Locator Service; Safeguarding Child Support Information: Delay of Effective Date'' (RIN0970-AC01) received in the Office of the President of the Senate on May 20, 2009; to the Committee on Finance.

EC–1739. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the establishment of a Danger Pay Allowance for FBI personnel serving in Mexico; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–25. A petition from a citizen of California relative to amending the Constitution; to the Committee on the Judiciary.

POM–26. A joint memorial adopted by the Legislature of the State of Washington relative to passing H.R. 5698, the Restoring Partnership for County Health Care Costs Act of 2008; to the Committee on Finance.

HOUSE JOINT MEMORIAL NO. 4000

Whereas, our system of system of justice presumes that a person accused of committing a crime is innocent until proven guilty; and

Whereas, under current federal law, persons awaiting trial or other disposition of their cases in county jails or juvenile detention facilities are ineligible to receive medicare, medicaid, supplementary security income, or state children's health insurance program benefits, even though their culpability in a criminal case has not been proven; and

Whereas, counties must bear the financial burden of providing medical care to persons who are held in county jails; and

Whereas, Many persons in custody who are affected by mental illness suffer further and are at higher risk of reoffending after they are released because of a delay in the reinstatement of their federal benefits; Now, therefore, Your Memorialists respectfully pray that the United States Congress pass HR 5698, the Restoring Partnership for County Health Care Costs Act of 2008.

Be it Resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DODD for the Committee on Banking, Housing, and Urban Affairs.

Francisco J. Sanchez, of Florida, to be Under Secretary of Commerce for International Trade.

*Sandra Brooks Henriquez, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

*Peter M. Rogoff, of Virginia, to be Federal Transit Administrator.

*Michael S. Barr, of Michigan, to be an Assistant Secretary of the Treasury.

*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. HUTCHISON:

S. 1115. A bill to amend title 23, United States Code, to prohibit the imposition of new tolls on the Federal-aid system, and for

other purposes; to the Committee on Environment and Public Works.

By Mr. VITTER:

S. 1116. A bill to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY (for himself, Mr. SANDERS, Mrs. SHAHEEN, and Mr. GREGG):

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself, Mr. KOHL, and Mr. BROWN):

S. 1118. A bill to amend title 38, United States Code, to provide for an increase in the amount of monthly dependency and indemnity compensation payable to surviving spouses by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN:

S. 1119. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer notification of suspected identity theft; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1120. A bill to amend the Internal Revenue Code of 1986 to conform the definitions of qualifying expenses for purposes of education tax benefits; to the Committee on Finance.

By Mr. HARKIN:

S. 1121. A bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BARRASSO (for himself, Mr. JOHNSON, Mr. UDALL of Colorado, Mr. BENNET, Mr. RISCH, and Mr. BENNETT):

S. 1122. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself, Mrs. LINCOLN, and Mr. BOND):

S. 1123. A bill to provide for a five-year payment increase under the Medicare program for home health services furnished in a rural area; to the Committee on Finance.

By Mrs. MURRAY:

S. 1124. A bill to amend title 46, United States Code, to modify the vessels eligible for a fishery endorsement, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN:

S. 1125. A bill to amend the National Voter Registration Act of 1993 to provide for the treatment of institutions of higher education as voter registration agencies; to the Committee on Rules and Administration.

By Mr. REID:

S. 1126. A bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America and for other purposes; to the Select Committee on Intelligence.

By Mr. MARTINEZ:

S. 1127. A bill to require that, in the questionnaires used in the taking of any decennial census of population or American Community Survey, standard functional ability questions be included to provide a reliable indicator of need for long-term care; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 1128. A bill to authorize the award of a military service medal to members of the Armed Forces who were exposed to ionizing radiation as a result of participation in the testing of nuclear weapons or under other circumstances; to the Committee on Armed Services.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1129. A bill to authorize the Secretary of Education to award grants to local educational agencies to improve college enrollment; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. CONRAD, Mr. WYDEN, and Ms. COLLINS):

S. 1130. A bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by non-publicly owned or operated institutions for mental diseases; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. BURR, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 1131. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals; to the Committee on Finance.

By Mr. LEAHY:

S. 1132. A bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

By Mr. WYDEN (for himself and Mr. GREGG):

S. 1133. A bill to amend title XVIII of the Social Security Act to provide for the establishment of shared decision making standards and requirements and to establish a pilot program for the implementation of shared decision making under the Medicare program; to the Committee on Finance.

By Mr. CASEY:

S. 1134. A bill to ensure the energy independence and economic viability of the United States by promoting the responsible use of coal through accelerated carbon capture and storage and through advanced clean coal technology research, development, demonstration, and deployment programs, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. BROWNBACK, Mr. DURBIN, Mr. VOINOVICH, Mr. LEVIN, Mr. BROWN, Ms. MIKULSKI, and Mr. LIEBERMAN):

S. 1135. A bill to establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1136. A bill to establish a chronic care improvement demonstration program for Medicaid beneficiaries with severe mental illnesses; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Ms. SNOWE, Mrs. LINCOLN, Mr. SANDERS, and Mr. DODD):

S. 1137. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1138. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources .

By Mr. WYDEN:

S. 1139. A bill to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1140. A bill to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mr. BOND):

S. 1141. A bill to extend certain trade preferences to certain least-developed countries, and for other purposes; to the Committee on Finance.

By Mr. REED (for himself and Ms. MIKULSKI):

S. 1142. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to inclusion of effectiveness information in drug and device labeling and advertising; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN:

S. 1143. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself, Mr. TESTER, and Mr. CRAPO):

S. 1144. A bill to improve transit services, including in rural States; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Mr. BROWNBACK):

S. 1145. A bill to amend section 114 of title 17, United States Code, to provide for agreements for the reproduction and performance of sound recordings by webcasters; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 1146. A bill to direct the Attorney General to provide grants and access to information and resources for the implementation of the Sex Offender Registration Tips and Crime Victims Center Programs; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 1147. A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mrs. MCCASKILL, Mr. BOND, and Mr. THUNE):

S. 1148. A bill to amend the Clean Air Act to modify a provision relating to the renewable fuel program; to the Committee on Environment and Public Works.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1149. A bill to eliminate annual and lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. KOHL, Mr. WYDEN, and Mr. CARPER)):

S. 1150. A bill to improve end-of-life care; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Ms. SNOWE)):

S. 1151. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. INOUYE, Mr. LEVIN, Mr. KERRY, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. DURBIN, Mr. JOHNSON, Mr. SCHUMER, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. BURRIS, and Mrs. GILLIBRAND)):

S. 1152. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Ms. CANTWELL, Mr. MENENDEZ, Mr. DODD, Mr. KERRY, and Mr. AKAKA):

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; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself and Mr. ENZI):

S. 1154. A bill to amend the Public Health Service Act to facilitate emergency medical services personnel training and certification curriculums for military veterans; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. INOUYE):

S. 1155. A bill to amend title 38, United States Code, to establish the position of Director of Physician Assistant Services within the office of the Under Secretary of Veterans Affairs for health; to the Committee on Veterans' Affairs.

By Mr. HARKIN (for himself, Mr. BURR, Mr. SANDERS, Mr. MERKLEY, and Ms. COLLINS):

S. 1156. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program; to the Committee on Environment and Public Works.

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, and Mr. BARRASSO):

S. 1157. A bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. ISAKSON, and Mr. WHITEHOUSE):

S. 1158. A bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:

S. 1159. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN (for himself and Mr. INHOFE):

S. Res. 155. A resolution expressing the sense of the Senate that the Government of the People's Republic of China should immediately cease engaging in acts of cultural, linguistic, and religious suppression directed against the Uyghur people; to the Committee on Foreign Relations.

By Mr. BROWN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DODD, Mr. SCHUMER, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. HARKIN, Mrs. BOXER, Mr. REED, Mr. LEVIN, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Ms. STABENOW, Mr. CASEY, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of New Mexico, Mr. INOUYE, Mr. SANDERS, Mr. KAUFMAN, Mr. BURRIS, Mr. LAUTENBERG, Mrs. MCCASKILL, Mrs. SHAHEEN, Mr. CARDIN, and Mr. AKAKA):

S. Res. 156. A resolution expressing the sense of the Senate that reform of our Nation's health care system should include the establishment of a federally-backed insurance pool; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mrs. LINCOLN, Mr. DURBIN, Mr. KOHL, Mr. BROWN, Ms. SNOWE, Mr. CASEY, Mr. KERRY, and Mr. MENENDEZ):

S. Res. 157. A resolution recognizing Bread for the World, on the 35th anniversary of its founding, for its faithful advocacy on behalf of poor and hungry people in our country and around the world; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. Res. 158. A resolution to commend the American Sail Training Association for advancing international goodwill and character building under sail; to the Committee on the Judiciary.

By Mr. BURRIS:

S. Res. 159. A resolution recognizing the historical significance of Juneteenth Independence Day and expressing the sense of the Senate that history should be regarded as a means for understanding the past and solving the challenges of the future; to the Committee on the Judiciary.

By Mr. GREGG (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Ms. COLLINS, Mr. LUGAR, Mr. BROWNBACK, Mr. BENNETT, Mr. BOND, and Mr. KERRY):

S. Res. 160. A resolution condemning the actions of the Burmese State Peace and Development council against Daw Aung San Suu Kyi and calling for the immediate and unconditional release of Daw Aung San Suu Kyi; considered and agreed to.

By Mr. JOHNSON:

S. Res. 161. A resolution recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiecstasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. CARDIN, Mr. UDALL of Colorado, and Mr. BURRIS):

S. Res. 162. A resolution recommending the Langston Golf Course, located in northeast Washington, DC and owned by the National Park Service, be recognized for its important legacy and contributions to African-American golf history, and for other purposes; considered and agreed to.

By Mr. CASEY (for himself and Mr. CHAMBLISS):

S. Res. 163. A resolution expressing the sense of the Senate with respect to childhood stroke and designating an appropriate date as ''National Childhood Stroke Awareness Day''; considered and agreed to.

By Mrs. LINCOLN (for herself, Mr. SCHUMER, and Mr. CHAMBLISS):

S. Con. Res. 24. A concurrent resolution to direct the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 167

At the request of Mr. KOHL, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 167, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 255

At the request of Mr. WHITEHOUSE, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 255, a bill to amend the Truth in Lending Act to empower the States to set the maximum annual percentage rates applicable to consumer credit transactions, and for other purposes.

S. 423

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 428

At the request of Mr. DORGAN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 428, a bill to allow travel between the United States and Cuba.

S. 451

At the request of Ms. COLLINS, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 527

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 527, a bill to amend the Clean Air act to prohibit the issuance of permits under title V of that Act for certain emissions from agricultural production.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Kansas (Mr. BROWNBACK) 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. 634

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 653

At the request of Mr. CARDIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 660

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 660, a bill to amend the Public Health Service Act with respect to pain care.

S. 765

At the request of Mr. NELSON of Nebraska, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to not impose a penalty for failure to disclose reportable transactions when there is reasonable cause for such failure, to modify such penalty, and for other purposes.

S. 769

At the request of Mrs. LINCOLN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 769, a bill to amend title XVIII of the Social Security Act to improve access to, and increase utilization of, bone mass measurement benefits under the Medicare part B program.

S. 772

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 772, a bill to enhance benefits for survivors of certain former members of the Armed Forces with a history of post-traumatic stress disorder or traumatic brain injury, to enhance availability and access to mental health counseling for members of the Armed Forces and veterans, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 843

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 843, a bill to establish background check procedures for gun shows.

S. 846

At the request of Mr. DURBIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Florida (Mr. NELSON) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 850

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 908

At the request of Mr. BAYH, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 935

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 935, a bill to extend subsections (c) and (d) of section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) to provide for regulatory stability during the development of facility and patient criteria for long-term care hospitals under the Medicare program, and for other purposes.

S. 943

At the request of Mr. THUNE, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 943, a bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes.

S. 950

At the request of Mrs. LINCOLN, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 950, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 956

At the request of Mr. TESTER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Tennessee (Mr. CORKER) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 956, a bill to amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS).

S. 962

At the request of Mr. KERRY, the names of the Senator from Delaware (Mr. CARPER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 962, a bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 979

At the request of Mr. DURBIN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 990

At the request of Ms. STABENOW, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 990, a bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families.

S. 994

At the request of Ms. KLOBUCHAR, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 994, a bill to amend the Public Health Service Act to increase awareness of the risks of breast cancer in young women and provide support for young women diagnosed with breast cancer.

S. 1003

At the request of Mr. REED, the name of the Senator from Vermont (Mr.

SANDERS) was added as a cosponsor of S. 1003, a bill to increase immunization rates.

S. 1019

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1038

At the request of Mrs. FEINSTEIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1038, a bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes.

S. 1050

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1050, a bill to amend title XXVII of the Public Health Service Act to establish Federal standards for health insurance forms, quality, fair marketing, and honesty in out-of-network coverage in the group and individual health insurance markets, to improve transparency and accountability in those markets, and to establish a Federal Office of Health Insurance Oversight to monitor performance in those markets, and for other purposes.

S. 1057

At the request of Mr. TESTER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1057, a bill to amend the Public Health Service Act to provide for the participation of physical therapists in the National Health Service Corps Loan Repayment Program, and for other purposes.

S. 1102

At the request of Mr. LIEBERMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from Ohio (Mr. BROWN), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Mr. CARDIN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from New York (Mrs. GILLIBRAND), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Oregon (Mr. MERKLEY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. SANDERS), the Senator from New York (Mr. SCHUMER), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1102, a bill to provide benefits to domestic partners of Federal employees.

S. 1108

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1108, a bill to require application of budget neutrality on a national basis in the calculation of the Medicare hospital wage index floor for each all-urban and rural State.

S. 1112

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1112, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. RES. 97

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. Res. 97, a resolution designating June 1, 2009, as ''Collector Car Appreciation Day'' and recognizing that the collection and restoration of historic and classic cars is an important part of preserving the technological achievements and cultural heritage of the United States.

S. RES. 139

At the request of Ms. MIKULSKI, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. Res. 139, a resolution commemorating the 20th anniversary of the end of communist rule in Poland.

S. RES. 151

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of S. Res. 151, a resolution designates a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

AMENDMENT NO. 1155

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of amendment No. 1155 intended to be proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1161

At the request of Mr. BROWN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1161 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1164

At the request of Mr. ISAKSON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of amendment No. 1164 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1179

At the request of Mr. KAUFMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 1179 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1189

At the request of Mrs. HUTCHISON, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Maryland (Mr. CARDIN), the Senator from Nebraska (Mr. NELSON), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kansas (Mr. ROBERTS), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Carolina (Mr. BURR), the Senator from Nebraska (Mr. JOHANNS), the Senator from New York (Mr. SCHUMER), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Idaho (Mr. CRAPO), the Senator from Idaho (Mr. RISCH), the Senator from Florida (Mr. NELSON), the Senator from Maine (Ms. SNOWE), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Maine (Ms. COLLINS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KOHL), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. WEBB), the Senator from Mississippi (Mr. WICKER), the Senator from Texas (Mr. CORNYN), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of amendment No. 1189 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1191

At the request of Mr. LEAHY, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Delaware (Mr. KAUFMAN) were added as cosponsors of amendment No. 1191 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1198

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 1198 intended to be proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. SANDERS, Mrs. SHAHEEN, and Mr. GREGG):

S. 1117. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire

and Vermont; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I am pleased to introduce today the Upper Connecticut River Partnership Act. This legislation will help bring recognition to New England's largest river ecosystem and one of our Nation's 14 American Heritage Rivers.

The purpose of this legislation is to help the communities along the river protect and enhance their rich cultural history, economic vitality, and the environmental integrity of the river.

From its origin in the mountains of northern New Hampshire, the Connecticut River runs over 400 miles and eventually empties into Long Island Sound. The river forms a natural boundary between my home state of Vermont and New Hampshire, and travels through the States of Massachusetts and Connecticut. The river and surrounding valley have long shaped and influenced development in the New England region. This river is one of America's earliest developed rivers, with European settlements going back over 350 years. The industrial revolution blossomed in the Connecticut River Valley, supported by new technologies such as canals and mills run by hydropower.

I am pleased that the entire Senate delegations from Vermont and New Hampshire have cosponsored this bill. For years our States have worked together, to help communities on both sides of the river develop local partnerships to protect the Connecticut River valley of Vermont and New Hampshire. While great improvements have been made to the river, its overall health remains threatened by water and air pollution, habitat loss, hydroelectric dams, and invasive species.

Historically, the people throughout the Upper Connecticut River Valley have functioned cooperatively and the river serves to unite Vermont and New Hampshire communities economically, culturally, and environmentally.

Citizens on both sides of the river know just how special this region is and have worked side by side for years to protect it. Efforts have been underway for some time to restore the Atlantic salmon fishery, protect threatened and endangered species, and support urban riverfront revitalization.

In 1989, Vermont and New Hampshire came together to create the Connecticut River Joint Commissions—a unique partnership between the states, local businesses, all levels of Government within the 2 States and citizens from all walks of life. This partnership helps coordinate the efforts of towns, watershed managers and other local groups to implement the Connecticut River Corridor Management Plan. This Plan has become the blueprint for how communities along the river can work with one another with Vermont and New Hampshire and with the federal government to protect the river's resources.

The Upper Connecticut River Partnership Act would help carry out the recommendations of the Connecticut River Corridor Management Plan, which was developed under New Hampshire law with the active participation of Vermont citizens and communities.

This act would also provide the Secretary of the Interior with the much needed ability to assist the States of New Hampshire and Vermont with technical and financial aid for the Upper Connecticut River Valley through the Connecticut River Joint Commissions. The act would also assist local communities with cultural heritage outreach and education programs while enriching the recreational activities already active in the Connecticut River Watershed of Vermont and New Hampshire.

Lastly, the bill will require that the Secretary of the Interior establish a Connecticut River Grants and Technical Assistance Program to help local community groups develop new projects as well as build on existing ones to enhance the river basin.

In the future, I hope this bill will help bring renewed recognition and increased efforts to conserve the Connecticut River as one of our Nation's great natural and economic resources.

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 follwos:

S. 1117

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 ''Upper Connecticut River Partnership Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the upper Connecticut River watershed in the States of New Hampshire and Vermont is a scenic region of historic villages located in a working landscape of farms, forests, and the mountainous headwaters and broad fertile floodplains of New England's longest river, the Connecticut River;

(2) the River provides outstanding fish and wildlife habitat, recreation, and hydropower generation for the New England region;

(3) the upper Connecticut River watershed has been recognized by Congress as part of the Silvio O. Conte National Fish and Wildlife Refuge, established by the Silvio O. Conte National Fish and Wildlife Refuge Act (16 U.S.C. 668dd note; Public Law 102–212);

(4) the demonstrated commitment to stewardship of the River by the citizens living in the watershed led to the Presidential designation of the River as 1 of 14 American Heritage Rivers on July 30, 1998;

(5) the River is home to the bi-State Connecticut River Scenic Byway, which was declared a National Scenic Byway by the Department of Transportation in 2005 to foster heritage tourism in the region;

(6) each of the legislatures of the States of Vermont and New Hampshire has established a commission for the Connecticut River watershed, and the 2 commissions, known collectively as the ''Connecticut River Joint Commissions''—

(A) have worked together since 1989; and

(B) serve as the focal point and catalyst for cooperation between Federal agencies, States, communities, and citizens;

(7) in 1997, as directed by the legislatures, the Connecticut River Joint Commissions, with the substantial involvement of 5 bi-State local river subcommittees appointed to represent riverfront towns, produced the 6 volume Connecticut River Corridor Management Plan, to be used as a blueprint in educating agencies, communities, and the public in how to be good neighbors to a great river;

(8) in 2009, after 3 years of broad consultation, the Connecticut River Joint Commissions have substantially expanded and published updates via the Connecticut River Recreation Management Plan and the Water Resources Management Plan to guide public and private activities in the watershed;

(9) through a joint legislative resolution, the legislatures of the States of Vermont and New Hampshire have requested that Congress provide for continuation of cooperative partnerships and that Federal agencies support the Connecticut River Joint Commissions in carrying out the recommendations of the Connecticut River Corridor Management Plan;

(10) this Act effectuates certain recommendations of the Connecticut River Corridor Management Plan that are most appropriately directed by the States through the Connecticut River Joint Commissions, with assistance from the National Park Service and the United States Fish and Wildlife Service; and

(11) where implementation of those recommendations involves partnership with local communities and organizations, support for the partnership should be provided by the Secretary.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary to provide to the States of New Hampshire and Vermont (including communities in those States), through the Connecticut River Joint Commissions, technical and financial assistance for management of the River.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means—

(A) the State of New Hampshire; or

(B) the State of Vermont.

SEC. 4. CONNECTICUT RIVER GRANTS AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a Connecticut River Grants and Technical Assistance Program to provide grants and technical assistance to State and local governments, nonprofit organizations, and the private sector to carry out projects for the conservation, restoration, and interpretation of historic, cultural, recreational, and natural resources in the upper Connecticut River watershed.

(b) CRITERIA.—The Secretary, in consultation with the Connecticut River Joint Commissions, shall develop criteria for determining the eligibility of applicants for, and reviewing and prioritizing applications for, grants or technical assistance under the program.

(c) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a grant project under subsection (a) shall not exceed 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project may be provided in the form of an in-kind contribution of services or materials.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $1,000,000 for each fiscal year.

By Mr. HARKIN:

S. 1121. A bill to amend part D of title V of the Elementary and Secondary Education Act of 1965 to provide grants for the repair, renovation, and construction of elementary and secondary schools, including early learning facilities at the elementary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise today to introduce the School Building Fairness Act of 2009. I offer this legislation to meet the urgent need for Federal support to repair crumbling schools in disadvantaged and rural school districts.

This bill would authorize up to $6 billion annually to fund a new program of Federal grants to States for the repair, renovation, and construction of public schools. States would award the grants competitively, with priority given to high-poverty and rural school districts, as well as school districts that plan to make their facilities more energy efficient and environmentally friendly. Districts receiving this federal funding would then be required to provide a local match.

I know this approach to school construction and repair can work because this bill is modeled on the success of the Iowa Demonstration and Construction Grant Program in my home State. Over the last decade, I have secured $121 million in Federal funds that more than 300 school districts across Iowa have used for school construction and repair. This modest Federal investment has leveraged more than $600 million in additional local funding.

In addition to improving the learning environment for students, the School Building Fairness Act will provide a stimulus to the economy by creating jobs in thousands of communities all across the country for workers in the construction industry, as well as architects and engineers.

It will also spur school districts to make their facilities more environmentally friendly and energy-efficient. According to the 2006 report ''Greening America's Schools: Costs and Benefits,'' green schools use an average of 33 percent less energy than conventionally built schools, and generate financial savings of about $70 per square foot.

Safe, modern, healthy school buildings are essential to creating an environment where students can reach their academic potential. Yet too many students in the U.S., particularly those most at risk of being left behind, attend school in facilities that are old, overcrowded and run-down.

We all agree that school infrastructure requires constant maintenance. Unfortunately, far too many schools have been forced to neglect ongoing issues, most likely due to lack of funds, which can lead to health and safety problems for students, educators and staff. The most recent Infrastructure Report Card issued by the American Society of Civil Engineers gives public schools a D grade. Now, I do not know many parents who would find D grades acceptable for their children. So why on Earth would we stand by while the state of the buildings in which our children learn are assigned such a grade?

Despite the declining condition of many public schools, federal grant funding is generally not available to leverage local spending. In fiscal year 2001, in the Senate Labor, Health and Human Services, and Education Appropriations Subcommittee, which I then chaired, I was able to secure $1.2 billion for school repair and renovation. I continue to hear nothing but positive feedback from educators across the country about that funding.

But that one-time investment amounted to nothing more than a drop in the bucket compared to the estimated national need. At the beginning of this decade, the National Center for Education Statistics estimated that the nation's K–12 public schools needed $127 billion in repairs and upgrades. A 2008 analysis by the American Federation of Teachers found that the Nation's school infrastructure needs total an estimated $254.6 billion.

This bill is called the School Building Fairness Act because, as I said, States will give preference in awarding grants to high-poverty and rural districts. Currently, spending on school facilities is almost twice as high in affluent districts as in disadvantaged districts. This is one of those ''savage inequalities'' that Jonathan Kozol writes about—inequalities that largely explain the learning gap between affluent and poor children.

Something is seriously wrong when children go to modern, gleaming shopping malls and sports arenas, but attend public schools with crumbling walls and leaking roofs. This sends exactly the wrong message to children about our priorities as adults.

With the School Building Fairness Act, we have a chance to get our priorities right, and to provide a desperately needed boost to school districts all across America.

I hope that my colleagues will join me to help create safe, modern, and healthy school environments so all of our children can grow to be the leaders of tomorrow.

By Mr. BARRASSO (for himself, Mr. JOHNSON, Mr. UDALL of Colorado, Mr. BENNET, Mr. RISCH, and Mr. BENNETT):

S. 1122. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BARRASSO. Mr. President, I am proud to introduce the Good Neighbor Forestry Act today along with my Senators JOHNSON, UDALL of Colorado, BENNET of Colorado, RISCH, and BENNETT of Utah. This legislation authorizes cooperative action between western states and the U.S. Forest Service or Bureau of Land Management to complete forest and rangeland health projects on private, State and Federal lands.

Almost half of the land in Wyoming is managed by Federal agencies. Our State has a long history of forestry, grazing and multiple use of public lands. Recreation and tourism on our public lands is a pillar of our economy. The people of Wyoming are proud stewards of our public lands and our state depends on the public lands for our future.

It is my goal to enact common-sense policies to address the management needs of our Federal lands. Wyoming forests, like those of all states across the West, are facing management challenges. We have an opportunity to meet those challenges with policies that encourage forest and rangeland health. Preventing forest fires, removing invasive species, addressing watershed health and conserving wildlife habitat require ''big picture'' thinking. We have to address these threats at the landscape level.

Resource challenges do not stop at fencelines, and neither should our policy.

The Good Neighbor Forestry Act would set in place a cooperative management policy. This act would allow the State of Wyoming to go forward with forest and rangeland health projects as agreed to by the U.S. Forest Service or Bureau of Land Management. With this authority, the agencies can cooperatively pursue projects that address landscape-level needs. This authority would provide on-the-ground management that our private, State, and Federal lands desperately need.

I am pleased to introduce this legislation today. It is of great importance to the people of Wyoming, and public land communities across the West. I hope the U.S. Senate will proceed quickly with its passage to enhance western states' response to growing management challenges.

The people of Wyoming demand on-the-ground results. This legislation can deliver those results. I hope we can pass it expediently.

Mr. President, I ask unanimous cnsent 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. 1122

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 ''Good Neighbor Forestry Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that contains National Forest System land or Bureau of Land Management land located west of the 100th meridian.

(2) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to National Forest System land; or

(B) the Secretary of the Interior, with respect to Bureau of Land Management land.

(3) STATE FORESTER.—The term ''State forester'' means the head of a State agency with jurisdiction over State forestry programs in an eligible State.

SEC. 3. COOPERATIVE AGREEMENTS AND CONTRACTS.

(a) IN GENERAL.—The Secretary may enter into a cooperative agreement or contract (including a sole source contract) with a State forester to authorize the State forester to provide the forest, rangeland, and watershed restoration and protection services described in subsection (b) on National Forest System land or Bureau of Land Management land, as applicable, in the eligible State.

(b) AUTHORIZED SERVICES.—The forest, rangeland, and watershed restoration and protection services referred to in subsection (a) include the conduct of—

(1) activities to treat insect infected trees;

(2) activities to reduce hazardous fuels; and

(3) any other activities to restore or improve forest, rangeland, and watershed health, including fish and wildlife habitat.

(c) STATE AS AGENT.—Except as provided in subsection (f), a cooperative agreement or contract entered into under subsection (a) may authorize the State forester to serve as the agent for the Secretary in providing the restoration and protection services authorized under subsection (a).

(d) SUBCONTRACTS.—In accordance with applicable contract procedures for the eligible State, a State forester may enter into subcontracts to provide the restoration and protection services authorized under a cooperative agreement or contract entered into under subsection (a).

(e) TIMBER SALES.—Subsections (d) and (g) of section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a) shall not apply to services performed under a cooperative agreement or contract entered into under subsection (a).

(f) RETENTION OF NEPA RESPONSIBILITIES.—Any decision required to be made under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any restoration and protection services to be provided under this Act by a State forester on National Forest System land or Bureau of Land Management land, as applicable, shall not be delegated to a State forester or any other officer or employee of the eligible State.

(g) APPLICABLE LAW.—The restoration and protection services to be provided under this Act shall be carried out on a project-to-project basis under existing authorities of the Forest Service or Bureau of Land Management, as applicable.

SEC. 4. TERMINATION OF EFFECTIVENESS.

(a) IN GENERAL.—The authority of the Secretary to enter into cooperative agreements and contracts under this Act terminates on September 30, 2018.

(b) CONTRACT DATE.—The termination date of a cooperative agreement or contract entered into under this Act shall not extend beyond September 30, 2019.

By Ms. COLLINS (for herself, Mrs. LINCOLN, and Mr. BOND):

S. 1123. A bill to provide for a five-year payment increase under the Medicare program for home health services furnished in a rural area; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today with my colleagues from Arkansas and Missouri to introduce the Medicare Rural Home Health Payment Fairness Act to reinstate the 5 percent add-on payment for home health services in rural areas that expired on January 1, 2007.

Home health has become an increasingly important part of our health care system. The kinds of highly skilled—and often technically complex—services that our Nation's home health caregivers provide have enabled millions of our most frail and vulnerable older and disabled citizens to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes. I have accompanied several of Maine's caring home health nurses on their visits to some of their patients. I have seen first hand the difference that they are making for Maine's elderly.

Surveys have shown that the delivery of home health services in rural areas can be as much as 12 to 15 percent more costly because of the extra travel time required to cover long distances between patients, higher transportation expenses, and other factors. Because of the longer travel times, rural caregivers are unable to make as many visits in a day as their urban counterparts. The executive director of the Visiting Nurses of Aroostook in Northern Maine, where I am from, tells me her agency covers 6,600 square miles with a total population of only 73,000. This agency's costs are understandably much higher than other agencies due to the long distances the staff must drive to see clients. Moreover, the staff is not able to see as many patients due to time on the road.

Agencies in rural areas are also frequently smaller than their urban counterparts, which means that their relative costs are higher. Smaller agencies with fewer patients and fewer visits mean that fixed costs, particularly those associated with meeting regulatory requirements, are spread over a much smaller number of patients and visits, increasing overall per-patient and per-visit costs.

Moreover, in many rural areas, home health agencies are the primary caregivers for homebound beneficiaries with limited access to transportation. These rural patients often require more time and care than their urban counterparts, and are understandably more expensive for agencies to serve. If the extra rural payment is not extended, agencies may be forced to make decisions not to accept rural patients with greater care needs. That could translate into less access to health care for ill, homebound seniors. The result would likely be that these seniors would be hospitalized more frequently and would have to seek care in nursing homes, adding considerable cost to the system.

Failure to extend the rural add-on payment will only put more pressure on rural home health agencies that are already operating on very narrow margins and could force some of the agencies to close their doors altogether. Many home health agencies operating in rural areas are the only home health providers in large geographic areas. If any of these agencies were forced to close, the Medicare patients in that region could lose all of their access to home care.

The legislation we are introducing today will extend the rural add-on for 5 years and help to ensure that Medicare patients in rural areas continue to have access to the home health services they need. I urge all of our colleagues to join us as cosponsors.

By Mr. DURBIN:

S. 1125. A bill to amend the National Voter Registration Act of 1993 to provide for the treatment of institutions of higher education as voter registration agencies; to the Committee on Rules and Administration.

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. 1125

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 ''Student Voter Opportunity To Encourage Registration Act of 2009'' or the ''Student VOTER Act of 2009''.

SEC. 2. TREATMENT OF UNIVERSITIES AS VOTER REGISTRATION AGENCIES.

(a) IN GENERAL.—Section 7(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–5(a)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) each institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) in the State that receives Federal funds.''; and

(2) in paragraph (6)(A), by inserting ''or, in the case of an institution of higher education, with each registration of a student for enrollment in a course of study'' after ''assistance,''.

(b) AMENDMENT TO HIGHER EDUCATION ACT OF 1965.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by striking paragraph (23).

By Mr. REID:

S. 1126. A bill to require the Director of National Intelligence to submit a report to Congress on retirement benefits for former employees of Air America and for other purposes; to the Select Committee on Intelligence.

Mr. REID. Mr. President, it has been said that ''The nation which forgets its defenders will itself be forgotten.'' I believe it. This is why I rise today to again introduce legislation to help correct an injustice for those who have served our country in times of crisis.

Many people have never heard of Air America. This top-secret passenger and cargo airline was a Government corporation owned and operated by the

Central Intelligence Agency during the Cold War.

Forty-eight years ago, the first Air America pilots were killed in covert military action in Laos. On May 30th, 1961, Charles Mateer and Walter Wizbowski crashed their helicopter in rugged terrain and unpredictable weather while trying to land in order to resupply besieged Hmong during the Cold War.

Air America employed several hundred U.S. citizens like Mr. Mateer and Wizbowski to conduct covert missions throughout the Cold War. During the Vietnam War, they carried nearly 12,000 government-sponsored passengers each month including troops and refugees. During the final days of the Vietnam war, Air America helicopters evacuated some 41,000 Americans, diplomats and friendly Vietnamese. Throughout the Cold War, numerous Air Force and Navy pilots were saved by heroic Air America helicopter rescue missions after being shot down behind enemy lines.

Air America personnel paid a costly burden to run these dangerous missions. Sadly, at least 86 American pilots were killed in action while operating aircraft for our Government. In all, Air America had 240 pilots and crewmembers killed in action.

In order to be able to conduct these high-risk missions, Air America operations were conducted by the CIA with strict secrecy. The Government ownership of the company was never acknowledged at the time and was not known to the public. Only a small number of officials were aware that, as employees of the CIA, Air America personnel were entitled to standard benefits provided to Federal employees.

Despite their heroic service to our nation, Air America employees are now being neglected by our Government.

Frustrated by Federal intransience and bureaucracy, former Air America employees from Nevada came to me and requested congressional assistance to help them obtain Federal civil service retirement benefits.

Today, the legislation I am introducing helps move us closer to correcting this injustice.

Mr. President, the ''Air America Veteran's Act'' recognizes these employees by requiring the Director of National Intelligence to submit a report to Congress about the number of Air America beneficiaries and the benefits owed to them. This report is critical because it will provide the justification Congress needs to ensure that these veterans are treated equitably and fairly by their Government.

I encourage all of my colleagues to join me in cosponsoring this important legislation to correct this injustice. These great Americans have earned these benefits and the gratitude of a thankful Nation. Now is our chance to honor their service and begin recognizing their sacrifices.

Mr. Presdient, I ask unanimous consent that the text of the bill be printed in RECORD.

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

S. 1126

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 ''Air America Veterans Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIR AMERICA.—The term ''Air America'' means Air America, Incorporated.

(2) ASSOCIATED COMPANY.—The term ''associated company'' means any entity associated with, predecessor to, or subsidiary to Air America, including Air Asia Company Limited, CAT Incorporated, Civil Air Transport Company Limited, and the Pacific Division of Southern Air Transport during the period when such an entity was owned and controlled by the United States Government.

SEC. 3. REPORT ON RETIREMENT BENEFITS FOR FORMER EMPLOYEES OF AIR AMERICA.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to Congress a report on the advisability of providing Federal retirement benefits to United States citizens for the service of such citizens prior to 1977 as employees of Air America or an associated company during a period when Air America or the associated company was owned or controlled by the United States Government and operated or managed by the Central Intelligence Agency.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) The history of Air America and the associated companies prior to 1977, including a description of—

(A) the relationship between Air American and the associated companies and the Central Intelligence Agency or any other element of the United States Government;

(B) the workforce of Air America and the associated companies;

(C) the missions performed by Air America, the associated companies, and their employees for the United States; and

(D) the casualties suffered by employees of Air America and the associated companies in the course of their employment.

(2) A description of—

(A) the retirement benefits contracted for or promised to the employees of Air America and the associated companies prior to 1977;

(B) the contributions made by such employees for such benefits;

(C) the retirement benefits actually paid such employees;

(D) the entitlement of such employees to the payment of future retirement benefits; and

(E) the likelihood that such employees will receive any future retirement benefits.

(3) An assessment of the difference between—

(A) the retirement benefits that former employees of Air America and the associated companies have received or will receive by virtue of their employment with Air America and the associated companies; and

(B) the retirement benefits that such employees would have received or be eligible to receive if such employment was deemed to be employment by the United States Government and their service during such employment was credited as Federal service for the purpose of Federal retirement benefits.

(4)(A) Any recommendations regarding the advisability of legislative action to treat such employment as Federal service for the purpose of Federal retirement benefits in light of the relationship between Air America and the associated companies and the United States Government and the services and sacrifices of such employees to and for the United States.

(B) If legislative action is considered advisable under subparagraph (A), a proposal for such action and an assessment of its costs.

(5) The opinions of the Director of the Central Intelligence Agency, if any, on any matters covered by the report that the Director of the Central Intelligence Agency considers appropriate.

(c) ASSISTANCE OF COMPTROLLER GENERAL.—The Comptroller General of the United States shall, upon the request of the Director of National Intelligence and in a manner consistent with the protection of classified information, assist the Director in the preparation of the report required by subsection (a).

(d) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1129. A bill to authorize the Secretary of Education to award grants to local educational agencies to improve college enrollment; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, an educated workforce is crucial to the success of the American economy. A recent report from the consulting firm McKinsey, ''The Economic Impact of the Achievement Gap in America's Schools,'' concludes that if America had raised the educational attainment of our students to those of high-performing nations like Finland and South Korea between 1983 and 1998, U.S. G.D.P. in 2008 would have been between $1.3 trillion and $2.3 trillion higher than it is today. If the gap between low-income American students and American students of higher means had been narrowed, G.D.P. in 2008 would have been $400 billion to $670 billion higher.

If we want to be economically competitive and avoid future recessions, we need to close the achievement gap in education for all Americans. In his first speech to Congress, President Obama set a goal of having the highest college graduation rate in the world by 2020. Too many students are not receiving a college education, and we will have to do far better to reach the President's goal.

Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students will earn a college degree by 2012, compared to 68 percent of the highest income group. Every student who wants to go to college should have that opportunity, and we should provide them with the tools they need.

Today, I am introducing the Pathways to College Act with Senator BURR, which creates grants for school districts to help them increase the number of low-income students who are entering and succeeding in college.

Lack of guidance and information about college has a real effect on students in poor schools. The Consortium

on Chicago School Research released a report last year, ''Potholes on the Road to College,'' that looks at the difficulties Chicago Public School students face during the college application process. The Consortium discovered that only 41 percent of Chicago Public School students who wanted to go to college took the steps necessary to apply to and enroll in a 4-year college. Only one-third of students enrolled in a college that matched their qualifications. Of the students who had the grades and test scores to attend a selective college, 29 percent went to a community college or skipped college entirely.

The Pathways to College Act would create a grant program for school districts serving low-income students to increase their college-enrollment rates. The Consortium's ''Potholes'' report found that the most important factor in whether students enroll in a four-year college is if they attended a school where teachers create a strong college-going culture and help students with the process of applying. The Pathways to College Act would provide the funding to help school districts improve the college-going culture in schools and guide students through the college admissions process.

The Pathways to College Act provides flexibility to school districts to achieve higher college enrollment rates, but requires that each school accurately track their results so we can learn from what works. Chicago Public Schools is doing a great job—both in tackling the problem and in documenting progress. Under the leadership of Arne Duncan, Chicago Public Schools responded aggressively to the ''Potholes'' report.

A team of postsecondary coaches were deployed in high schools to work with students and counselors. To ensure that financial aid is not a roadblock, FAFSA completion rates are tracked so that counselors can follow-up with students. A spring-break college tour took 500 students to see colleges across the country. Because Chicago Public Schools tracks its college enrollment rates, we know that their efforts are working.

Half of the 2007 graduating class enrolled in college, an increase of 6.5 percent in 4 years. The national increase was less than 1 percent in the same time-frame. Nationally, the number of African-American graduates going to college has decreased by 6 percent over the last 4 years while the Chicago rate has increased by almost 8 percent.

Applying to college is not easy. Low-income students often need the most help to achieve their college dreams. When schools focus on college and provide the tools to get there, students make the connection between the work they are doing now and their future goals in college and life. Students in those schools are more likely enroll in college and are also more likely to work hard in high school to be prepared for college when they arrive. The bill we are introducing today tries to ensure that lack of information never prevents a student from achieving his or her college dream.

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. 1129

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 ''Pathways to College Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) An educated workforce is crucial to the success of the United States economy. Access to higher education for all students is critical to maintaining an educated workforce. More than 80 percent of the 23,000,000 jobs that will be created in the next 10 years will require postsecondary education. Only 36 percent of all 18- to 24-year olds are currently enrolled in postsecondary education.

(2) Workers with bachelor's degrees earn on average $17,000 more annually than workers with only high school diplomas. Workers who earn bachelor's degrees can be expected to earn $1,000,000 more over a lifetime than those who only finished high school.

(3) In order to prepare students for college, all schools should—

(A) provide student guidance to engage students in college and career awareness; and

(B) ensure that students enroll in a rigorous curriculum to prepare for postsecondary education.

(4) The Department of Education reports that the average student-to-counselor ratio in high schools is 315:1. This is far higher than the ratio recommended by the American School Counselor Association, which is 250:1. While school counselors at private schools spend an average of 58 percent of their time on postsecondary education counseling, school counselors in public schools spend an average of 25 percent of their time on postsecondary education counseling.

(5) While just 57 percent of students from the lowest income quartile enroll in college, 87 percent of students from the top income quartile enroll. Of students who were in eighth grade in 2000, only 20 percent of the lowest-income students are projected to attain a bachelor's degree by 2012, compared to 68 percent of the highest income group, according to the Advisory Committee on Student Financial Assistance in 2006.

(6) A recent report by the Consortium on Chicago School Research found that only 41 percent of Chicago public school students who aspire to go to college took the steps necessary to apply to and enroll in a 4-year institution of higher education. The report also reveals that only ⅓ of Chicago students who want to attend a 4-year institution of higher education enroll in a school that matches their qualifications. Even among students qualified to attend a selective college, 29 percent enrolled in a community college or did not enroll at all.

(7) The Consortium found that many Chicago public school students do not complete the Free Application for Federal Student Aid, even though students who apply for Federal financial aid are 50 percent more likely to enroll in college. Sixty-five percent of public secondary school counselors at low-income schools believe that students and parents are discouraged from considering college as an option due to lack of knowledge about financial aid.

(8) Low-income and first-generation families often overestimate the cost of tuition and underestimate available aid; students from these backgrounds have access to fewer college application resources and financial aid resources than other groups, and are less likely to fulfill their postsecondary plans as a result.

(9) College preparation intervention programs can double the college-going rates for at-risk youth, can expand students' educational aspirations, and can boost college enrollment and graduation rates.

SEC. 3. GRANT PROGRAM.

(a) DEFINITIONS.—In this Act:

(1) COLLEGE-GOING RATE.—The term ''college-going rate'' means the percentage of high school graduates who enroll at an institution of higher education in the school year immediately following graduation from high school.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency in which a majority of the high schools served by the agency are high-need high schools.

(3) HIGH-NEED HIGH SCHOOL.—The term ''high-need high school'' means a high school in which not less than 50 percent of the students enrolled in the school are—

(A) eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) eligible to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); or

(C) in families eligible for assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(4) HIGH SCHOOL.—The term ''high school'' means a nonprofit institutional day or residential school, including a public charter high school, that provides high school education, as determined under State law.

(5) HIGH SCHOOL GRADUATION RATE.—The term ''high school graduation rate''—

(A) means the percentage of students who graduate from high school with a regular diploma in the standard number of years; and

(B) is clarified in section 200.19(b)(1) of title 34, Code of Federal Regulations.

(6) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(7) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) PARENT.—The term ''parent'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(b) COMPETITIVE GRANTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The Secretary is authorized to award grants, on a competitive basis, to eligible local educational agencies to carry out the activities described in this section.

(c) DURATION.—Grants awarded under this section shall be 5 years in duration.

(d) DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure that the grants are distributed among the different geographic regions of the United States, and among eligible local educational agencies serving urban and rural areas.

(e) APPLICATIONS.—

(1) IN GENERAL.—Each eligible local educational agency desiring a grant under this

section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include a description of the program to be carried out with grant funds and—

(A) a detailed description of the high school population to be targeted by the program, the particular college-access needs of such population, and the resources available for meeting such needs;

(B) measurable objectives of the program, including goals for increasing the number of college applications submitted by each student and the number of students submitting applications, increasing Free Application for Federal Student Aid completion rates, and increasing school-wide college-going rates across the local educational agency;

(C) a description of the local educational agency's plan to work cooperatively, where applicable, with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), including the extent to which the agency commits to sharing facilities, providing access to students, and developing compatible record-keeping systems;

(D) a description of the activities, services, and training to be provided by the program, including a plan to provide structure and support for all students in the college search, planning, and application process;

(E) a description of the methods to be used to evaluate the outcomes and effectiveness of the program;

(F) an assurance that grant funds will be used to supplement, and not supplant, any other Federal, State, or local funds available to carry out activities of the type carried out under the grant;

(G) an explanation of the method used for calculating college enrollment rates for each high school served by the eligible local educational agency that is based on externally verified data, and, when possible, aligned with existing State or local methods;

(H) a plan to make the program sustainable over time, including the use of matching funds from non-Federal sources; and

(I) a description of the local educational agency's plan to work cooperatively, where applicable, with the program funded under part H of title VIII of the Higher Education Act of 1965 (20 U.S.C. 1161h et seq.), including the extent to which the agency commits to using and leveraging—

(i) the needs assessment and recommendations;

(ii) the model for measuring college enrollment; and

(iii) comprehensive services.

(3) METHOD OF CALCULATING ENROLLMENT RATES.—

(A) IN GENERAL.—A method included in an application under paragraph (2)(G)—

(i) shall, at a minimum, track students' first-time enrollment in institutions of higher education; and

(ii) may track progress toward completion of a postsecondary degree.

(B) DEVELOPMENT IN CONJUNCTION.—An eligible local educational agency may develop a method pursuant to paragraph (2)(G) in conjunction with an existing public or private entity that currently maintains such a method.

(f) SPECIAL CONSIDERATION.—In awarding grants under this section, the Secretary shall give special consideration to applications from eligible local educational agencies serving schools with the highest percentages of poverty.

(g) USE OF FUNDS.—

(1) IN GENERAL.—An eligible local educational agency that receives a grant under this section shall develop and implement, or expand, a program to increase the number of low-income students who enroll in postsecondary educational institutions, including institutions with competitive admissions criteria.

(2) REQUIRED USE OF FUNDS.—Each program funded under this section shall—

(A) provide professional development to high school teachers and school counselors in postsecondary education advising;

(B) implement a comprehensive college guidance program for all students in a high school served by an eligible local educational agency under this section that—

(i) ensures that all students and their parents, are regularly notified throughout the students' time in high school, beginning in the first year of high school, of—

(I) high school graduation requirements;

(II) college entrance requirements;

(III) the economic and social benefits of higher education;

(IV) college expenses, including information about expenses by institutional type, differences between sticker price and net price, and expenses beyond tuition; and

(V) the resources for paying for college, including the availability, eligibility, and variety of financial aid;

(ii) provides assistance to students in registering for and preparing for college entrance tests;

(iii) provides one-on-one guidance and assistance to students in applying to an institution of higher education and in applying for Federal financial aid assistance and other State, local, and private financial aid assistance and scholarships;

(iv) provides opportunities for students to explore postsecondary opportunities outside of the school setting, such as college fairs, career fairs, college tours, workplace visits, or other similar activities; and

(v) provides not less than 1 meeting for each student, not later than the first semester of the first year of high school, with a school counselor, college access personnel (including personnel involved in programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.)), trained teacher, or other professional or organization, such as a community-based organization, approved by the school, to discuss postsecondary options, outline postsecondary goals, and create a plan to achieve those goals, and provides not less than 2 meetings in each year to discuss progress on the plan;

(C) ensure that each high school served by the eligible local educational agency develops a comprehensive, school-wide plan of action to strengthen the college-going culture within the high school; and

(D) create or maintain a postsecondary access center in the school setting that provides information on colleges and universities, career opportunities, and financial aid options and provide a setting in which professionals working in college access programs, such as those funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.), can meet with students.

(3) ALLOWABLE USE OF FUNDS.—Each program funded under this section may—

(A) establish mandatory postsecondary planning classes for high school students to assist in the college preparation and application process;

(B) hire and train postsecondary coaches with expertise in the college-going process to supplement existing school counselors;

(C) increase the number of school counselors who specialize in the college-going process serving students;

(D) train student leaders to assist in the creation of a college-going culture in their schools;

(E) establish partnerships with programs funded under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq. and 1070a–21 et seq.)), and with community and nonprofit organizations to increase college-going rates at high schools served by the eligible local educational agency;

(F) provide long-term postsecondary follow up with graduates of the high schools served by the eligible local educational agencies, including increasing alumni involvement in mentoring and advising roles within the high school; and

(G) deliver college and career planning curriculum as a stand-alone course, or embedded in other classes, or delivered through the guidance curriculum by the school counselor for all students in high school.

(h) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds available to carry out the activities described in this section.

(i) TECHNICAL ASSISTANCE.—The Secretary, directly or through contracting through a full and open process with 1 or more organizations that have demonstrated experience providing technical assistance to raise school-wide college-going rates in local educational agencies in not less than 3 States, shall provide technical assistance to grantees in carrying out this section. The technical assistance shall—

(1) provide assistance in the calculation and analysis of college-going rates for all grant recipients;

(2) provide semi-annual analysis to each grant recipient recommending best practices based on a comparison of the recipient's data with that of high schools with similar demographics; and

(3) provide annual best practices conferences for all grant recipients.

(j) REPORTING REQUIREMENTS.—Each eligible local educational agency receiving a grant under this section shall collect and report annually to the Secretary such information for the local educational agency and for each high school assisted under this section on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

(1) the number and percentage of students who enroll in an institution of higher education in the school year immediately following the students' high school graduation as measured by externally verified school-wide college enrollment data;

(2) the number and percentage of students who graduate from high school on time with a regular high school diploma;

(3) the number and percentage of students, at each grade level, who are on track to graduate from high school on time and with a regular high school diploma;

(4) the number and percentage of senior high school students who apply to an institution of higher education and the average number of applications completed and submitted by students;

(5) the number and percentage of senior high school students who file the Free Application for Federal Student Aid forms;

(6) the number and percentage of students, in grade 10, who take early admissions assessments, such as the PSAT;

(7) the number and percentage of students, in grades 11 and 12, who take the SAT or ACT, and the students' mean scores on such assessments;

(8) where data are available, the number and percentage of students enrolled in remedial mathematics or English courses during their freshman year at an institution of higher education;

(9) the number and percentage of students, in grades 11 and 12, enrolled in not less than 2 of the following:

(A) a dual credit course; or

(B) an Advanced Placement or International Baccalaureate course; and

(10) the number and percentage of students who meet or exceed State reading or language arts, mathematics, or science standards, as measured by State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(k) REPORTING OF DATA.—Each eligible local educational agency receiving a grant under this section shall report to the Secretary, where possible, the information required under subsection (j) disaggregated in the same manner as information is disaggregated under section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i)).

(l) EVALUATIONS BY GRANTEES.—Each eligible local educational agency that receives a grant under this section shall—

(1) conduct periodic evaluations of the effectiveness of the activities carried out under the grant toward increasing schoolwide college-going rates;

(2) use such evaluations to refine and improve activities conducted with the grant and the performance measures for such activities; and

(3) make the results of such evaluations publicly available, including by providing public notice of such availability.

(m) REPORT.—From the amount appropriated for any fiscal year, the Secretary shall reserve such sums as may be necessary—

(1) to conduct an independent evaluation, by grant or by contract, of the programs carried out under this section, which shall include an assessment of the impact of the program on high school graduation rates and college-going rates; and

(2) to prepare and submit a report on the results of the evaluation described in paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2010 and each of the 5 succeeding fiscal years.

By Ms. SNOWE (for herself, Mr. CONRAD, Mr. WYDEN, and Ms. COLLINS):

S. 1130. A bill to provide for a demonstration project regarding Medicaid reimbursements for stabilization of emergency medical conditions by nonpublicly owned or operated institutions for mental diseases; to the Committee on Finance.

Ms. SNOWE. Mr. President, today, I rise to introduce the Medicaid Emergency Psychiatric Care Demonstration Project Act. I am pleased to be joined by Senators CONRAD, WYDEN and COLLINS in this effort. We are introducing this legislation to address an unfair conflict in two Federal laws—the Institution for Mental Diseases, IMD, Exclusion and The Emergency Medical and Labor Treatment Act, EMTALA.

EMTALA requires all hospitals, including freestanding psychiatric hospitals, to stabilize patients who come in with an emergency medical condition. At the same time, under an outdated Medicaid provision called the IMD exclusion, adult Medicaid patients, 21–64, are not covered for inpatient psychiatric care in a freestanding psychiatric hospital, but are covered in a general hospital psychiatric unit. Yet both types of hospitals are required to stabilize any patient—which may require hospitalization—who comes to them for emergency care regardless of ability to pay.

In order to correct this inequity, we have introduced the Medicaid Emergency Psychiatric Care Demonstration Project Act. This legislation would establish a 3-year, demonstration program capped at $75 million, which would allow states to apply for federal Medicaid matching funds to demonstrate that covering Medicaid patients in freestanding, non-governmental psychiatric hospitals will improve timely access to emergency psychiatric care, reduce the burden on overcrowded emergency rooms, and improve the efficiency and cost-effectiveness of inpatient psychiatric care. Our legislation helps alleviate a problem where patients with significant mental health needs are often forced to endure prolonged stays in emergency rooms and hospitals without the psychiatric attention they require.

The measure is supported by 27 national healthcare organizations, including the National Alliance for the Mentally Ill—the country's largest advocacy organization for the mentally ill, the National Association of Psychiatric Health Systems, the American Hospital Association, the Federation of American Hospitals, the American Psychiatric Association, the National Association of County Behavioral Healthcare Directors, the American College of Emergency Physicians, and the Emergency Nurses Association.

By Mr. WYDEN (for himself, Mr. BURR, Mr. WHITEHOUSE, and Mr. CARDIN):

S. 1131. A bill to amend title XVIII of the Social Security Act to provide certain high cost Medicare beneficiaries suffering from multiple chronic conditions with access to coordinated, primary care medical services in lower cost treatment settings, such as their residences, under a plan of care developed by a team of qualified and experienced health care professionals; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am reintroducing the Independence at Home Act together with colleagues in the Senate and the House. Mr. BURR, Mr. WHITEHOUSE, Mr. CARDIN and I are proud to join forces with our House colleagues, Mr. MARKEY, and his cosponsor, Mr. SMITH, to move forward with this important legislation to provide a coordinated team-based approach to primary care for chronically ill Medicare beneficiaries in their own homes. Returning to basics like paying doctors for home visits to vulnerable patients, and following them through the course of their illness while saving taxpayers money, is the kind of legislation I am proud to introduce.

The Independence at Home, or IAH, Act comes at the perfect time. The American people and the federal government need to save money on health care, while having more choices and getting better results. This delivery model has a proven track record of doing just this. Similar ''house calls'' programs, currently operating across the country, are reducing costs, improving care quality, and helping people remain independent as long as possible. This delivery model is also providing much needed relief to caregivers who are often juggling a full-time job while caring for their very ill family member. This is medical care Americans want and deserve.

It is not too often that health policy has good outcome results before the pilot program phase begins, but that is exactly the case with the IAH Act. Similar home health delivery models, such as the Veterans Administration's Home-Based Primary Care, Boston, Massachusetts' Urban Medical's House Calls Program, and Portland, Oregon's Housecall Providers have been so successful in improving quality and reducing costs, that our bill guarantees 5 percent savings to Medicare.

These successful home health programs have demonstrated that the optimal way to address the challenges of caring for persons with chronic conditions is to better integrate their care and to work with their caregivers. Medical problems are best managed and coordinated by health care professionals who know their patients, their problems, their medications, and their other health care providers. Using this approach, the Independence at Home Act provides a better, more cost-effective way for Medicare patients with chronic conditions to get the care they need. It further advances Medicare reform by creating incentives for providers to develop better and lower cost health care for the highest cost beneficiaries.

This bipartisan, bicameral bill would create a pilot program to improve in-home care availability for beneficiaries with multiple chronic conditions. This is a win-win for all involved. It will help people remain in their homes for longer periods of time, it will improve the quality of care, and physicians will receive a bundled payment for coordinating this care with a team of healthcare providers.

More specifically, the Independence at Home Act establishes a two-phase three-year Medicare pilot project that uses a patient-centered health care delivery model to ensure that Medicare beneficiaries with multiple chronic conditions can remain independent for as long as possible in a comfortable environment. By incorporating lessons from past Medicare demonstration projects and from current home health

models, this bill provides for programs that hold providers accountable for quality, mandatory annual minimum savings, and patient satisfaction. Savings are generated by providing better care to Medicare beneficiaries with multiple chronic conditions and reducing duplicative and unnecessary services, hospitalization, and other health care costs.

Persons eligible for the program include Medicare beneficiaries with functional impairments, two or more chronic health problems, and recent use of other health services. Each IAH patient will receive a comprehensive assessment at least annually. The assessment will inform a plan for care that is directed by an IAH physician, nurse-practitioner, or physician's assistant. The plan is developed by an IAH plan coordinator in collaboration with the patient and caregiver. Medication management is provided by pharmacists due to their expertise in pharmacology, and electronic medical records and health information technology will be employed to improve patient care and reduce costs.

The two-phase pilot program will take place in the thirteen highest-cost states plus thirteen additional states. After review of Phase I and the evaluation report, the Secretary may elect to expand the program nationwide so it could then become an ongoing benefit for Medicare beneficiaries.

A shared-savings agreement incentive program allows this innovative delivery model to attract and maintain providers. The IAH organization will be required to demonstrate savings of at least 5 percent annually compared with the costs of serving non-participating Medicare chronically ill beneficiaries. The IAH organization may keep 80 percent of savings beyond the required 5 percent savings as an incentive to maximize the financial benefits of being an IAH organization. Any savings beyond 25 percent would be split, with 50 percent directed to the IAH organization and 50 percent to Medicare. In Phase II, the Secretary may modify the payment incentive structure to increase savings to the Medicare Trust Fund only if it will not impede access to IAH services to eligible beneficiaries.

I would like to thank my fellow Senate cosponsors, RICHARD BURR, SHELDON WHITEHOUSE, and BENJAMIN CARDIN, and my cosponsor in the House, Representative ED MARKEY, and his cosponsor, CHRIS SMITH, for their support. I also thank Rahm Emanuel for his support of IAH in the last Congress. I would also like to thank all our staff who worked so hard on this legislation, particularly Gregory Hinrichsen in my office. Finally, I would like to thank the following groups for voicing their support for this legislation: The American Academy of Home Care Physicians; The American Academy of Neurology; The AARP; The Alzheimer's Association; The Alzheimer's Foundation of America; The American Academy of Nurse Practitioners; The American College of Nurse Practitioners; American Academy of Physician Assistants; The American Society of Consultant Pharmacists; The National Family Caregivers Association; The Family Caregiver Alliance/National Center on Caregiving; The American Association of Homes and Services for the Aging; The Housecalls Doctors of Texas; The Maryland-National Capital Home Care Association; The Visiting Nurse Associations of America; Housecall Providers, Inc. of Portland, OR; Intel Corp.; The National Council on Aging; U.S. PIRG; Massachusetts Neurologic Society; Naples Health Care Associates; Urban Medical House Calls of Boston, MA; MD2U Doctors Who Make Housecalls (Louisville, KY); Wyeth Pharmaceuticals.

I urge all of my colleagues to support this important legislation to help Medicare patients get better care at lower cost.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows;

S. 1131

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 ''Independence at Home Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) According to the November 2007 Congressional Budget Office Long Term Outlook for Health Care Spending, unless changes are made to the way health care is delivered, growing demand for resources caused by rising health care costs and to a lesser extent the nation's expanding elderly population will confront Americans with increasingly difficult choices between health care and other priorities. However, opportunities exist to constrain health care costs without adverse health care consequences.

(2) Medicare beneficiaries with multiple chronic conditions account for a disproportionate share of Medicare spending compared to their representation in the overall Medicare population, and evidence suggests that such patients often receive poorly coordinated care, including conflicting information from health providers and different diagnoses of the same symptoms.

(3) People with chronic conditions account for 76 percent of all hospital admissions, 88 percent of all prescriptions filled, and 72 percent of physician visits.

(4) Studies show that hospital utilization and emergency room visits for patients with multiple chronic conditions can be reduced and significant savings can be achieved through the use of interdisciplinary teams of health care professionals caring for patients in their places of residence.

(5) The Independence at Home Act creates a chronic care coordination pilot project to bring primary care medical services to the highest cost Medicare beneficiaries with multiple chronic conditions in their home or place of residence so that they may be as independent as possible for as long as possible in a comfortable setting.

(6) The Independence at Home Act generates savings by providing better, more coordinated care across all treatment settings to the highest cost Medicare beneficiaries with multiple chronic conditions, reducing duplicative and unnecessary services, and avoiding unnecessary hospitalizations, nursing home admissions, and emergency room visits.

(7) The Independence at Home Act holds providers accountable for improving beneficiary outcomes, ensuring patient and caregiver satisfaction, and achieving cost savings to Medicare on an annual basis.

(8) The Independence at Home Act creates incentives for practitioners and providers to develop methods and technologies for providing better and lower cost health care to the highest cost Medicare beneficiaries with the greatest incentives provided in the case of highest cost beneficiaries.

(9) The Independence at Home Act contains the central elements of proven home-based primary care delivery models that have been utilized for years by the Department of Veterans Affairs and ''house calls'' programs across the country to deliver coordinated care for chronic conditions in the comfort of a patient's home or place of residence.

SEC. 3. ESTABLISHMENT OF VOLUNTARY INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT UNDER TRADITIONAL MEDICARE FEE-FOR-SERVICE PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by amending subsection (c) of section 1807 (42 U.S.C. 1395b–8) to read as follows:

''(c) INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT.—A pilot project for Independence at Home chronic care coordination programs for high cost Medicare beneficiaries with multiple chronic conditions is set forth in section 1807A.''; and

(2) by inserting after section 1807 the following new section:

''INDEPENDENCE AT HOME CHRONIC CARE COORDINATION PILOT PROJECT

''SEC. 1807A. (a) IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary shall provide for the phased in development, implementation, and evaluation of Independence at Home programs described in this section to meet the following objectives:

''(A) To improve patient outcomes, compared to comparable beneficiaries who do not participate in such a program, through reduced hospitalizations, nursing home admissions, or emergency room visits, increased symptom self-management, and similar results.

''(B) To improve satisfaction of patients and caregivers, as demonstrated through a quantitative pre-test and post-test survey developed by the Secretary that measures patient and caregiver satisfaction of care coordination, educational information, timeliness of response, and similar care features.

''(C) To achieve a minimum of 5 percent cost savings in the care of beneficiaries under this title suffering from multiple high cost chronic diseases.

''(2) INITIAL IMPLEMENTATION (PHASE I).—

''(A) IN GENERAL.—In carrying out this section and to the extent possible, the Secretary shall enter into agreements with at least two unaffiliated Independence at Home organizations in each of the 13 highest cost States (based on average per capita expenditures per State under this title), in the District of Columbia, and in 13 additional States that are representative of other regions of the United States and include medically underserved rural and urban areas, to provide chronic care coordination services for a period of three years or until those agreements are terminated by the Secretary. Such agreements under this paragraph shall continue in effect until the Secretary makes the determination described in paragraph (3) or until those agreements are supplanted by new agreements under such paragraph. The phase of implementation under this paragraph is

referred to in this section as the 'initial implementation' phase or 'phase I'.

''(B) PREFERENCE.—In selecting Independence at Home organizations under this paragraph, the Secretary shall give a preference, to the extent practicable, to organizations that—

''(i) have documented experience in furnishing the types of services covered by this section to eligible beneficiaries in the home or place of residence using qualified teams of health care professionals that are directed by individuals who have the qualifications of Independence at Home physicians, or in cases when such direction is provided by an Independence at Home physician to a physician assistant who has at least one year of experience providing gerontological medical and related services for chronically ill individuals in their homes, or other similar qualification as determined by the Secretary to be appropriate for the Independence at Home program, by the physician assistant acting under the supervision of an Independence at Home physician and as permitted under State law, or Independence at Home nurse practitioners;

''(ii) have the capacity to provide services covered by this section to at least 150 eligible beneficiaries; and

''(iii) use electronic medical records, health information technology, and individualized plans of care.

''(3) EXPANDED IMPLEMENTATION PHASE (PHASE II).—

''(A) IN GENERAL.—For periods beginning after the end of the 3-year initial implementation period under paragraph (2), subject to subparagraph (B), the Secretary shall renew agreements described in paragraph (2) with Independence at Home organization that have met all 3 objectives specified in paragraph (1) and enter into agreements described in paragraph (2) with any other organization that is located in any State or the District of Columbia, that was not an Independence at Home organization during the initial implementation period, and that meets the qualifications of an Independence at Home organization under this section. The Secretary may terminate and not renew such an agreement with an organization that has not met such objectives during the initial implementation period. The phase of implementation under this paragraph is referred to in this section as the 'expanded implementation' phase or 'phase II'.

''(B) CONTINGENCY.—The expanded implementation under subparagraph (A) shall not occur if the Secretary finds, not later than 60 days after the date of issuance of the independent evaluation under paragraph (5), that continuation of the Independence at Home project is not in the best interest of beneficiaries under this title or in the best interest of Federal health care programs.

''(4) ELIGIBILITY.—No organization shall be prohibited from participating under this section during expanded implementation phase under paragraph (3) (and, to the extent practicable, during initial implementation phase under paragraph (2)) because of its small size as long as it meets the eligibility requirements of this section.

''(5) INDEPENDENT EVALUATIONS.—

''(A) IN GENERAL.—The Secretary shall contract for an independent evaluation of the initial implementation phase under paragraph (2) with an interim report to Congress to be provided on such evaluation as soon as practicable after the first year of such phase and a final report to be provided to Congress as soon as practicable following the conclusion of the initial implementation phase, but not later than 6 months following the end of such phase. Such an evaluation shall be conducted by individuals with knowledge of chronic care coordination programs for the targeted patient population and demonstrated experience in the evaluation of such programs.

''(B) INFORMATION TO BE INCLUDED.—Each such report shall include an assessment of the following factors and shall identify the characteristics of individual Independence at Home programs that are the most effective in producing improvements in—

''(i) beneficiary, caregiver, and provider satisfaction;

''(ii) health outcomes appropriate for patients with multiple chronic diseases; and

''(iii) cost savings to the program under this title, such as in reducing—

''(I) hospital and skilled nursing facility admission rates and lengths of stay;

''(II) hospital readmission rates; and

''(III) emergency department visits

''(C) BREAKDOWN BY CONDITION.—Each such report shall include data on performance of Independence at Home organizations in responding to the needs of eligible beneficiaries with specific chronic conditions and combinations of conditions, as well as the overall eligible beneficiary population.

''(6) AGREEMENTS.—

''(A) IN GENERAL.—The Secretary shall enter into agreements, beginning not later than one year after the date of the enactment of this section, with Independence at Home organizations that meet the participation requirements of this section, including minimum performance standards developed under subsection (e)(3), in order to provide access by eligible beneficiaries to Independence at Home programs under this section.

''(B) AUTHORITY.—If the Secretary deems it necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs, the Secretary may—

''(i) require screening of all potential Independence at Home organizations, including owners, (such as through fingerprinting, licensure checks, site-visits, and other database checks) before entering into an agreement;

''(ii) require a provisional period during which a new Independence at Home organization would be subject to enhanced oversight (such as prepayment review, unannounced site visits, and payment caps); and

''(iii) require applicants to disclose previous affiliation with entities that have uncollected Medicare or Medicaid debt, and authorize the denial of enrollment if the Secretary determines that these affiliations pose undue risk to the program.

''(7) REGULATIONS.—At least three months before entering into the first agreement under this section, the Secretary shall publish in the Federal Register the specifications for implementing this section. Such specifications shall describe the implementation process from initial to final implementation phases, including how the Secretary will identify and notify potential enrollees and how and when beneficiaries may enroll and disenroll from Independence at Home programs and change the programs in which they are enrolled.

''(8) PERIODIC PROGRESS REPORTS.—Semiannually during the first year in which this section is implemented and annually thereafter during the period of implementation of this section, the Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that describes the progress of implementation of this section and explaining any variation from the Independence at Home program as described in this section.

''(9) ANNUAL BEST PRACTICES CONFERENCE.—During the initial implementation phase and to the extent practicable at intervals thereafter, the Secretary shall provide for an annual Independence at Home teleconference for Independence at Home organizations to share best practices and review treatment interventions and protocols that were successful in meeting all 3 objectives specified in paragraph (1).

''(b) DEFINITIONS.—For purposes of this section:

''(1) ACTIVITIES OF DAILY LIVING.—The term 'activities of daily living' means bathing, dressing, grooming, transferring, feeding, or toileting.

''(2) CAREGIVER.—The term 'caregiver' means, with respect to an individual with a qualifying functional impairment, a family member, friend, or neighbor who provides assistance to the individual.

''(3) ELIGIBLE BENEFICIARY.—

''(A) IN GENERAL.—The term 'eligible beneficiary' means, with respect to an Independence at Home program, an individual who—

''(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

''(ii) has a qualifying functional impairment and has been diagnosed with two or more of the chronic conditions described in subparagraph (C); and

''(iii) within the 12 months prior to the individual first enrolling with an Independence at Home program under this section, has received benefits under part A for the following services:

''(I) Non-elective inpatient hospital services.

''(II) Services in the emergency department of a hospital.

''(III) Any one of the following:

''(aa) Skilled nursing or sub-acute rehabilitation services in a Medicare-certified nursing facility.

''(bb) Comprehensive acute rehabilitation facility or Comprehensive outpatient rehabilitation facility services.

''(cc) Skilled nursing or rehabilitation services through a Medicare-certified home health agency.

''(B) DISQUALIFICATIONS.—Such term does not include an individual—

''(i) who is receiving benefits under section 1881;

''(ii) who is enrolled in a PACE program under section 1894;

''(iii) who is enrolled in (and is not disenrolled from) a chronic care improvement program under section 1807;

''(iv) who within a 12-month period has been a resident for more than 90 days in a skilled nursing facility, a nursing facility (as defined in section 1919), or any other facility identified by the Secretary;

''(v) who resides in a setting that presents a danger to the safety of in-home health care providers and primary caregivers; or

''(vi) whose enrollment in an Independence at Home program the Secretary determines would be inappropriate.

''(C) CHRONIC CONDITIONS DESCRIBED.—The chronic conditions described in this subparagraph are the following:

''(i) Congestive heart failure.

''(ii) Diabetes.

''(iii) Chronic obstructive pulmonary disease.

''(iv) Ischemic heart disease.

''(v) Peripheral arterial disease.

''(vi) Stroke.

''(vii) Alzheimer's Disease and other dementias designated by the Secretary.

''(viii) Pressure ulcers.

''(ix) Hypertension.

''(x) Neurodegenerative diseases designated by the Secretary which result in high costs under this title, including amyotropic lateral sclerosis (ALS), multiple sclerosis, and Parkinson's disease.

''(xi) Any other chronic condition that the Secretary identifies as likely to result in high costs to the program under this title when such condition is present in combination with one or more of the chronic conditions specified in the preceding clauses.

''(4) INDEPENDENCE AT HOME ASSESSMENT.—The term 'Independence at Home assessment' means a determination of eligibility of an individual for an Independence at Home program as an eligible beneficiary (as defined in paragraph (3)), a comprehensive medical history, physical examination, and assessment of the beneficiary's clinical and functional status that—

''(A) is conducted in person by an individual—

''(i) who—

''(I) is an Independence at Home physician or an Independence at Home nurse practitioner; or

''(II) a physician assistant, nurse practitioner, or clinical nurse specialist, as defined in section 1861(aa)(5), who is employed by an Independence at Home organization and is supervised by an Independence at Home physician or Independence at Home nurse practitioner; and

''(ii) does not have an ownership interest in the Independence at Home organization unless the Secretary determines that it is impracticable to preclude such individual's involvement; and

''(B) includes an assessment of—

''(i) activities of daily living and other comorbidities;

''(ii) medications and medication adherence;

''(iii) affect, cognition, executive function, and presence of mental disorders;

''(iv) functional status, including mobility, balance, gait, risk of falling, and sensory function;

''(v) social functioning and social integration;

''(vi) environmental needs and a safety assessment;

''(vii) the ability of the beneficiary's primary caregiver to assist with the beneficiary's care as well as the caregiver's own physical and emotional capacity, education, and training;

''(viii) whether, in the professional judgment of the individual conducting the assessment, the beneficiary is likely to benefit from an Independence at Home program;

''(ix) whether the conditions in the beneficiary's home or place of residence would permit the safe provision of services in the home or residence, respectively, under an Independence at Home program;

''(x) whether the beneficiary has a designated primary care physician whom the beneficiary has seen in an office-based setting within the previous 12 months; and

''(xi) other factors determined appropriate by the Secretary.

''(5) INDEPENDENCE AT HOME CARE TEAM.—The term 'Independence at Home care team'—

''(A) means, with respect to a participant, a team of qualified individuals that provides services to the participant as part of an Independence at Home program; and

''(B) includes an Independence at Home physician or an Independence at Home nurse practitioner and an Independence at Home coordinator (who may also be an Independence at Home physician or an Independence at Home nurse practitioner).

''(6) INDEPENDENCE AT HOME COORDINATOR.—The term 'Independence at Home coordinator' means, with respect to a participant, an individual who—

''(A) is employed by an Independence at Home organization and is responsible for coordinating all of the services of the participant's Independence at Home plan;

''(B) is a licensed health professional, such as a physician, registered nurse, nurse practitioner, clinical nurse specialist, physician assistant, or other health care professional as the Secretary determines appropriate, who has at least one year of experience providing and coordinating medical and related services for individuals in their homes; and

''(C) serves as the primary point of contact responsible for communications with the participant and for facilitating communications with other health care providers under the plan.

''(7) INDEPENDENCE AT HOME ORGANIZATION.—The term 'Independence at Home organization' means a provider of services, a physician or physician group practice, a nurse practitioner or nurse practitioner group practice which receives payment for services furnished under this title (other than only under this section) and which—

''(A) has entered into an agreement under subsection (a)(2) to provide an Independence at Home program under this section;

''(B)(i) provides all of the services of the Independence at Home plan in a participant's home or place of residence, or

''(ii) if the organization is not able to provide all such services in such home or residence, has adequate mechanisms for ensuring the provision of such services by one or more qualified entities;

''(C) has Independence at Home physicians, clinical nurse specialists, nurse practitioners, or physician assistants available to respond to patient emergencies 24 hours a day, seven days a week;

''(D) accepts all eligible beneficiaries from the organization's service area, as determined under the agreement with the Secretary under this section, except to the extent that qualified staff are not available; and

''(E) meets other requirements for such an organization under this section.

''(8) INDEPENDENCE AT HOME PHYSICIAN.—The term 'Independence at Home physician' means a physician who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the physician to make in-home visits and to be responsible for the plans of care for the physician's patients;

''(B) is certified—

''(i) by the American Board of Family Physicians, the American Board of Internal Medicine, the American Osteopathic Board of Family Physicians, the American Osteopathic Board of Internal Medicine, the American Board of Emergency Medicine, or the American Board of Physical Medicine and Rehabilitation; or

''(ii) by a Board recognized by the American Board of Medical Specialties and determined by the Secretary to be appropriate for the Independence at Home program;

''(C) has—

''(i) a certification in geriatric medicine as provided by American Board of Medical Specialties; or

''(ii) passed the clinical competency examination of the American Academy of Home Care Physicians and has substantial experience in the delivery of medical care in the home, including at least two years of experience in the management of Medicare patients and one year of experience in home-based medical care including at least 200 house calls; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(9) INDEPENDENCE AT HOME NURSE PRACTITIONER.—The term 'Independence at Home nurse practitioner' means a nurse practitioner who—

''(A) is employed by or affiliated with an Independence at Home organization, as required under paragraph (7)(C), or has another contractual relationship with the Independence at Home organization that requires the nurse practitioner to make in-home visits and to be responsible for the plans of care for the nurse practitioner's patients;

''(B) practices in accordance with State law regarding scope of practice for nurse practitioners;

''(C) is certified—

''(i) as a Gerontologic Nurse Practitioner by the American Academy of Nurse Practitioners Certification Program or the American Nurses Credentialing Center; or

''(ii) as a family nurse practitioner or adult nurse practitioner by the American Academy of Nurse Practitioners Certification Board or the American Nurses Credentialing Center and holds a certificate of Added Qualification in gerontology, elder care or care of the older adult provided by the American Academy of Nurse Practitioners, the American Nurses Credentialing Center or a national nurse practitioner certification board deemed by the Secretary to be appropriate for an Independence at Home program; and

''(D) has furnished services during the previous 12 months for which payment is made under this title.

''(10) INDEPENDENCE AT HOME PLAN.—The term 'Independence at Home plan' means a plan established under subsection (d)(2) for a specific participant in an Independence at Home program.

''(11) INDEPENDENCE AT HOME PROGRAM.—The term 'Independence at Home program' means a program described in subsection (d) that is operated by an Independence at Home organization.

''(12) PARTICIPANT.—The term 'participant' means an eligible beneficiary who has voluntarily enrolled in an Independence at Home program.

''(13) QUALIFIED ENTITY.—The term 'qualified entity' means a person or organization that is licensed or otherwise legally permitted to provide the specific service (or services) provided under an Independence at Home plan that the entity has agreed to provide.

''(14) QUALIFYING FUNCTIONAL IMPAIRMENT.—The term 'qualifying functional impairment' means an inability to perform, without the assistance of another person, two or more activities of daily living.

''(15) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means a individual that is licensed or otherwise legally permitted to provide the specific service (or services) under an Independence at Home plan that the individual has agreed to provide.

''(c) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

''(1) NOTICE TO ELIGIBLE INDEPENDENCE AT HOME BENEFICIARIES.—The Secretary shall develop a model notice to be made available to Medicare beneficiaries (and to their caregivers) who are potentially eligible for an Independence at Home program by participating providers and by Independence at Home programs. Such notice shall include the following information:

''(A) A description of the potential advantages to the beneficiary participating in an Independence at Home program.

''(B) A description of the eligibility requirements to participate.

''(C) Notice that participation is voluntary.

''(D) A statement that all other Medicare benefits remain available to beneficiaries who enroll in an Independence at Home program.

''(E) Notice that those who enroll in an Independence at Home program will be responsible for copayments for house calls made by Independence at Home physicians, physician assistants, or by Independence at Home nurse practitioners, except that such copayments may be reduced or eliminated at the discretion of the Independence at Home physician, physician assistant, or Independence at Home nurse practitioner involved in accordance with subsection (f).

''(F) A description of the services that could be provided.

''(G) A description of the method for participating, or withdrawing from participation, in an Independence at Home program or becoming no longer eligible to so participate.

''(2) VOLUNTARY PARTICIPATION AND CHOICE.—An eligible beneficiary may participate in an Independence at Home program through enrollment in such program on a voluntary basis and may terminate such participation at any time. Such a beneficiary may also receive Independence at Home services from the Independence at Home organization of the beneficiary's choice but may not receive Independence at Home services from more than one Independence at Home organization at a time.

''(d) INDEPENDENCE AT HOME PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—Each Independence at Home program shall, for each participant enrolled in the program—

''(A) designate—

''(i) an Independence at Home physician or an Independence at Home nurse practitioner; and

''(ii) an Independence at Home coordinator;

''(B) have a process to ensure that the participant received an Independence at Home assessment before enrollment in the program;

''(C) with the participation of the participant (or the participant's representative or caregiver), an Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under State law, or an Independence at Home nurse practitioner, and the Independence at Home coordinator, develop an Independence at Home plan for the participant in accordance with paragraph (2);

''(D) ensure that the participant receives an Independence at Home assessment at least every 6 months after the original assessment to ensure that the Independence at Home plan for the participant remains current and appropriate;

''(E) implement all of the services under the participant's Independence at Home plan and in instances in which the Independence at Home organization does not provide specific services within the Independence at Home plan, ensure that qualified entities successfully provide those specific services; and

''(F) provide for an electronic medical record and electronic health information technology to coordinate the participant's care and to exchange information with the Medicare program and electronic monitoring and communication technologies and mobile diagnostic and therapeutic technologies as appropriate and accepted by the participant.

''(2) INDEPENDENCE AT HOME PLAN.—

''(A) IN GENERAL.—An Independence at Home plan for a participant shall be developed with the participant, an Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under State law, an Independence at Home nurse practitioner, or an Independence at Home coordinator, and, if appropriate, one or more of the participant's caregivers and shall—

''(i) document the chronic conditions, comorbidities, and other health needs identified in the participant's Independence at Home assessment;

''(ii) determine which services under an Independence at Home plan described in subparagraph (C) are appropriate for the participant; and

''(iii) identify the qualified entity responsible for providing each service under such plan.

''(B) COMMUNICATION OF INDIVIDUALIZED INDEPENDENCE AT HOME PLAN TO THE INDEPENDENCE AT HOME COORDINATOR.—If the individual responsible for conducting the participant's Independence at Home assessment and developing the Independence at Home plan is not the participant's Independence at Home coordinator, the Independence at Home physician or Independence at Home nurse practitioner is responsible for ensuring that the participant's Independence at Home coordinator has such plan and is familiar with the requirements of the plan and has the appropriate contact information for all of the members of the Independence at Home care team.

''(C) SERVICES PROVIDED UNDER AN INDEPENDENCE AT HOME PLAN.—An Independence at Home organization shall coordinate and make available through referral to a qualified entity the services described in the following clauses (i) through (iii) to the extent they are needed and covered by under this title and shall provide the care coordination services described in the following clause (iv) to the extent they are appropriate and accepted by a participant:

''(i) Primary care services, such as physician visits, diagnosis, treatment, and preventive services.

''(ii) Home health services, such as skilled nursing care and physical and occupational therapy.

''(iii) Phlebotomy and ancillary laboratory and imaging services, including point of care laboratory and imaging diagnostics.

''(iv) Care coordination services, consisting of—

''(I) Monitoring and management of medications by a pharmacist who is certified in geriatric pharmacy by the Commission for Certification in Geriatric Pharmacy or possesses other comparable certification demonstrating knowledge and expertise in geriatric pharmacotherapy, as well as assistance to participants and their caregivers with respect to selection of a prescription drug plan under part D that best meets the needs of the participant's chronic conditions.

''(II) Coordination of all medical treatment furnished to the participant, regardless of whether such treatment is covered and available to the participant under this title.

''(III) Self-care education and preventive care consistent with the participant's condition.

''(IV) Education for primary caregivers and family members.

''(V) Caregiver counseling services and information about, and referral to, other caregiver support and health care services in the community.

''(VI) Referral to social services, such as personal care, meals, volunteers, and individual and family therapy.

''(VII) Information about, and access to, hospice care.

''(VIII) Pain and palliative care and end-of-life care, including information about developing advanced directives and physicians orders for life sustaining treatment.

''(3) PRIMARY TREATMENT ROLE WITHIN AN INDEPENDENCE AT HOME CARE TEAM.—An Independence at Home physician, a physician assistant under the supervision of an Independence at Home physician and as permitted under State law, or an Independence at Home nurse practitioner may assume the primary treatment role as permitted under State law.

''(4) ADDITIONAL RESPONSIBILITIES.—

''(A) OUTCOMES REPORT.—Each Independence at Home organization offering an Independence at Home program shall monitor and report to the Secretary, in a manner specified by the Secretary, on—

''(i) patient outcomes;

''(ii) beneficiary, caregiver, and provider satisfaction with respect to coordination of the participant's care; and

''(iii) the achievement of mandatory minimum savings described in subsection (e)(6).

''(B) ADDITIONAL REQUIREMENTS.—Each such organization and program shall provide the Secretary with listings of individuals employed by the organization, including contract employees, and individuals with an ownership interest in the organization and comply with such additional requirements as the Secretary may specify.

''(e) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—An agreement under this section with an Independence at Home organization shall contain such terms and conditions as the Secretary may specify consistent with this section.

''(2) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may not enter into an agreement with such an organization under this section for the operation of an Independence at Home program unless—

''(A) the program and organization meet the requirements of subsection (d), minimum quality and performance standards developed under paragraph (3), and such clinical, quality improvement, financial, program integrity, and other requirements as the Secretary deems to be appropriate for participants to be served; and

''(B) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement with respect to payments made to the organization under such agreement through available reserves, reinsurance, or withholding of funding provided under this title, or such other means as the Secretary determines appropriate.

''(3) MINIMUM QUALITY AND PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—The Secretary shall develop mandatory minimum quality and performance standards for Independence at Home organizations and programs.

''(B) STANDARDS TO BE INCLUDED.—Such standards shall include measures of—

''(i) improvement in participant outcomes;

''(ii) improvement in satisfaction of the beneficiary, caregiver, and provider involved; and

''(iii) cost savings consistent with paragraph (6).

''(C) MINIMUM PARTICIPATION STANDARD.—Such standards shall include a requirement that, for any year after the first year and except as the Secretary may provide for a program serving a rural area, an Independence at Home program had an average number of participants during the previous year of at least 100 participants.

''(4) TERM OF AGREEMENT AND MODIFICATION.—The agreement under this subsection shall be, subject to paragraphs (3)(C) and (5), for a period of three years, and the terms and conditions may be modified during the contract period by the Secretary as necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs or upon the request of the Independence at Home organization.

''(5) TERMINATION AND NON-RENEWAL OF AGREEMENT.—

''(A) IN GENERAL.—If the Secretary determines that an Independence at Home organization has failed to meet the minimum performance standards under paragraph (3) or other requirements under this section, or if the Secretary deems it necessary to serve the best interest of the beneficiaries under this title or the best interest of Federal health care programs, the Secretary may terminate the agreement of the organization at the end of the contract year.

''(B) REQUIRED TERMINATION WHERE RISK TO HEALTH OR SAFETY OF A PARTICIPANT.—The Secretary shall terminate an agreement with an Independence at Home organization at any time the Secretary determines that the care being provided by such organization poses a threat to the health and safety of a participant.

''(C) TERMINATION BY INDEPENDENCE AT HOME ORGANIZATIONS.—Notwithstanding any other provision of this subsection, an Independence at Home organization may terminate an agreement with the Secretary under this section to provide an Independence at Home program at the end of a contract year if the organization provides to the Secretary and to the beneficiaries participating in the program notification of such termination more than 90 days before the end of such year. Paragraphs (6), (8), and (9)(B) shall apply to the organization until the date of termination.

''(D) NOTICE OF INVOLUNTARY TERMINATION.—The Secretary shall notify the participants in an Independence at Home program as soon as practicable if a determination is made to terminate an agreement with the Independence at Home organization involuntarily as provided in subparagraphs (A) and (B). Such notice shall inform the beneficiary of any other Independence at Home organizations that might be available to the beneficiary.

''(6) MANDATORY MINIMUM SAVINGS.—

''(A) REQUIRED.—

''(i) IN GENERAL.—Under an agreement under this subsection, each Independence at Home organization shall ensure that during any year of the agreement for its Independence at Home program, there is an aggregate savings in the cost to the program under this title for participating beneficiaries, as calculated under subparagraph (B), that is not less than 5 percent of the product described in clause (ii) for such participating beneficiaries and year.

''(ii) PRODUCT DESCRIBED.—The product described in this clause for participating beneficiaries in an Independence at Home program for a year is the product of—

''(I) the estimated average monthly costs that would have been incurred under parts A and B (and, to the extent cost information is available, part D) if those beneficiaries had not participated in the Independence at Home program; and

''(II) the number of participant-months for that year.

''(B) COMPUTATION OF AGGREGATE SAVINGS.—

''(i) MODEL FOR CALCULATING SAVINGS.—The Secretary shall contract with a nongovernmental organization or academic institution to independently develop an analytical model for determining whether an Independence at Home program achieves at least savings required under subparagraph (A) relative to costs that would have been incurred by Medicare in the absence of Independence at Home programs. The analytical model developed by the independent research organization for making these determinations shall utilize state-of-the-art econometric techniques, such as Heckman's selection correction methodologies, to account for sample selection bias, omitted variable bias, or problems with endogeneity.

''(ii) APPLICATION OF THE MODEL.—Using the model developed under clause (i), the Secretary shall compare the actual costs to Medicare of beneficiaries participating in an Independence at Home program to the predicted costs to Medicare of such beneficiaries to determine whether an Independence at Home program achieves the savings required under subparagraph (A).

''(iii) REVISIONS OF THE MODEL.—The Secretary shall require that the model developed under clause (i) for determining savings shall be designed according to instructions that will control, or adjust for, inflation as well as risk factors including, age, race, gender, disability status, socioeconomic status, region of country (such as State, county, metropolitan statistical area, or zip code), and such other factors as the Secretary determines to be appropriate, including adjustment for prior health care utilization. The Secretary may add to, modify, or substitute for such adjustment factors if such changes will improve the sensitivity or specificity of the calculation of costs savings.

''(iv) PARTICIPANT-MONTH.—In making the calculation described in subparagraph (A), each month or part of a month in a program year that a beneficiary participates in an Independence at Home program shall be counted as a 'participant-month'.

''(C) NOTICE OF SAVINGS CALCULATION.—No later than 30 days before the beginning of the first year of the pilot project under this section and 120 days before the beginning of any Independence at Home program year after the first such year, the Secretary shall publish in the Federal Register a description of the model developed under subparagraph (B)(i) and information for calculating savings required under subparagraph (A), including any revisions, sufficient to permit Independence at Home organizations to determine the savings they will be required to achieve during the program year to meet the savings requirement under subparagraph (A). In order to facilitate this notice, the Secretary may designate a single annual date for the beginning of all Independence at Home program years that shall not be later than one year from the date of enactment of this section.

''(7) MANNER OF PAYMENT.—Subject to paragraph (8), payments shall be made by the Secretary to an Independence at Home organization at a rate negotiated between the Secretary and the organization under the agreement for—

''(A) Independence at Home assessments; and

''(B) on a per-participant, per-month basis for the items and services required to be provided or made available under subsection (d)(2)(C)(iv).

''(8) ENSURING MANDATORY MINIMUM SAVINGS.—The Secretary shall require any Independence at Home organization that fails in any year to achieve the mandatory minimum savings described in paragraph (6) to provide those savings by refunding payments made to the organization under paragraph (7) during such year.

''(9) BUDGET NEUTRAL PAYMENT CONDITION.—

''(A) IN GENERAL.—Under this section, the Secretary shall ensure that the cumulative, aggregate sum of Medicare program benefit expenditures under parts A, B, and D for participants in Independence at Home programs and funds paid to Independence at Home organizations under this section, shall not exceed the Medicare program benefit expenditures under such parts that the Secretary estimates would have been made for such participants in the absence of such programs.

''(B) TREATMENT OF SAVINGS.—

''(i) INITIAL IMPLEMENTATION PHASE.—If an Independence at Home organization achieves aggregate savings in a year in the initial implementation phase in excess of the mandatory minimum savings described in paragraph (6)(A)(ii), 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title during the initial implementation phase.

''(ii) EXPANDED IMPLEMENTATION PHASE.—If an Independence at Home organization achieves aggregate savings in a year in the expanded implementation phase in excess of 5 percent of the product described in paragraph (6)(A)(ii)—

''(I) insofar as such savings do not exceed 25 percent of such product, 80 percent of such aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title; and.

''(II) insofar as such savings exceed 25 percent of such product, in the Secretary's discretion, 50 percent of such excess aggregate savings shall be paid to the organization and the remainder shall be retained by the programs under this title.

''(f) WAIVER OF COINSURANCE FOR HOUSE CALLS.—A physician, physician assistant, or nurse practitioner furnishing services related to the Independence at Home program in the home or residence of a participant in an Independence at Home program may waive collection of any coinsurance that might otherwise be payable under section 1833(a) with respect to such services but only if the conditions described in section 1128A(i)(6)(A) are met.

''(g) REPORT.—Not later than three months after the date of receipt of the independent evaluation provided under subsection (a)(5) and each year thereafter during which this section is being implemented, the Secretary shall submit to the Committees of jurisdiction in Congress a report that shall include—

''(1) whether the Independence at Home programs under this section are meeting the minimum quality and performance standards in (e)(3);

''(2) a comparative evaluation of Independence at Home organizations in order to identify which programs, and characteristics of those programs, were the most effective in producing the best participant outcomes, patient and caregiver satisfaction, and cost savings; and

''(3) an evaluation of whether the participant eligibility criteria identified beneficiaries who were in the top ten percent of the highest cost Medicare beneficiaries.''.

(b) CONFORMING AMENDMENT.—Section 1833(a) of such Act (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting ''and section 1807A(f)'' after ''section 1876''.

By Mr. LEAHY:

S. 1132. A bill to amend title 18, United States Code, to improve the provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in 2003, Senator Ben Nighthorse Campbell and I, along with 68 other Senators, introduced a bill to allow qualified retired or current law enforcement officers to carry a concealed firearm across State lines. The Senate passed our bill by unanimous consent, and it was signed into law in July 2004. Passage of the Law Enforcement Officers Safety Act indicated strong confidence in the men and women who serve to protect their communities and their Nation as the first line of defense in any emergency.

Introduction of this legislation to benefit active and retired law enforcement officers across the country is especially timely as the Congress and the country have just recognized National Peace Officers Memorial Day. I am proud to introduce this legislation today and thank Senator KYL for joining me as a cosponsor.

This year, the Senate Judiciary Committee has turned its attention to State and local law enforcement. It has held hearings about the importance of Federal funding at the local level, and how strong community policing and positive community relationships are fundamental to a prosperous economy. I agree, and appreciated having the perspective at recent Judiciary Committee hearings of the State and local officials like Chief Michael Schirling and Lieutenant Kris Carlson from the Burlington, Vermont, Police Department. I hope the Senate will continue its strong support of our law enforcement officers with support for this legislation.

In 2007, the Senate Judiciary Committee twice reported the legislation I introduce today—once as a stand-alone bill and again as part of the School Safety and Law Enforcement Improvements Act. I hope the Senate will act in the interest of so many law enforcement officers across the United States by improving and building upon the current law.

Since enactment of the Law Enforcement Officers Safety Act, I have heard feedback from many in law enforcement that qualified retired officers have been subject to varying certification procedures from State to State. In many cases, differing interpretations have complicated the implementation of the law, and retired officers have experienced significant frustration in getting certified to lawfully carry a firearm under the law.

With the input of the law enforcement community, this bill proposes modest amendments to the current law, and will give retired officers more flexibility in obtaining certification. It also provides room for the variability in certification standards among the several States. For example, where a State has not set active duty standards, the retired officer can be certified pursuant to the standards set by a law enforcement agency in the State.

In addition to these changes, the bill makes clear that Amtrak officers, along with law enforcement officers of the Executive branch of the Federal Government, are covered by the law. The bill also reduces the years of service required for a retired officer to qualify under the law from 15 to 10. The bill now contains clearer standards to address mental health issues related to eligibility for officers who separate from service or retire. These are positive changes to the current law, and the requirements for eligibility would continue to require a significant term of service for a retired officer to qualify, a demonstrated commitment to law enforcement, and retirement in good standing.

The dedicated public servants who are trained to uphold the law and keep the peace deserve our support not just in their professional lives, but also when they are off-duty or retire. As a former prosecutor, I have great confidence in those who serve in law enforcement and their ability to exercise their privileges under this legislation safely and responsibly. The responsibilities they shoulder day to day on the job deserve our recognition and respect.

I hope all Senators will join us in support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1132

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 ''Law Enforcement Officers Safety Act Improvements Act of 2009''.

SEC. 2.

(a) IN GENERAL.—Section 926B of title 18, United States Code, is amended by adding at the end the following:

''(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest.''.

(b) ACTIVE LAW ENFORCEMENT OFFICERS.—Section 926B of title 18, United States Code is amended by striking subsection (e) and inserting the following:

''(e) As used in this section, the term 'firearm'—

''(1) except as provided in this subsection, has the same meaning as in section 921 of this title;

''(2) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

''(3) does not include—

''(A) any machinegun (as defined in section 5845 of the National Firearms Act);

''(B) any firearm silencer (as defined in section 921 of this title); and

''(C) any destructive device (as defined in section 921 of this title).''.

(c) RETIRED LAW ENFORCEMENT OFFICERS.—Section 926C of title 18, United States Code is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''retired'' and inserting ''separated from service''; and

(ii) by striking '', other than for reasons of mental instability'';

(B) in paragraph (2), by striking ''retirement'' and inserting ''separation'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more'' and inserting ''separation, served as a law enforcement officer for an aggregate of 10 years or more''; and

(ii) in subparagraph (B), by striking ''retired'' and inserting ''separated'';

(D) by striking paragraph (4) and inserting the following:

''(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, a law enforcement agency within the State in which the individual resides;''; and

(E) by striking paragraph (5) and replacing it with the following:

''(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

''(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);'';

(2) in subsection (d)—

(A) paragraph (1)—

(i) by striking ''retired'' and inserting ''separated''; and

(ii) by striking ''to meet the standards'' and all that follows through ''concealed firearm'' and inserting ''to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm'';

(B) paragraph (2)—

(i) in subparagraph (A), by striking ''retired'' and inserting ''separated''; and

(ii) in subparagraph (B), by striking ''that indicates'' and all that follows through the period and inserting ''or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—

''(I) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

''(II) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.''; and

(3) by striking subsection (e) and inserting the following:

''(e) As used in this section—

''(1) the term 'firearm'—

''(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

''(B) includes ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

''(C) does not include—

''(i) any machinegun (as defined in section 5845 of the National Firearms Act);

''(ii) any firearm silencer (as defined in section 921 of this title); and

''(iii) any destructive device (as defined in section 921 of this title); and

''(2) the term 'service with a public agency as a law enforcement officer' includes service as a law enforcement officer of the Amtrak Police Department, or as a law enforcement or police officer of the executive branch of the Federal Government.''.

By Mr. WYDEN (for himself and Mr. GREGG):

S. 1133. A bill to amend title XVIII of the Social Security Act to provide for the establishment of shared decision making standards and requirements and to establish a pilot program for the implementation of shared decision making under the Medicare program; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased to be joined by my colleague, the distinguished Senator from New Hampshire, JUDD GREGG, to introduce an important bill that will put patients in the driver's seat of their medical care. Today, my fellow Oregonian Representative EARL BLUMENAUER is introducing the same bill in the House of Representatives.

On the Senate floor and in the Finance Committee and Health Education Labor and Pensions Committee, senators have been wrestling with health reform. The challenge before the Congress is to both expand quality, affordable coverage to all Americans while containing costs.

Cost containment requires a lot of tough choices because it will require changing how care is delivered. The time of paying for volume and low quality is past. Chairman BAUCUS rightly recognized the challenges in cost containment and took up this issue as the first area he wanted to address in the series of public roundtables held in the Finance Committee.

I believe the key to transforming the health care system and cost containment is to give patients more choices. Patients should have more choices of health insurance plans. Patients should have a choice of doctor. Patients should also have choices in their medical care.

The research by Dr. Jim Weinstein and Dr. John Wennberg with the Dartmouth Atlas Project has documented regional variations in medical care. They have found both underuse, or the failure to deliver needed evidence-based care, and overuse, or the delivery of unnecessary supply-sensitive care. Regional variations are driven by local medical opinion, rather than sound science or the preferences of well-informed patients. Just because doctors are licensed to have a hammer, doesn't make every patient a nail.

Using their research, Office of Management and Budget Director Peter Orszag and other experts have estimated that as much as 30 percent of medical spending today goes to care that is unnecessary. That is 30 percent of $2.5 trillion is $750 billion going to care that does not make patients healthier and may even harm them.

The current standard of medical care in the U.S. fails to adequately ensure that patients are informed about all their treatment options and the risks and benefits of those options. This leads to patients getting medical treatments they may not have wanted had they been fully informed of their treatment options and integrated into the decision making process. In order to deliver the right care at the right time, informed patient choice should be the goal of medical care.

Shared decision making is a collaborative process between the doctor and patient when they discuss the trade-offs among treatment options and discuss the patient's preferences and values. Shared decision making uses patient decision aids, an educational tool like a video or pamphlet that helps patients understand, communicate their beliefs and preferences related to their treatment options, and decide what medical treatments are best for them with their provider based on their medical treatment options, scientific evidence, circumstances, beliefs and preferences.

Informed patients choice depends on clinical comparative effectiveness research that compares the effectiveness of health care treatments. Shared decision making and patient decision aids use clinical comparative effectiveness research so that doctors and patients together make the right medical treatment choice for each individual patient.

This bill creates a three stage phase in of patient decision aids and shared decision making into the Medicare program. Phase I of the pilot is a 3-year period allowing 'early adopting' providers—those who already have experience using patient decision aids and incorporating them into their clinical practices—to participate in the pilot providing data for the Secretary and also serve as Shared Decision Making Resource Centers. During this period, an independent entity will develop consensus based standards for patient decision aids and a certification process to ensure decision aids are effective and provide unbiased information. An expert panel then recommends to the Secretary which patient decision aids may be used in this program.

Phase II is a 3-year period during which providers will be eligible to receive reimbursement for the use of certified patient decision aids. New providers may be added on an annual basis allowing for the gradual and voluntary expansion of shared decision making and patient decision aids to a large portion of the country.

The final stage requires all Medicare providers to ensure that Medicare beneficiaries receive shared decision making and patient decision aids prior to receiving treatment for a preference sensitive condition. If a provider does not ensure that a patient receives a patient decision aid then the provider's reimbursement may be reduced by no more than 20 percent.

This legislation is built on a shared savings model distributing 50 percent of the savings to participating providers based on their participation and performance on quality measures. Twenty-five percent of the savings are used to expand provider participation providing financial support to the Shared Decision Making Centers and providers. The final 25 percent savings are returned to the Medicare program. As shared decision making becomes the standard of practice, the shared savings percentages phases out.

I believe that this simple approach to informed patient choice is critically important to giving patients real choices by engaging them in their health care. As we look to expand access to health coverage, this bill provides a bipartisan, sensible path to putting patients in the driver's seat.

I hope my colleagues will join me in supporting this bill, and I look forward to working with Chairman BAUCUS and Ranking Member GRASSLEY and other members of the Finance Committee to secure passage of this important bill.

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. 1133

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 ''Empowering Medicare Patient Choices Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Dartmouth Atlas Project's work documenting regional variations in medical care has found both underuse, or the failure to deliver needed evidence-based care, and overuse, or the delivery of unnecessary supply-sensitive care.

(2) The Dartmouth Atlas Project has also found that many clinical decisions physicians make for elective medical treatments are driven by local medical opinion, rather than sound science or the preferences of well-informed patients. For example, the Dartmouth Atlas Project found that, among the 306 Hospital Referral Regions in the United States during the period of 2002 through 2003, the incidence of surgery for back pain-related conditions and joint replacement for chronic arthritis of the hip and knee varied 5.9-, 5.6-, and 4.8-fold, respectively, from the lowest to the highest region.

(3) Discretionary surgery for the following common conditions accounts for 40 percent of Medicare spending for inpatient surgery: early stage cancer of the prostate; early stage cancer of the breast; osteoarthritis of the knee; osteoarthritis of the hip; osteoarthritis of the spine; chest pain due to coronary artery disease; stroke threat from carotid artery disease, ischemia due to peripheral artery disease; gall stones; and enlarged prostate.

(4) Decisions that involve values trade-offs between the benefits and harms of 2 or more clinically appropriate alternatives should depend on the individual patient's informed choice. In everyday practice, however, patients typically delegate decision making to their physicians who may not have good information on the patient's true preferences.

(5) The current standard of medical care in the United States fails to adequately ensure that patients are informed about their treatment options and the risks and benefits of those options. This leads to patients getting medical treatments they may not have wanted had they been fully informed of their treatment options and integrated into the decision making process.

(6) Patient decision aids are tools designed to help people participate in decision making

about health care options. Patient decision aids provide information on treatment options and help patients clarify and communicate the personal value they associate with different features of treatment options. Patient decision aids do not advise people to choose one treatment option over another, nor are they meant to replace practitioner consultation. Instead, they prepare patients to make informed, value-based decisions with their physician.

(7) The Lewin Group estimated that the change in spending resulting from the use of patient decision aids for each of 11 conditions using per-procedure costs estimated for the Medicare population studied, assuming full implementation of such patient decision aids in 2010, would save as much as $4,000,000,000.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROVIDER.—

(A) IN GENERAL.—The term ''eligible provider'' means the following:

(i) A primary care practice.

(ii) A specialty practice.

(iii) A multispecialty group practice.

(iv) A hospital.

(v) A rural health clinic.

(vi) A Federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)).

(vii) An integrated delivery system.

(viii) A State cooperative.

(B) INCLUSION OF MEDICARE ADVANTAGE PLANS.—Such term includes a Medicare Advantage plan offered by a Medicare Advantage organization under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.).

(2) PATIENT DECISION AID.—The term ''patient decision aid'' means an educational tool (such as the Internet, a video, or a pamphlet) that helps patients (or, if appropriate, the family caregiver of the patient) understand and communicate their beliefs and preferences related to their treatment options, and to decide with their health care provider what treatments are best for them based on their treatment options, scientific evidence, circumstances, beliefs, and preferences.

(3) PREFERENCE SENSITIVE CARE.—The term ''preference sensitive care'' means medical care for which the clinical evidence does not clearly support one treatment option such that the appropriate course of treatment depends on the values of the patient or the preferences of the patient regarding the benefits, harms, and scientific evidence for each treatment option. The use of such care should depend on informed patient choice among clinically appropriate treatment options. Such term includes medical care for the conditions identified in section 5(g).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) SHARED DECISION MAKING.—The term ''shared decision making'' means a collaborative process between patient and clinician that engages the patient in decision making, provides patients with information about trade-offs among treatment options, and facilitates the incorporation of patient preferences and values into the medical plan.

(6) STATE COOPERATIVE.—The term ''State cooperative'' means an entity that includes the State government and at least one other health care provider which is set up for the purpose of testing shared decision making and patient decision aids.

SEC. 4. ESTABLISHMENT OF INDEPENDENT STANDARDS FOR PATIENT DECISION AIDS.

(a) CONTRACT WITH ENTITY TO ESTABLISH STANDARDS AND CERTIFY PATIENT DECISION AIDS.—

(1) CONTRACT.—

(A) IN GENERAL.—For purposes of supporting consensus-based standards for patient decision aids and a certification process for patient decision aids for use in the Medicare program and by other interested parties, the Secretary shall identify and have in effect a contract with an entity that meets the requirements described in paragraph (4). Such contract shall provide that the entity perform the duties described in paragraph (2).

(B) TIMING FOR FIRST CONTRACT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall enter into the first contract under subparagraph (A).

(C) PERIOD OF CONTRACT.—A contract under subparagraph (A) shall be for a period of 18 months (except such contract may be renewed after a subsequent bidding process).

(D) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under subparagraph (A).

(2) DUTIES.—The following duties are described in this paragraph:

(A) OPERATE AN OPEN AND TRANSPARENT PROCESS.—The entity shall conduct its business in an open and transparent manner and provide the opportunity for public comment on the activities described in subparagraphs (B) and (C).

(B) ESTABLISH STANDARDS FOR PATIENT DECISION AIDS.—

(i) IN GENERAL.—The entity shall synthesize evidence and convene a broad range of experts and key stakeholders to establish consensus-based standards, such as those developed by the International Patient Decision Aid Standard Collaboration, to determine which patient decision aids are high quality patient decision aids.

(ii) DRAFT OF PROPOSED STANDARDS.—The entity shall make a draft of proposed standards available to the public.

(iii) 60-DAY COMMENT PERIOD.—Beginning on the date the entity makes a draft of the proposed standards available under clause (ii), the entity shall provide a 60-day period for public comment on such draft.

(iv) FINAL STANDARDS.—

(I) IN GENERAL.—The standards established by the entity under this subparagraph shall be adopted by the board of the entity.

(II) PUBLIC AVAILABILITY.—The entity shall make such standards available to the public.

(C) CERTIFY PATIENT DECISION AIDS.—The entity shall review patient decision aids and certify whether patient decision aids meet the standards established under subparagraph (B) and offer a balanced presentation of treatment options from both the clinical and patient experience perspectives. In conducting such review and certification, the entity shall give priority to the review and certification of patient decision aids for conditions identified in section 5(g).

(3) REPORT TO THE EXPERT PANEL.—The entity shall submit to the expert panel established under subsection (b) a report on the standards established for patient decision aids under paragraph (2)(B) and patient decision aids that are certified as meeting such standards under paragraph (2)(C).

(4) REQUIREMENTS DESCRIBED.—The following requirements are described in this paragraph:

(A) PRIVATE NONPROFIT.—The entity is a private nonprofit organization governed by a board.

(B) EXPERIENCE.—The entity shall be able to demonstrate experience with—

(i) consumer engagement;

(ii) standard setting;

(iii) health literacy;

(iv) health care quality and safety issues;

(v) certification processes;

(vi) measure development; and

(vii) evaluating health care quality.

(C) MEMBERSHIP FEES.—If the entity requires a membership fee for participation in the functions of the entity, such fees shall be reasonable and adjusted based on the capacity of the potential member to pay the fee. In no case shall membership fees pose a barrier to the participation of individuals or groups with low or nominal resources to participate in the functions of the entity.

(b) EXPERT PANEL.—

(1) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an expert panel to make recommendations to the Secretary regarding which patient decision aids should be implemented, appropriate training for health care providers on patient decision aids and shared decision making, and appropriate quality measures for use in the pilot program under section 5 and under section 1899 of the Social Security Act, as added by section 6.

(2) DUTIES.—The expert panel shall carry out the following duties:

(A) Approve patient decision aids, from among those patient decision aids certified under paragraph (2)(C) of subsection (a) by the entity with a contract under such subsection, for use in the pilot program under section 5 (including to the extent practicable, patient decision aids for the medical care of the conditions described in section 5(g) and under section 1899 of the Social Security Act, as added by section 6.

(B) Review current training curricula for health care providers on patient decision aids and shared decision making and recommend a training process for eligible providers participating in the pilot program under section 5 on the use of such approved patient decision aids and shared decision making.

(C) Review existing quality measures regarding patient knowledge, value concordance, and health outcomes that have been endorsed through a consensus-based process and recommend appropriate quality measures for selection under section 5(h)(1).

(3) APPOINTMENT.—The expert panel shall be composed of 13 members appointed by the Secretary from among leading experts in shared decision making of whom—

(A) 2 shall be researchers;

(B) 2 shall be primary care physicians;

(C) 2 shall be from surgical specialties;

(D) 2 shall be patient or consumer community advocates;

(E) 2 shall be nonphysician health care providers (such as nurses, nurse practitioners, and physician assistants);

(F) 1 shall be from an integrated multispecialty group practice;

(G) 1 shall be from the National Cancer Institute; and

(H) 1 shall be from the Centers for Disease Control and Prevention.

(4) REPORT.—Not later than 2 years after such date of enactment and each year thereafter until the date of the termination of the expert panel under paragraph (5), the expert panel shall submit to the Secretary a report on the patient decision aids approved under paragraph (2)(A), the training process recommended under paragraph (2)(B), the quality measures recommended under paragraph (2)(C), and recommendations on other conditions or medical care the Secretary may want to include in the pilot program under section 5.

(5) TERMINATION.—The expert panel shall terminate on such date as the Secretary determines appropriate.

(c) QUALITY MEASURE DEVELOPMENT.—

(1) IN GENERAL.—Section 1890(b)(1)(A) of the Social Security Act (42 U.S.C. 1395aaa(b)(1)(A)) is amended—

(A) in clause (ii), by striking ''and'' at the end; and

(B) by adding at the end the following new clause:

''(iv) that address conditions described in section 5(g) of the Empowering Medicare Patient Choices Act and regional practice variations under this title; and''.

(2) CONFORMING AMENDMENT.—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended—

(A) by inserting ''(other than subsection (b)(1)(A)(iv))'' after ''this section''; and

(B) by adding at the end the following new sentence: ''For provisions relating to funding for the duties described in subsection (b)(1)(A)(iv), see section 5(l) of the Empowering Medicare Patient Choices Act.''.

SEC. 5. ESTABLISHMENT OF SHARED DECISION MAKING PILOT PROGRAM UNDER THE MEDICARE PROGRAM.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary shall establish a pilot program to provide for the phased-in development, implementation, and evaluation of shared decision making under the Medicare program using patient decision aids to meet the objective of improving the understanding by Medicare beneficiaries of their medical treatment options, as compared to comparable Medicare beneficiaries who do not participate in a shared decision making process using patient decision aids.

(b) INITIAL IMPLEMENTATION (PHASE I).—

(1) IN GENERAL.—During the initial implementation of the pilot program under this section (referred to in this section as ''Phase I'' of the pilot program), the Secretary shall enroll in the pilot program not more than 15 eligible providers who have experience in implementing, and have invested in the necessary infrastructure to implement, shared decision making using patient decision aids for a period of 3 years.

(2) APPLICATION.—An eligible provider seeking to participate in the pilot program during phase I shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) PREFERENCE.—In enrolling eligible providers in the pilot program during phase I, the Secretary shall give preference to eligible providers that—

(A) have documented experience in using patient decision aids for the conditions identified in subsection (g) and in using shared decision making;

(B) have the necessary information technology infrastructure to collect the information required by the Secretary for reporting purposes;

(C) are trained in how to use patient decision aids and shared decision making; and

(D) would be eligible to receive financial assistance as a Shared Decision Making Resource Center under subsection (c).

(c) SHARED DECISION MAKING RESOURCE CENTERS.—

(1) IN GENERAL.—The Secretary shall provide financial assistance for the establishment and support of Shared Decision Making Resource Centers (referred to in this section as ''centers'') to provide technical assistance to eligible providers and to develop and disseminate best practices and other information to support and accelerate adoption, implementation, and effective use of patient decision aids and shared decision making by eligible providers under the Medicare program.

(2) AFFILIATION.—Centers shall be affiliated with a United States-based organization or group that applies for and is awarded financial assistance under this subsection. The Secretary shall provide financial assistance to centers under this subsection on the basis of merit.

(3) OBJECTIVES.—The objective of a center is to enhance and promote the adoption of patient decision aids and shared decision making through—

(A) providing assistance to eligible providers with the implementation and effective use of, and training on, patient decision aids;

(B) the dissemination of best practices and research on the implementation and effective use of patient decision aids; and

(C) providing assistance to eligible providers applying to participate or participating in phase II of the pilot program under this section or under section 1899 of the Social Security Act, as added by section 6.

(4) REGIONAL ASSISTANCE.—Each center shall aim to provide assistance and education to all eligible providers in a region, including direct assistance to the following eligible providers:

(A) Public or not-for-profit hospitals or critical access hospitals (as defined in section 1861 (mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1)).

(B) Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)).

(C) Entities that are located in a rural area or in area that serves uninsured, underinsured, and medically underserved individuals (regardless of whether such area is urban or rural).

(D) Individual or small group practices (or a consortium thereof) that are primarily focused on primary care.

(5) FINANCIAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary may provide financial assistance for a period of 8 years to any regional center established or supported under this subsection.

(B) COST-SHARING REQUIREMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall not provide as financial assistance under this subsection more than 50 percent of the capital and annual operating and maintenance funds required to establish and support such a center.

(ii) WAIVER OF COST-SHARING REQUIREMENT.—The Secretary may waive the limitation under clause (i) if the Secretary determines that, as a result of national economic conditions, such limitation would be detrimental to the pilot program under this section. If the Secretary waives such limitation under the preceding sentence, the Secretary shall submit to Congress a report containing the Secretary's justification for such waiver.

(6) NOTICE OF PROGRAM DESCRIPTION AND AVAILABILITY OF FUNDS.—The Secretary shall publish in the Federal Register, not later than 12 months after the date of the enactment of this Act, a draft description of a program for establishing and supporting regional centers under this subsection. Such draft description shall include the following:

(A) A detailed explanation of the program and the program goals.

(B) Procedures to be followed by applicants for financial assistance.

(C) Criteria for determining which applicants are qualified to receive financial assistance.

(D) Maximum support levels expected to be available to centers under the program.

(7) APPLICATION REVIEW.—The Secretary shall review each application for financial assistance under this subsection based on merit. In making a decision whether to approve such application and provide financial assistance, the Secretary shall consider at a minimum the merits of the application, including those portions of the application regarding—

(A) the ability of the applicant to provide assistance to particular categories of eligible providers with respect to the implementation and effective use of, and training on, patient decision aids;

(B) the geographical diversity and extent of the service area of the applicant; and

(C) the percentage of funding for the center that would be provided as financial assistance under this subsection and the amount of any funding or in-kind commitment from sources of funding in addition to the financial assistance provided under this subsection.

(8) BIENNIAL EVALUATION.—Each center which receives financial assistance under this subsection shall be evaluated biennially by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the center involved, and officials of the Federal Government. Each evaluation panel shall measure the performance of the center involved against the objectives specified in paragraph (3). The Secretary shall not continue to provide financial assistance to a center under this subsection unless the most recent evaluation under this paragraph with respect to the center is overall positive.

(d) EXPANDED IMPLEMENTATION (PHASE II).—

(1) IN GENERAL.—Subject to paragraph (2), during the 3-year period beginning after the completion of phase I of the pilot program (referred to in this section as ''phase II'' of the pilot program), the Secretary shall enroll additional eligible providers to implement shared decision making using patient decision aids under the pilot program under this section. The Secretary may allow eligible providers to enroll in the pilot program on a regular basis during phase II.

(2) CONTINGENCY.—The Secretary shall not implement phase II of the pilot program if the Secretary finds, not later than 90 days after the date of submittal of the interim report under subsection (i)(2)(A), that the continued implementation of shared decision making is not in the best interest of Medicare beneficiaries.

(3) PREFERENCE.—In enrolling eligible providers in the pilot program during phase II, the Secretary shall include, to the extent practicable, eligible providers that—

(A) have or can acquire the infrastructure necessary to implement shared decision making supported by patient decision aids approved by the expert panel established under section 4(b) in a timely manner;

(B) have training in the use of patient decision aids or will participate in training for health care professionals who will be involved in such use (as specified by the Secretary); or

(C) represent high cost areas or high practice variation States under the Medicare program, and the District of Columbia.

(e) GUIDANCE.—The Secretary may, in consultation with the expert panel established under section 4(b), issue guidance to eligible providers participating in the pilot program under this section on the use of patient decision aids approved by the expert panel.

(f) REQUIREMENTS.—

(1) IMPLEMENTATION OF APPROVED PATIENT DECISION AIDS.—

(A) IN GENERAL.—During phase II of the pilot program under this section, an eligible provider participating in the pilot program shall incorporate 1 or more patient decision aids approved by the expert panel established under section 4(b) in furnishing items and services to Medicare beneficiaries with respect to 1 or more of the conditions identified in subsection (g), together with ongoing support involved in furnishing such items and services.

(B) DEFINED CLINICAL PROCESS.—During each phase of the pilot program under this section, the eligible provider shall establish and implement a defined clinical process under which, in the case of a Medicare beneficiary with 1 or more of such conditions, the eligible provider offers the Medicare beneficiary shared decision making (supported by such a patient decision aid) and collects information on the quality of patient decision making with respect to the Medicare beneficiary.

(2) FOLLOW-UP COUNSELING VISIT.—

(A) IN GENERAL.—During each phase of the pilot program under this section, an eligible provider participating in the pilot program under this section shall routinely schedule Medicare beneficiaries for a counseling visit after the viewing of such a patient decision aid to answer any questions the beneficiary may have with respect to the medical care of the condition involved and to assist the beneficiary in thinking through how their preferences and concerns relate to their medical care.

(B) PAYMENT FOR FOLLOW-UP COUNSELING VISIT.—The Secretary shall establish procedures for making payments for such counseling visits provided to Medicare beneficiaries during each phase of the pilot program under this section. Such procedures shall provide for the establishment—

(i) of a code (or codes) to represent such services; and

(ii) of a single payment amount for such service that includes the professional time of the health care provider and a portion of the reasonable costs of the infrastructure of the eligible provider.

(C) LIMITATION.—In the case of an eligible provider that is a Medicare Advantage plan, such eligible provider may not receive payment for such services.

(3) WAIVER OF COINSURANCE.—The Secretary shall establish procedures under which an eligible provider participating in the pilot program under this section may, in the case of a low-income Medicare beneficiary (as determined by the Secretary), waive any coinsurance or copayment that would otherwise apply for the follow-up counseling visit provided to such Medicare beneficiary under paragraph (2).

(4) COSTS OF IMPLEMENTATION.—

(A) IN GENERAL.—Subject to subparagraph (B), during each phase of the pilot program, an eligible provider participating in the pilot program shall be responsible for the costs of selecting, purchasing, and incorporating such patient decision aids into the group practice, reporting data on quality measures selected under subsection (h)(1), and recording outcomes under the pilot program.

(B) FINANCIAL SUPPORT.—During each such phase, the Secretary may, in addition to payments for counseling visits under paragraph (2), provide financial support to an eligible provider participating in the pilot program to acquire the infrastructure necessary to participate in the pilot program, including the development of clinical pathways to assure that Medicare beneficiaries have access to high-quality shared decision making, the reporting of data on quality measures selected under subsection (h)(1), and the recording of outcomes under the pilot program after phase I of the pilot program (as determined appropriate by the Secretary).

(g) PREFERENCE SENSITIVE CARE DESCRIBED.—The patient decision aids approved under section 4(b)(2)(A) shall, to the extent practicable, include patient decision aids for medical care of the following conditions:

(1) Arthritis of the hip and knee.

(2) Chronic back pain.

(3) Chest pain (stable angina).

(4) Enlarged prostate (benign prostatic hypertrophy, or BPH).

(5) Early-stage prostate cancer.

(6) Early-stage breast cancer.

(7) End-of-life care.

(8) Peripheral vascular disease.

(9) Gall stones.

(10) Threat of stroke from carotid artery disease.

(11) Any other condition the Secretary identifies as appropriate.

(h) QUALITY MEASURES.—

(1) SELECTION.—

(A) IN GENERAL.—During each phase of the pilot program, the Secretary shall measure the quality and implementation of shared decision making. For purposes of making such measurements, the Secretary shall select, from among those quality measures recommended by the expert panel under section 4(b)(2)(C), consensus-based quality measures that assess Medicare beneficiaries' knowledge of the options for medical treatment relevant to their medical condition, as well as the benefits and drawbacks of those medical treatment options, and the Medicare beneficiaries' goals and concerns regarding their medical care.

(B) RISK ADJUSTMENT.—In order to ensure accurate measurement across quality measures and eligible providers, the Secretary may risk adjust the quality measures selected under this paragraph to control for external factors, such as cognitive impairment, dementia, and literacy.

(2) REPORTING DATA ON MEASURES.—During each such phase, an eligible provider participating in the pilot program shall report to the Secretary data on quality measures selected under paragraph (1) in accordance with procedures established by the Secretary.

(3) FEEDBACK ON MEASURES.—During each such phase, the Secretary shall provide confidential reports to eligible providers participating in the pilot program on the performance of the eligible provider on quality measures selected by the Secretary under paragraph (1), the aggregate performance of all eligible providers participating in the pilot program, and any improvements in such performance.

(i) EVALUATIONS AND REPORTS.—

(1) INDEPENDENT EVALUATION.—The Secretary shall enter into a contract with an entity that has knowledge of shared decision making programs and demonstrated experience in the evaluation of such programs for the conduct of an independent evaluation of each phase of the pilot program under this section.

(2) REPORTS BY ENTITY CONDUCTING INDEPENDENT EVALUATION.—

(A) INTERIM REPORT.—Not later than 2 years after the implementation of phase I of the pilot program, the entity with a contract under paragraph (1) shall submit to the Secretary a report on the initial results of the independent evaluation conducted under such paragraph.

(B) FINAL REPORT.—Not later then 4 years after the implementation of phase II of the pilot program, such entity shall submit to the Secretary a report on the final results of such independent evaluation.

(C) CONTENTS OF REPORT.—Each report submitted under this paragraph shall—

(i) include an assessment of—

(I) quality measures selected under subsection (h)(1);

(II) Medicare beneficiary and health care provider satisfaction under the applicable phase of the pilot program;

(III) utilization of medical services for Medicare beneficiaries with 1 or more of the conditions described in subsection (g) and other Medicare beneficiaries as determined appropriate by the Secretary;

(IV) appropriate utilization of shared decision making by eligible providers under the applicable phase of the pilot program;

(V) savings to the Medicare program under title XVIII of the Social Security Act; and

(VI) the costs to eligible providers participating in the pilot program of selecting, purchasing, and incorporating approved patient decision aids and meeting reporting requirements under the applicable phase of the pilot program; and

(ii) identify the characteristics of individual eligible providers that are most effective in implementing shared decision making under the applicable phase of the pilot program.

(3) REPORT BY THE SECRETARY.—Not later than 12 months after the completion of phase II of the pilot program, the Secretary shall submit to Congress a report on the pilot program that includes—

(A) the results of the independent evaluation conducted under paragraph (2);

(B) an evaluation of the impact of the pilot program under this section, including the impact—

(i) of the use of patient decision aids approved by the expert panel established under section 4(b) for the medical care of the conditions described in subsection (g);

(ii) on expenditures for such conditions under the Medicare program, including a comparison of such expenditures for such conditions where such patient decision aids were used to such expenditures for such conditions where such patient decision aids were not used; and

(iii) on Medicare beneficiaries, including the understanding by beneficiaries of the options for medical care presented, concordance between beneficiary values and the medical care received, the mode of approved patient decision aid used (such as Internet, videos, and pamphlets), the timing of the delivery of such approved patient decision aid (such as the date of the initial diagnosis), and beneficiary and health care provider satisfaction with the shared decision making process;

(C) an evaluation of which eligible providers are most effective at implementing patient decision aids and assisting Medicare beneficiaries in making informed decisions on medical care; and

(D) recommendations for such legislation and administrative action as the Secretary determines appropriate.

(j) SAVINGS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the implementation of phase I of the pilot program, and annually thereafter for the duration of phase I and the first 2 years of phase II, the Secretary shall determine if there were any savings to the Medicare program as a result of such implementation during the preceding year (or years, if applicable). In the case where the Secretary determines there were such savings, the Secretary shall use such savings as follows:

(A) Fifty percent of such savings shall be used to provide bonus payments to eligible providers participating in the pilot program who achieve high quality shared decision making (as measured by the level of participation of Medicare beneficiaries in the shared decision making process and high scores by the eligible provider on quality measures selected under subsection (h)(1)).

(B) Twenty-five percent of such savings shall be placed in a Shared Decision Making Trust Fund established by the Secretary, which shall be used to expand participation in the pilot program to providers of services and suppliers in additional settings (as determined appropriate by the Secretary) by—

(i) providing financial assistance under subsection (c); and

(ii) providing for the development of quality measures not already selected under subsection (h)(1) to assess the impact of shared decision making on the quality of patient care or the improvement of such quality measures already selected.

(C) Twenty-five percent of such savings shall be retained by the Medicare program.

(2) RETENTION OF SAVINGS BY THE MEDICARE PROGRAM.—In the case where the Secretary determines there are savings to the Medicare program as a result of the implementation of the pilot program during a year (beginning with the third year of phase II), 100 percent of such savings shall be retained by the Medicare program.

(k) WAIVER.—The Secretary may waive such provisions of titles XI and XVIII of the Social Security Act as may be necessary to carry out the pilot program under this section.

(l) FUNDING.—For purposes of carrying out section 4(a), implementing the pilot program under this section (including costs incurred in conducting the evaluation under subsection (i)), and carrying out section 1890(b)(1)(A)(iv) of the Social Security Act, as added by section 4(c), the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) to the Centers for Medicare & Medicaid Services Program Management Account of $300,000,000 for the period of fiscal years 2010 through 2017.

SEC. 6. ESTABLISHMENT OF SHARED DECISION MAKING STANDARDS AND REQUIREMENTS IN MEDICARE.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''ESTABLISHMENT OF SHARED DECISION MAKING STANDARDS AND REQUIREMENTS

''SEC. 1899. (a) IN GENERAL.—Based on the findings of phases I and II of the pilot program under section 5 of the Empowering Medicare Patient Choices Act the Secretary shall promulgate regulations that—

''(1) specify for which preference sensitive conditions beneficiaries should, subject to the succeeding provisions of this section, participate in shared decision making;

''(2) require providers of services and suppliers to make sure that beneficiaries receive patient decision aids as appropriate; and

''(3) specify a process for beneficiaries to elect not to use such patient decision aids.

''(b) PENALTY FOR NOT USING SHARED DECISION MAKING.—Notwithstanding any other provision of this title, the Secretary shall promulgate such regulations and issue such guidance as may be necessary to reduce by 20 percent the amount of payment under this title that would otherwise apply to an item or service specified by the Secretary if the patient does not receive a patient decision aid prior to such item or service being furnished (except in the case where the beneficiary has elected not to use such patient decision aid under the process specified under subsection (a)(3)).

''(c) SECRETARIAL AUTHORITY TO WAIVE APPLICATION OF THIS SECTION.—The Secretary may waive the application of this section to an item or service under this title if the Secretary determines either of the following:

''(1) Medical societies and others have established evidence-based transparent standards incorporating patient decision aids and shared decision making into the standard of patient care for preference sensitive conditions.

''(2) Shared decision making is not in the best interest of beneficiaries.''.

By Mr. CASEY:

SA 1134. A bill to ensure the energy independence and economic viability of the Untied States by promoting the responsible use of coal through accelerated carbon capture and storage and through advanced clean coal technology research, development, demonstration, and deployment programs, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CASEY. Mr. President, I rise today to introduce the Responsible Use of Coal Act of 2009. This bill provides the Department of Energy with the funding needed to continue to accelerate both the research and development and the demonstration, and ultimately, the deployment of carbon capture and storage, CCS, technology. Further, this bill would position the U.S. as the world leader in CCS technology development and export, creating the potential for thousands of new clean energy jobs.

Climate change is one of the most complex and challenging imperatives that our Nation, and, the world, has ever faced. We need to move forward in crafting a national program that will reduce our greenhouse gas emissions, encourage the use of renewable power, and create clean energy jobs. As we move forward, we must do so in a manner that will ensure our energy security, protect our industries from ''carbon leakage,'' help get our economy back on track, and enable us to continue to benefit from our most abundant, affordable energy resource—coal.

Today coal provides over half of the Nation's electricity. While coal use for energy generation has more than tripled since 1970, emissions of sulfur dioxide, nitrogen oxide, and particulate matter from power plants have been dramatically reduced as the power industry deploys technologies for capturing these pollutants. Now, responding to health concerns about mercury, power plants are implementing technology to capture this toxic element. This illustrates how the development and deployment of advanced technology has allowed coal to continue to play such an important role in our energy strategy in the face of strict environmental requirements.

Coal helps keep American homes, businesses, factories, airports, schools and hospitals humming. Coal creates millions of good-paying jobs across all sectors of the economy—from direct and indirect mining and electric utility jobs to all those businesses and industries, large and small, which depend on affordable electricity to compete in the global marketplace. Coal-based electricity keeps people warm on freezing nights and comfortable during the hottest of summer days. Coal provides the reliable, secure electricity needed for the myriad of medical procedures to detect and treat cancer, heart disease and other health threats, saving innumerous lives every year. Electricity from coal is there when you need it.

Much of the world depends on coal, and developing economies like China and India are increasingly relying on coal to power them into the 21st Century. Coal supplies more than 40 percent of worldwide electricity demand. For China, the amount of electricity from coal is astonishing. Eighty percent of China's electricity comes from coal. Prior to the current global recession, China built one to two new coal plants every week.

But the continued use of coal in the U.S. and abroad has a significant challenge ahead of it—climate change. While we have made progress in the U.S. in dealing with climate change, we are still at the beginning of the process of piecing together a domestic program that will work for all of the different regions of this country and that will reduce our greenhouse gas emissions so that we meet our global commitment.

One of the key pieces that must be included in our domestic program to help meet the challenge of climate change is carbon capture and storage. I am sponsoring the Responsible Use of Coal Act of 2009 to supplement funding under the American Recovery and Reinvestment Act by further accelerating the Department of Energy's CCS research, development, demonstration, and deployment programs. Specifically the bill will promote the rapid commercial demonstration and early deployment of carbon capture and storage systems that will allow the Nation to continue to use its abundant, secure, and low-cost coal resources while moving forward with a national program to reduce the impact of man-made emissions on our environment.

The bill will promote the continued research and development of advanced CCS and other coal power generation technologies in order to drive down costs, increase performance, and foster innovation. It is crucial that, in parallel to the commercial demonstration of current CCS technology, we continue to develop and advance new CCS ideas and concepts through a robust research and development program in order to continue to lower the cost of complying with CO_2 regulations.

The bill will promote the export of U.S. CCS technologies to those countries, such as China and India, which also rely on coal as their dominant energy source—ensuring that the U.S. is the leader in developing and exporting clean coal technologies and taking advantage of the thousands of new clean energy jobs such an industry would create.

I am fully committed to work with my colleagues in the Senate in addressing climate change. At the same time, I believe that the Nation needs to recognize the critical role coal plays in driving our economic engine and to aggressively move forward in the research, development, demonstration, and deployment of CCS technology.

I urge all of my colleagues to join me in ensuring that the United States continues to enjoy the economic and energy security advantages that our domestic coal resources afford us while we move forward in crafting legislation

that will reduce our emissions of greenhouse gases.

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. 1134

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 ''Responsible Use of Coal Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) CARBON CAPTURE AND STORAGE TECHNOLOGY.—The term ''carbon capture and storage technology'' means an advanced technology or concept that the Secretary determines to have the potential—

(A) to capture or remove—

(i) carbon dioxide that is emitted from a coal-fired power plant; and

(ii) other industrial sources;

(B) to store carbon dioxide in geological formations; and

(C) to use carbon dioxide for—

(i) enhanced oil and natural gas recovery; or

(ii) other large-volume, beneficial uses.

(2) CARBON CAPTURE TECHNOLOGY.—

(A) IN GENERAL.—The term ''carbon capture technology'' means any precombustion technology, post-combustion technology, or oxy-combustion technology or process.

(B) INCLUSION.—The term ''carbon capture technology'' includes carbon dioxide compression technology.

(3) ENHANCED OIL AND NATURAL GAS RECOVERY.—The term ''enhanced oil and natural gas recovery'' means the use of carbon dioxide to improve or enhance the recovery of oil or natural gas from a depleted oil or natural gas field.

(4) PRECOMBUSTION TECHNOLOGY.—The term ''precombustion technology'' means a coal or coal-biomass gasification or integrated gasification combined-cycle process coupled with carbon dioxide storage or reuse.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote the continued responsible use of the abundant, secure, and low-cost coal resources of the United States through the research, development, demonstration, and deployment of—

(A) carbon capture and storage technologies; and

(B) advanced coal power generation technologies;

(2) to promote the exportation of the carbon capture and storage technologies and advanced coal power generation technologies developed by the United States to countries that rely on coal as the dominant energy source of the countries (including China and India); and

(3) to support the deployment of carbon capture and storage technologies by—

(A) quantifying the risks of the technologies; and

(B) helping to establish the most appropriate framework for managing liabilities associated with all phases of carbon capture and storage technology projects, including—

(i) the capture and transportation of carbon dioxide; and

(ii) the siting, design, operation, closure, and long-term stewardship of carbon dioxide storage facilities.

SEC. 4. PROGRAMS.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, in accordance with paragraph (2) and subsection (b), the Secretary, acting through the Director of the National Energy Technology Laboratory, shall carry out a research, development, and demonstration program through the National Energy Technology Laboratory to further advance carbon capture and storage and coal power generation technologies.

(2) REQUIRED PROGRAMS.—The program described in paragraph (1) shall include each program described in paragraphs (3) through (6).

(3) COMMERCIAL DEMONSTRATION PROGRAM.—As soon as practicable after the date of enactment of this Act, the Secretary, acting through the Director of the National Energy Technology Laboratory, shall carry out a large-scale commercial demonstration program to evaluate the most promising carbon capture and storage technologies.

(4) RESEARCH AND DEVELOPMENT PROGRAM REGARDING CARBON CAPTURE TECHNOLOGIES.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate carbon capture technologies to decrease the cost, and increase the performance, of carbon capture technologies.

(5) RESEARCH AND DEVELOPMENT PROGRAM REGARDING CARBON DIOXIDE STORAGE.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate options for carbon dioxide storage in geological formations—

(A) for enhanced oil and natural gas recovery; and

(B) to decrease the cost, and increase the performance, of carbon capture and storage technologies in existence as of the date of enactment of this Act.

(6) RESEARCH AND DEVELOPMENT PROGRAM REGARDING ADVANCED CLEAN COAL POWER GENERATION TECHNOLOGIES.—As soon as practicable after the date of enactment of this Act, the Secretary shall carry out a research and development program under which the Secretary shall evaluate advanced clean coal power generation technologies to make practicable—

(A) the capture and storage of carbon dioxide; and

(B) highly efficient power generation (including advanced turbines, fuel cells, hydrogen production, and advanced gasification).

(b) COST-SHARING REQUIREMENTS.—

(1) COMMERCIAL DEMONSTRATION PROGRAM.—The Federal share of the cost of any competitively procured project carried out using funds provided under the commercial demonstration program described in subsection (a)(3) shall be not more than 50 percent.

(2) OTHER PROGRAMS.—The Federal share of the cost of any competitively procured project carried out using funds provided under a program described in paragraph (4), (5), or (6) of subsection (a) shall be not more than 80 percent.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary—

(1) to carry out the commercial demonstration program under section 4(a)(3)—

(A) $300,000,000 for fiscal year 2010;

(B) $350,000,000 for fiscal year 2011;

(C) $400,000,000 for fiscal year 2012; and

(D) $400,000,000 for fiscal year 2013;

(2) to carry out the research and development program under section 4(a)(4)—

(A) $80,000,000 for fiscal year 2010;

(B) $100,000,000 for fiscal year 2011;

(C) $120,000,000 for fiscal year 2012; and

(D) $120,000,000 for fiscal year 2013;

(3) to carry out the research and development program under section 4(a)(5)—

(A) $170,000,000 for fiscal year 2010;

(B) $200,000,000 for fiscal year 2011;

(C) $225,000,000 for fiscal year 2012; and

(D) $225,000,000 for fiscal year 2013; and

(4) to carry out the research and development program under section 4(a)(6)—

(A) $250,000,000 for fiscal year 2010;

(B) $270,000,000 for fiscal year 2011;

(C) $300,000,000 for fiscal year 2012; and

(D) $300,000,000 for fiscal year 2013.

By Ms. STABENOW (for herself, Mr. BROWNBACK, Mr. DURBIN, Mr. VOINOVICH, Mr. LEVIN, Mr. BROWN, Ms. MIKULSKI, and Mr. LIEBERMAN):

S. 1135. A bill to establish a voluntary program in the National Highway Traffic Safety Administration to encourage consumers to trade-in older vehicles for more fuel efficient vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. STABENOW. 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. 1135

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 ''Drive America Forward Act of 2009''.

SEC. 2. DRIVE AMERICA FORWARD PROGRAM.

(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the ''Drive America Forward Program'' through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

(2) certify dealers for participation in the Program—

(A) to accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for vouchers accepted by such dealers, in accordance with the regulations issued under subsection (d);

(4) in consultation with the Secretary of the Treasury, provide for the payment of rebates to persons who qualify for a rebate under subsection (c)(3); and

(5) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the Program.

(b) QUALIFICATIONS FOR AND VALUE OF VOUCHERS.—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

(1) $3,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $3,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

(2) $4,500 VALUE.—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by $4,500 if—

(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

(c) PROGRAM SPECIFICATIONS.—

(1) LIMITATIONS.—

(A) GENERAL PERIOD OF ELIGIBILITY.—A voucher issued under the Program shall be used only for the purchase or qualifying lease of new fuel efficient automobiles that occur between—

(i) March 30, 2009; and

(ii) the day that is 1 year after the date on which the regulations promulgated under subsection (d) are implemented.

(B) NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

(C) NO COMBINATION OF VOUCHERS.—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

(D) CAP ON FUNDS FOR CATEGORY 3 TRUCKS.—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

(E) COMBINATION WITH OTHER INCENTIVES PERMITTED.—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

(F) NO ADDITIONAL FEES.—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

(G) NUMBER AND AMOUNT.—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

(2) DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.—

(A) IN GENERAL.—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

(ii) will transfer the vehicle (including the engine and drive train), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

(B) SAVINGS PROVISION.—Nothing in subparagraph (A) may be construed to preclude a person who dismantles or disposes of the vehicle from—

(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless the engine or drive train has been crushed or shredded); or

(ii) retaining the proceeds from such sale.

(C) COORDINATION.—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

(3) ELIGIBLE PURCHASES OR LEASES PRIOR TO DATE OF ENACTMENT.—A person who purchased or leased a new fuel efficient vehicle after March 30, 2009, and before the date of the enactment of this Act is eligible for a cash rebate equivalent to the amount described in subsection (b)(1) if the person provides proof satisfactory to the Secretary that—

(A)(i) the person was the registered owner of an eligible trade-in vehicle; or

(ii) if the person leased the vehicle, the lease was a qualifying lease; and

(B) the vehicle has been disposed of in accordance with clauses (i) and (ii) of paragraph (2)(A).

(d) REGULATIONS.—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act. Such regulations shall—

(1) provide for a means of certifying dealers for participation in the Program;

(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for both the amount of the vouchers and any reasonable administrative costs incurred by the dealer as soon as practicable but no longer than 10 days after the submission of a voucher for the new fuel efficient automobile to the Secretary;

(3) allow the dealer to use the voucher in addition to any other rebate or discount offered by the dealer or the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of such vehicle and to permit the dealer to retain $50 of any amounts paid to the dealer for scrappage of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

(5) establish a process by which persons who qualify for a rebate under subsection (c)(3) may apply for such rebate;

(6) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

(A) requirements for the removal and appropriate disposition of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher; and

(C) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal;

(7) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures; and

(8) provide for the enforcement of the penalties described in subsection (e).

(e) ANTI-FRAUD PROVISIONS.—

(1) VIOLATION.—It shall be unlawful for any person to knowingly violate any provision under this section or any regulations issued pursuant to subsection (d).

(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than $15,000 for each violation.

(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act, and promptly upon the update of any relevant information, the Secretary shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

(1) how to determine if a vehicle is an eligible trade-in vehicle;

(2) how to participate in the Program, including how to determine participating dealers; and

(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

(g) RECORDKEEPING AND REPORT.—

(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

(2) REPORT.—Not later than 60 days after the termination date described in subsection (c)(1)(A)(ii), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

(A) a description of Program results, including—

(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

(iii) the location of sale or lease;

(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

(C) an estimate of the overall economic and employment effects of the Program.

(h) EXCLUSION OF VOUCHERS AND REBATES FROM INCOME.—

(1) FOR PURPOSES OF ALL FEDERAL PROGRAMS.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher or rebate and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher or rebate (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program.

(2) FOR PURPOSES OF TAXATION.—A voucher issued under the Program or a cash rebate issued under subsection (c)(3) shall not be considered as gross income for purposes of the Internal Revenue Code of 1986.

(i) DEFINITIONS.—As used in this section—

(1) the term ''passenger automobile'' means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

(2) the term ''category 1 truck'' means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

(3) the term ''category 2 truck'' means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that is a large van or a large pickup, as categorized by the Secretary using the method used by the Environmental Protection Agency and described in the report entitled ''Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008'';

(4) the term ''category 3 truck'' means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

(5) the term ''combined fuel economy value'' means—

(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words ''Combined Fuel Economy'' on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words ''Estimated New EPA MPG'' and above the word ''Combined'' for vehicles of model year 1984 through 2007, or posted under the words ''New EPA MPG'' and above the word ''Combined'' for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1984, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle;

(6) the term ''dealer'' means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

(7) the term ''eligible trade-in vehicle'' means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

(A) is in drivable condition;

(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

(C) was manufactured less than 25 years before the date of the trade-in; and

(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

(8) the term ''new fuel efficient automobile'' means an automobile described in paragraph (1), (2), (3), or (4)—

(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

(B) that carries a manufacturer's suggested retail price of $45,000 or less;

(C) that—

(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under section 86.1811–04 of title 40, Code of Federal Regulations; or

(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816–08, 86.007–11, or 86.008–10 of title 40, Code of Federal Regulations; and

(D) that has the combined fuel economy value of—

(i) 22 miles per gallon for a passenger automobile;

(ii) 18 miles per gallon for a category 1 truck; or

(iii) 15 miles per gallon for a category 2 truck;

(9) the term ''Program'' means the Drive America Forward Program established by this section;

(10) the term ''qualifying lease'' means a lease of an automobile for a period of not less than 5 years;

(11) the term ''scrappage value'' means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying the vehicle;

(12) the term ''Secretary'' means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

(13) the term ''ultimate purchaser'' means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale; and

(14) the term ''vehicle identification number'' means the 17-character number used by the automobile industry to identify individual automobiles.

SEC. 3. REALLOCATION OF APPROPRIATIONS.

From the amounts appropriated under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), the Director of the Office of Management and Budget may allocate such sums as the Director determines to be necessary to carry out the Drive America Forward Program established under this Act.

By Mr. FEINGOLD (for himself, Ms. SNOWE, Mrs. LINCOLN, Mr. SANDERS, and Mr. DODD):

S. 1137. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I am today introducing the Teachers at the Table Act of 2009. This bill is the Senate companion to legislation introduced in the House of Representatives by Representative Carolyn McCarthy of New York and Representative LEE Terry of Nebraska and would create a Volunteer Teacher Advisory Committee to advise Congress and the Department of Education on the impact of the Elementary and Secondary Education Act, ESEA, also known as No Child Left Behind, NCLB, on students, their families, and the classroom learning environment. The teachers serving on this committee would be chosen from past or present State or national Teachers of the Year and would be competitively selected by the Secretary of Education and the majority and minority leaders of both the Senate and the House of Representatives.

Every year I travel to each of Wisconsin's 72 counties to hold a listening session to listen to Wisconsinites' concerns and answer their questions. Since NCLB was enacted in early 2002, education has rated as one of the top issues brought up at these listening sessions. I have received feedback from constituents about the noble intentions of NCLB, but I have also heard about the multitude of implementation problems with the law's provisions. The feedback from teachers, parents, school administrators, and school board members has been invaluable over the past 7 years and has guided many of my education policymaking decisions.

As Congress seeks to undertake the reauthorization of ESEA this year, it is my hope that this legislation can be part of the reauthorization. Feedback

from good teachers is absolutely vital to understanding how federal education policy is impacting classroom instruction around the country. This legislation seeks to help ensure that continuous feedback is provided to Congress about how the reauthorized ESEA is impacting student achievement and closing the persistent achievement gap that exists in our Nation.

The Teachers at the Table bill I am introducing today seeks to help ensure that Congress and the Department of Education receive high-quality yearly feedback on how ESEA/NCLB is impacting classroom learning around the country. The teachers who will serve on this committee represent some of the best that teaching has to offer. The bill would create a committee of 20 teachers, with 4 selected by the Secretary of Education and 4 selected by each of the majority and minority leaders in the Senate and House of Representatives. These teachers would serve 2-year terms on the advisory committee and would work to prepare annual reports to Congress as well as quarterly updates on the law's implementation.

Every State and every school district is different and this legislation ensures that the teacher advisory committee will represent a wide range of viewpoints. The bill specifies that the volunteer teacher advisory committee should include teachers from diverse geographic areas, teachers who teach different grade levels, and teachers from a variety of specialty areas. Creating a diverse committee will help ensure that the committee presents a broad range of viewpoints on ESEA/NCLB to Congress and the Department of Education.

Much work needs to be done this year to reform many of the mandates of ESEA/NCLB and I look forward to working with my colleagues during the reauthorization to make those necessary changes. One thing is certain whatever form the reauthorized ESEA takes, there will be a need for consistent feedback from a diverse range of viewpoints.

We need to ensure that the voices of students, educators, parents, and administrators, who are on the frontlines of education reform in our country, are heard during the reauthorization of ESEA and going forward during the reauthorized law's implementation in years to come. This bill seeks to help address that need by enlisting the service of some of America's best teachers in providing information to Federal education policymakers. The advisory committee created by this legislation will provide nationwide feedback and will allow Congress to hear about ESEA/NCLB directly from those who deal with the law and its consequences on a daily basis.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1138. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to expand the Bay Area Regional Recycling Program, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senator BOXER to introduce the Bay Area Regional Water Recycling Program Expansion Act of 2009, which will reduce demand for limited fresh water supplies by providing recycled water to 6 communities across the Bay Area.

It will make 6 additional Bay Area recycled water projects eligible for a 25 percent Federal cost-share, and expand the authorizations for two more, totaling $38,075,000. The activities authorized by the new legislation include installing new piping, storage tanks, and pump stations to convey the recycled water to a number of cities across the Bay Area.

These projects collectively will save 2.6 billion gallons per year of regional water supply by providing a new water supply of clean treated wastewater for irrigation and industrial use. It will free up the amount needed to supply 24,225 households in the growing Bay Area region. And to the regional agencies, over 3,500 local green jobs will be supported by this legislation.

The adoption of water recycling technology is an invaluable conservation method which will result in 8,000 acre-feet of new and reliable water which will reduce demand on fresh water from the Delta.

California is facing phenomenal water supply challenges that are affecting our economy, our communities and our environment.

California's water infrastructure is woefully out of date. Drought, population growth, climate variability, ecosystem needs and a broken Delta are making it even more difficult to manage our water system and deliver reliable supplies.

And unless we take action to address climate change, we could lose a significant portion of the Sierra snowpack, which stores water for 2/3 of California, by 2100.

Increasing the capability for and use of recycled water will help address California's cycles of drought and reduce dependence on water from the troubled Bay-Delta ecosystem.

Water recycling projects are already under way in several local Bay Area communities, and have qualified for Federal funding under the Bay Area Regional Water Recycling Program. This program allows local water managers to treat wastewater and use the clean, recycled water for landscape irrigation and other uses, including at golf courses, schools, city parks and other municipal facilities. Under the new legislation, the six additional Bay Area communities would be allowed to work with the Federal Bureau of Reclamation to use water supplies more efficiently.

With the increasing strain on Bay-Delta and other natural resources, it is vital that we look to adopt innovative water recycling technologies which sustain permanent clean water supplies and support existing water resources and local economies.

Nine Bay Area congressional representatives in the House put this regional approach together, and I'd like to recognize and thank them for their leadership: GEORGE MILLER, D-Martinez, Pete Stark, D-Fremont, ELLEN TAUSCHER, D-Concord, ANNA ESHOO, D-Palo Alto, MIKE HONDA, D-San Jose, LYNN WOOLSEY, D-Petaluma, JERRY MCNERNEY, D-Pleasanton, ZOE LOFGREN, D-San Jose and JACKIE SPEIER, D-San Mateo, worked together to address the Bay Area's water needs.

This bill reflects a federal-local partnership and will provide communities in the San Francisco Bay Area with reliable and sustainable water supplies, and be a benchmark for other major American cities.

Declining water supplies affects people from all across the United States. Now is the time to invest in new water technologies, such as water recycling, to meet increasing needs. Wastewater recycling is an important part of a multifaceted water supply strategy that also includes surface and groundwater storage, improved conveyance, conservation, and desalination.

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. 1138

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 ''Bay Area Regional Water Recycling Program Expansion Act of 2009''.

SEC. 2. PROJECT AUTHORIZATIONS.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by adding at the end the following:

''SEC. 1649. CCCSD-CONCORD RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Central Contra Costa Sanitary District, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,800,000.

''SEC. 1650. CENTRAL DUBLIN RECYCLED WATER DISTRIBUTION AND RETROFIT PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Dublin San Ramon Services District, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,150,000.

''SEC. 1651. PETALUMA RECYCLED WATER PROJECT, PHASES 2A, 2B, AND 3.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Petaluma, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000.

''SEC. 1652. CENTRAL REDWOOD CITY RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,000,000.

''SEC. 1653. PALO ALTO RECYCLED WATER PIPELINE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Palo Alto, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $8,250,000.

''SEC. 1654. IRONHOUSE SANITARY DISTRICT (ISD) ANTIOCH RECYCLED WATER PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the Ironhouse Sanitary District (ISD), California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

''(b) COST SHARE.—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000.''.

(b) PROJECT IMPLEMENTATION.—In carrying out sections 1642 through 1648 of the Reclamation Wastewater and Groundwater Study and Facilities Act, and sections 1649 through 1654 of such Act, as added by subsection (a), the Secretary shall enter into individual agreements with the San Francisco Bay Area Regional Water Recycling implementing agencies to fund the projects through the Bay Area Clean Water Agencies (BACWA) or its successor, and shall include in such agreements a provision for the reimbursement of construction costs, including those construction costs incurred prior to the enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of contents of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by inserting after the item relating to section 1648 the following new items:

''Sec. 1649. CCCSD-Concord recycled water project.
''Sec. 1650. Central Dublin recycled water distribution and retrofit project.
''Sec. 1651. Petaluma recycled water project, phases 2a, 2b, and 3.
''Sec. 1652. Central Redwood City recycled water project.
''Sec. 1653. Palo Alto recycled water pipeline project.
''Sec. 1654. Ironhouse Sanitary District (ISD) Antioch recycled water project.''.

SEC. 3. MODIFICATION TO AUTHORIZED PROJECTS.

(a) ANTIOCH RECYCLED WATER PROJECT.—Section 1644(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–27) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by striking ''$2,250,000'' and inserting ''$3,125,000''.

(b) SOUTH BAY ADVANCED RECYCLED WATER TREATMENT FACILITY.—Section 1648(d) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–31) (as amended by section 512(a) of the Consolidated Natural Resources Act of 2008) is amended by striking ''$8,250,000'' and inserting ''$13,250,000''.

By Mr. WYDEN:

S. 1139. A bill to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am pleased to introduce two bills that will provide two important communities in rural Oregon with the means to promote their cultural history and their economic development opportunities, S. 1139 and S. 1140.

Like anywhere in America, the leaders in rural communities in my state are working every day to build the best place they can. And in many rural communities in my state, that means not much happens without the Federal Government involved. Like many places in the Western United States, the Federal Government owns much of the land surrounding these small communities. To be sure, many of these lands are treasures; they are the source of a vibrant tourism economy; an attraction for individuals and businesses to move to the region; and the daily outlet for the people lucky enough to live there.

By the same token, this high percentage of Federal land ownership sometimes limits the ability of local governments and civic leaders to solve problems and serve the public. The Federal Government can and should be an active partner in advancing communities and improving a region's quality of life.

So today I am introducing legislation that demonstrates the possibilities that can come from a quality Federal Government partnership with a proactive, innovative community that faces challenging economic conditions and a dominant pattern of Federal land ownership.

My first bill, the La Pine Land Conveyance Act, would convey two parcels of property to Deschutes County, Oregon. The bill directs the transfer of Bureau of Land Management BLM, lands to Deschutes County, that will enable the small town of La Pine to develop rodeo and equestrian facilities, public parks, and other recreation facilities.

La Pine has a set of unique challenges well known to the people of Deschutes County. The town recently incorporated, and with incorporation has come a feeling in the community that good things can happen if they work together to make their town as good as it can possibly be.

My bill proposes the transfer of 320 acres of BLM land contiguous to the La Pine city limit, on its western boundary. Ownership of this location will enable construction of public equestrian and rodeo facilities that have become increasingly important in La Pine. The property is within reasonable walking distance of downtown, creating an ideal parade route for the annual 4th of July Frontier Days parade. In addition, the land will provide a location for development of ball fields, parks, and recreation facilities, which can be developed as the town grows and budgets allow.

The La Pine Rodeo and Frontier Days events are currently facing the last year they can hold their events on the currently utilized location because that private property is being developed for other uses. So looking towards the Federal Government, who controls the vast majority of land in the La Pine area, to find a solution provides the right kind of partnership between the federal and local government.

My bill also directs the transfer of approximately 750 acres of BLM lands to Deschutes County for the purpose of expanding the town's wastewater treatment operation.

More than two years ago my office participated in discussions between the La Pine community leaders and the BLM concerning the La Pine community's need for land to serve public purposes. Due to staffing limitations, BLM asked the City to choose one top priority for a land transfer under the Recreation and Public Purposes Act. The La Pine City Council responded immediately that its top priority was

the acquisition of land to enable expansion of their sewer district.

To date, the land has not been transferred, which make this small community unable to be competitive for state and federal economic stimulus funds.

This project is too important to let languish. Perhaps the most important issue affecting water quality in Deschutes County involves the threat to groundwater and the Deschutes River from household septic systems in southern Deschutes County, the region around La Pine. This project directly reduces nitrate loading into south county groundwater in two ways. First, by enabling expansion of the District service boundary to residential areas where septic systems are generating elevated groundwater nitrate levels; and second, by closing the current location for spreading treated effluent, over a relatively high groundwater area, to this new location which is judged not to threaten groundwater. That is why I am introducing legislation today to make sure this transfer moves forward.

My second bill, the Wallowa Forest Service Compound Conveyance Act would convey an old Forest Service Ranger Station compound to the City of Wallowa, Oregon. In Wallowa County, this Forest Service compound was built by the Civilian Conservation Corps in the 1930's. For many years it was the center of town and this site continues to represent the natural and cultural history of one of eastern Oregon's most beautiful communities. The City of Wallowa, along with County Commissioners, the local arts organizations, and a broad group of community leaders intend to restore this important example of Pacific Northwest rustic architecture and tribute to bygone times, making a valuable community interpretive center at this site. The conveyance of this property will allow the community to move forward with this project. The community is currently working to list the Ranger Station on the National Register of Historic Places, and ownership by the City will allow this coalition to restore the buildings and again develop a vibrant community center. Oregon Public Broadcasting aired a segment depicting an early 20th century railroad logging community—a significant part of the rich and diverse history and traditions that will be preserved and celebrated as this Forest Service Compound is developed as an interpretive center.

I want to express my thanks to all the citizens and community leaders that have worked to build their communities and develop these projects. They represent the pioneering spirit and vision that defines my State.

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. 1139

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 ''Wallowa Forest Service Compound Conveyance Act''.

SEC. 2. CONVEYANCE TO CITY OF WALLOWA, OREGON.

(a) DEFINITIONS.—In this Act:

(1) CITY.—The term ''City'' means the city of Wallowa, Oregon.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) WALLOWA FOREST SERVICE COMPOUND.—The term ''Wallowa Forest Service Compound'' means the Wallowa Ranger Station that is—

(A) located at 602 West First Street, Wallowa, Oregon; and

(B) under the jurisdiction of the Secretary.

(b) DUTY OF SECRETARY.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, the Secretary shall convey to the City, without consideration and by quitclaim deed, all right, title, and interest of the United States, except as provided in subsections (c) and (d), in and to the Wallowa Forest Service Compound.

(c) USE OF WALLOWA FOREST SERVICE COMPOUND.—As a condition of the conveyance under subsection (b), the City shall—

(1) use the Wallowa Forest Service Compound as an interpretive center;

(2) ensure that the Wallowa Forest Service Compound is managed by a nonprofit entity; and

(3) agree to manage the Wallowa Forest Service Compound—

(A) with due consideration and protection for the historic values of the Wallowa Forest Service Compound; and

(B) in accordance with such terms and conditions as are agreed to by the Secretary and the City.

(d) REVERSION.—In the quitclaim deed to the City, the Secretary shall provide that the Wallowa Forest Service Compound shall revert to the Secretary, at the election of the Secretary, if the Wallowa Forest Service Compound is—

(1) used for a purpose other than the purposes described in subsection (c)(1); or

(2) managed by the City in a manner that is inconsistent with subsection(c)(3).

By Mr. WYDEN:

S. 1140. A bill to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. 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. 1140

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 ''La Pine Land Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNTY.—The term ''County'' means the County of Deschutes, Oregon.

(2) MAP.—The term ''map'' means the map entitled ''La Pine Proposed Land Transfer Proposal'' and dated May [____], 2009.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. CONVEYANCE OF LAND TO THE COUNTY OF DESCHUTES, OREGON.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of—

(1) approximately 320 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as ''parcel A''; and

(2) approximately 750 acres of land managed by the Bureau of Land Management, Prineville District, Oregon, depicted on the map as ''parcel B''.

(c) MAP ON FILE.—The map shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(d) USE OF CONVEYED LAND.—

(1) IN GENERAL.—The land conveyed under subsection (a) shall be used as a rodeo ground, public sewer system, or other public purpose consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(2) LIMITATIONS.—The land conveyed under subsection (a)—

(A) shall not be used for residential or commercial purposes; and

(B) shall be used consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(3) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions for the conveyance as the Secretary determines to be appropriate to protect the interests of the United States.

(e) ADMINISTRATIVE COSTS.—The Secretary shall require the County to pay all survey costs and other administrative costs necessary for the preparation and completion of any patents for, and transfers of title to, the land under subsection (a).

(f) REVERSION.—

(1) IN GENERAL.—If the land conveyed under subsection (a) ceases to be used for the public purpose for which the land was conveyed, the land shall, at the discretion of the Secretary, revert to the United States.

(2) RESPONSIBILITY OF DISTRICT.—If the Secretary determines under paragraph (1) that the land should revert to the United States and that the land is contaminated with hazardous waste, the County shall be responsible for remediation of the contamination.

By Mrs. FEINSTEIN (for herself and Mr. BOND):

S. 1141. A bill to extend certain trade preferences to certain least-developed countries, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator BOND to introduce the Tariff Relief Assistance for Developing Economies Act of 2009 to help some of the world's poorest countries sustain vital export industries and promote economic growth and political stability.

I worked with former senator Gordon Smith on this bill in the past and I am proud to move it forward in the 111th Congress.

This legislation will provide duty free and quota free benefits for garments and other products similar to those afforded to beneficiary countries under the Africa Growth and Opportunity Act, AGOA.

The countries covered by this legislation are the 14 Least Developed Countries, LDCs, as defined by the United Nations and the U.S. State Department, which are not covered by any current U.S. trade preference program: Afghanistan, Bangladesh, Bhutan, Cambodia, Kiribati, Laos, Maldives, Nepal, Samoa, Solomon Islands, East Timor, Tuvalu, Vanuatu, and Yemen.

The bill also includes Sri Lanka as an eligible country.

To be eligible for the benefits provided under our bill, a country must demonstrate that it is making continual progress toward establishing rule of law, political pluralism, the right to due process, and a market-based economy that protects private property rights. Our legislation would help promote democracy while sustaining vital export industries and creating employment opportunities.

The beneficiary countries of this legislation are among the poorest countries in the world.

Nepal has per capita income of $240. Unemployment in Bangladesh stands at 40 percent. Approximately 36 percent of Cambodia's population lives below the poverty line.

Each country faces critical challenges in the years ahead including poor health care, insufficient educational opportunities, high HIV/AIDS rates, and the effects of war and civil strife.

The U.S. must take a leadership role in providing much needed assistance to the people of these countries.

Yet humanitarian and development assistance should not be the sum total of our efforts to put these countries on the road to economic prosperity and political stability.

Indeed, the key for sustained growth and rising standards of living will be the ability of each of these countries to create vital export industries to compete in a free and open global marketplace.

We should help these countries help themselves by opening the U.S. market to their exports.

Success in that endeavor will ultimately allow these countries to become less dependent on foreign aid and allow the U.S. to provide assistance to countries in greater need.

The garment industry is a key part of the manufacturing sector in some of these countries.

In Nepal, the garment industry is entirely export oriented and accounts for 40 percent of foreign exchange earnings. It employs over 100,000 workers—half of them women—and sustains the livelihood of over 350,000 people.

The United States is the largest market for Nepalese garments and accounts for 80–90 percent of Nepal's total exports every year.

In Cambodia, approximately 250,000 Cambodians work in the garment industry supporting approximately one million dependents. The garment industry accounts for more than 90 percent of Cambodia's export earnings.

In Bangladesh, the garment industry accounts for 75 percent of export earnings. The industry employs 1.8 million people, 90 percent of whom are women, and sustains the livelihoods of 10 to 15 million people.

Despite the poverty seen in these countries and the importance of the garment industry and the U.S. market, they face some of the highest U.S. tariffs in the world, averaging over 15 percent. In contrast, countries like Japan and our European partners face tariffs that are nearly zero.

Surely we can do better. This legislation will help these countries compete in the U.S. market and let their citizens know that Americans are committed to helping them realize a better future for themselves and their families.

Doing so is consistent with U.S. goals to combat poverty, instability, and terrorism in a critical part of the world. We should not forget that of the approximately 265 million people that live in the TRADE Act countries, almost 200 million are Muslim.

The impact on U.S. jobs will be minimal. Currently, the beneficiary countries under this legislation account for only 4 percent of U.S. textile and apparel imports, compared to 24 percent for China, and 72 percent for the rest of the world.

These countries will continue to be small players in the U.S. market, but the benefits of this legislation will have a major impact on their export economies.

At a time when we are trying to rebuild the image of the U.S. around the world, we need legislation such as this to show the best of America and American values. It will provide a vital component to our development strategy and add another tool to the war on terror. I urge my colleagues to support this bill.

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. 1141

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 ''Tariff Relief Assistance for Developing Economies Act of 2009'' or the ''TRADE Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is in the mutual interest of the United States and least-developed countries to promote stable and sustainable economic growth and development.

(2) Trade and investment are powerful economic tools and can be used to reduce poverty and raise the standard of living in a country.

(3) A country that is open to trade may increase its economic growth.

(4) Trade and investment often lead to employment opportunities and often help alleviate poverty.

(5) Least-developed countries have a particular challenge in meeting the economic requirements and competitiveness of globalization and international markets.

(6) The United States has recognized the benefits that international trade provides to least-developed countries by enacting the Generalized System of Preferences and trade benefits for developing countries in the Caribbean, Andean, and sub-Saharan African regions of the world.

(7) Enhanced trade with least-developed Muslim countries, including Yemen, Afghanistan, and Bangladesh, is consistent with other United States objectives of encouraging a strong private sector and individual economic empowerment in those countries.

(8) Offering least-developed countries enhanced trade preferences will encourage both higher levels of trade and direct investment in support of positive economic and political developments throughout the world.

(9) Encouraging the reciprocal reduction of trade and investment barriers will enhance the benefits of trade and investment as well as enhance commercial and political ties between the United States and the countries designated for benefits under this Act.

(10) Economic opportunity and engagement in the global trading system together with support for democratic institutions and a respect for human rights are mutually reinforcing objectives and key elements of a policy to confront and defeat global terrorism.

SEC. 3. DEFINITIONS.

In this Act:

(1) BENEFICIARY TRADE ACT OF 2009 COUNTRY.—The term ''beneficiary TRADE Act of 2009 country'' means a TRADE Act of 2009 country that the President has determined is eligible for preferential treatment under section 5.

(2) FORMER TRADE ACT OF 2009 BENEFICIARY COUNTRY.—The term ''former TRADE Act of 2009 beneficiary country'' means a country that, after being designated as a beneficiary TRADE Act of 2009 country under this Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

(3) TRADE ACT OF 2009 COUNTRY.—The term ''TRADE Act of 2009 country'' means a country listed in subsection (b) or (c) of section 4.

SEC. 4. AUTHORITY TO DESIGNATE; ELIGIBILITY REQUIREMENTS.

(a) AUTHORITY TO DESIGNATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a TRADE Act of 2009 country as a beneficiary TRADE Act of 2009 country eligible for benefits described in section 5—

(A) if the President determines that the country meets the requirements set forth in section 104 of the African Growth and Opportunity Act (19 U.S.C. 3703); and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462 (a), (d), and (e)), if the country otherwise meets the eligibility criteria set forth in such section 502.

(2) APPLICATION OF SECTION 104.—Section 104 of the African Growth and Opportunity Act shall be applied for purposes of paragraph (1) by substituting ''TRADE Act of 2009 country'' for ''sub-Saharan African country'' each place it appears.

(b) COUNTRIES ELIGIBLE FOR DESIGNATION.—For purposes of this Act, the term ''TRADE Act of 2009 country'' refers to the following or their successor political entities:

(1) Afghanistan.
(2) Bangladesh.
(3) Bhutan.
(4) Cambodia.
(5) Kiribati.
(6) Lao People's Democratic Republic.
(7) Maldives.
(8) Nepal.
(9) Samoa.
(10) Solomon Islands.
(11) Timor-Leste (East Timor).
(12) Tuvalu.
(13) Vanuatu.
(14) Yemen.

(c) SRI LANKA ECONOMIC EMERGENCY SUPPORT.—For purposes of this Act, the President may also designate Sri Lanka as beneficiary TRADE Act of 2009 country eligible for benefits described in section 5.

SEC. 5. TRADE ENHANCEMENT.

The preferential treatment described in this section includes the following:

(1) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(A) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) of the Trade Act of 1974 (19 U.S.C. 2463(b)(1) (B) through (G)) that is the growth, product, or manufacture of a beneficiary TRADE Act of 2009 country, if, after receiving the advice of the International Trade Commission in accordance with section 503(e) of the Trade Act of 1974 (19 U.S.C. 2463(e)), the President determines that such article is not import-sensitive in the context of imports from beneficiary TRADE Act of 2009 countries.

(B) RULES OF ORIGIN.—The duty-free treatment provided under subparagraph (A) shall apply to any article described in that subparagraph that meets the requirements of section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)), except that—

(i) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)); and

(ii) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries shall be applied in determining such percentage.

(2) TEXTILE AND APPAREL ARTICLES.—

(A) IN GENERAL.—The preferential treatment relating to textile and apparel articles described in section 112 (a) and (b) (1) and (2) of the African Growth and Opportunity Act (19 U.S.C. 3721 (a) and (b) (1) and (2)) shall apply to textile and apparel articles imported directly into the customs territory of the United States from a beneficiary TRADE Act of 2009 country and such section shall be applied for purposes of this subparagraph by substituting ''beneficiary TRADE Act of 2009 country'' and ''beneficiary TRADE Act of 2009 countries'' for ''beneficiary sub-Saharan African country'' and ''beneficiary sub-Saharan African countries'', respectively, each place such terms appear.

(B) APPAREL ARTICLES ASSEMBLED FROM REGIONAL AND OTHER FABRIC.—In applying such section 112, apparel articles wholly assembled in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, from fabric wholly formed in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, from yarn originating either in the United States or one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States, in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or any combination thereof), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in section 112(b) (1) or (2) of the African Growth and Opportunity Act (19 U.S.C. 3721(b) (1) and (2)) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in such section 112(b) (1) or (2)) subject to the following:

(i) LIMITATIONS ON BENEFITS.—

(I) IN GENERAL.—Preferential treatment under this subparagraph shall be extended in the 1-year period beginning January 1, 2009, and in each of the succeeding 10 1-year periods, to imports of apparel articles described in this subparagraph in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the most recent 12-month period for which data are available.

(II) APPLICABLE PERCENTAGE.—For purposes of this clause, the term ''applicable percentage'' means 11 percent for the 1-year period beginning January 1, 2009, increased in each of the 10 succeeding 1-year period by equal increments, so that for the period beginning January 1, 2019, the applicable percentage does not exceed 14 percent.

(ii) SPECIAL RULE.—

(I) IN GENERAL.—Subject to clause (i), preferential treatment described in this subparagraph shall be extended through December 31, 2016, for apparel articles wholly assembled in one or more beneficiary TRADE Act of 2009 countries or former beneficiary TRADE Act of 2009 countries, or both, regardless of the country of origin of the yarn or fabric used to make such articles.

(II) COUNTRY LIMITATIONS.—

(aa) SMALL SUPPLIERS.—If, during the preceding 1-year period beginning on January 1 for which data are available, imports from a beneficiary TRADE Act of 2009 country are less than 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period, such imports may increase to an amount that is equal to not more than 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period.

(bb) OTHER SUPPLIERS.—If during the preceding 1-year period beginning on January 1 for which data are available, imports from a beneficiary TRADE Act of 2009 country are at least 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States during such period, such imports may increase, during each subsequent 12-month period, by an amount that is equal to not more than one-third of 1 percent of the aggregate square meter equivalents of all apparel articles imported into the United States.

(cc) AGGREGATE COUNTRY LIMIT.—In no case may the aggregate quantity of textile and apparel articles imported into the United States under this subparagraph exceed the applicable percentage set forth in clause (i).

(C) TECHNICAL AMENDMENT.—Section 6002(a)(2)(B) of the Africa Investment Incentive Act of 2006 (Public Law 109–432) is amended by inserting before ''by striking'' the following: ''in paragraph (3),''.

(D) OTHER RESTRICTIONS.—The provisions of section 112 (b) (3)(B), (4), (5), (6), (7), and (8), and (e), and section 113 of the African Growth and Opportunity Act (19 U.S.C. 3721 (b) (3)(B), (4), (5), (6), (7), and (8), and (e), and 3722) shall apply with respect to the preferential treatment extended under this Act to a beneficiary TRADE Act of 2009 country by substituting ''beneficiary TRADE Act of 2009 country'' for ''beneficiary sub-Saharan African country'' and ''beneficiary TRADE Act of 2009 countries'' and ''former beneficiary TRADE Act of 2009 countries'' for ''beneficiary sub-Saharan African countries'' and ''former sub-Saharan African countries'', respectively, wherever appropriate.

SEC. 6. REPORTING REQUIREMENT.

The President shall monitor, review, and report to Congress, not later than 1 year after the date of the enactment of this Act, and annually thereafter, on the implementation of this Act and on the trade and investment policy of the United States with respect to the TRADE Act of 2009 countries.

SEC. 7. TERMINATION OF PREFERENTIAL TREATMENT.

No duty-free treatment or other preferential treatment extended to a beneficiary TRADE Act of 2009 country under this Act shall remain in effect after December 31, 2019.

SEC. 8. EFFECTIVE DATE.

The provisions of this Act shall take effect on January 1, 2009.

By Mr. REED (for himself and Ms. MIKULSKI):

S. 1142. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to inclusion of effectiveness information in drug and device labeling and advertising; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce the Informed Health Care Decision Making Act of 2009. I am introducing this legislation along with my colleague Senator MIKULSKI because every American deserves to have the full information regarding drugs and devices prescribed by their provider.

Even though the amount of money spent to reach the public about drugs and devices is greater than five billion dollars annually, the most fundamental information—information about how well the drug or device actually works—is generally absent. In 2007, the Institute of Medicine conducted a workshop regarding the public's understanding of drugs and confirmed the importance for patients and physicians of having standardized and quantitative information about the product before making health care decisions.

Researchers at Dartmouth University have documented that replacing the current narrative information contained in drug advertisements with simplified, factual information, will enable patients to play an active role in health care decision making. In fact, similar to the nutrition facts boxes that are required on our Nation's packaged food supply, this research demonstrated that a drug facts box will actually help physicians make better health care choices.

If the research is not enough proof that this type of streamlined information will be beneficial, the Food and

Drug Administration's, FDA, Risk Communications Advisory Committee, a committee specifically designed to counsel the agency on how to strengthen the communication of risks and benefits of FDA-regulated products to the public, unanimously recommended that the FDA adopt standardized, quantitative summaries of risks and benefits in a drug facts box format.

As such, the Informed Health Care Decision Making Act of 2009 would require the FDA to determine if the information provided in a drug facts box, or a similar format, would improve health care decision making by clinicians and patients, and report to Congress on that determination. If the report determines that a specific standardized, quantitative format would be beneficial, the FDA must issue regulations to implement the format.

Regardless of the FDA's determination, it is important for clinicians and patients to be able to compare the similarities, differences, benefits, and risks of drugs and devices. As such, the legislation would require the Agency for Healthcare Research and Quality to establish a multi-stakeholder process for developing and periodically updating methodological standards and criteria for comparative clinical effectiveness research. This would include standards and criteria for the sources of evidence and the adequacy of evidence that are appropriate for the inclusion of comparative clinical effectiveness information in labeling and print advertisements.

Upon completion of these standards, the legislation requires drug labels and print advertisements to include information on the clinical effectiveness of a product—compared to other products approved for the same health condition for the same patient demographic subpopulation—or a disclosure that there is no such information, if another product has not been approved for the same use. The potential of such a disclosure should be a powerful incentive for manufacturers to fund comparative effectiveness research.

It is my hope that as we embark upon meaningful health care reform, my colleagues will join me in supporting this bill and other initiatives to improve the health care decision making of both patients and clinicians.

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. 1142

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 ''Informed Health Care Decision Making Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) National randomized controlled trials have found that replacing the brief summary of drug advertisements with a drug facts box improved consumer knowledge and judgments. In such trials, consumers who were presented with a drug facts box more accurately perceived the side effects and benefits of a drug, and were more than twice as likely to choose the superior drug.

(2)(A) In 2007, the Institute of Medicine conducted a workshop that highlighted that the public has a limited understanding of the benefits and risks of drugs. The workshop also highlighted that it is important to—

(i) provide patients and physicians with the best possible information for making informed decisions about the use of pharmaceuticals;

(ii) employ quantitative and standardized approaches when trying to evaluate pharmaceutical benefit-risk; and

(iii) develop and validate improved tools for communicating pharmaceutical benefit-risk information to patients and physicians.

(B) The general agreement of the workshop was that the Food and Drug Administration should pilot test a drug facts box.

(3) On February 27, 2009, the Food and Drug Administration's Risk Communication Advisory Committee made the following unanimous recommendations:

(A) The Food and Drug Administration should adopt a single standard document for communicating essential information about pharmaceuticals.

(B) That standard document should include quantitative summaries of risks and benefits, along with use and precaution information.

(C) The Food and Drug Administration should adopt the drug facts box format as its standard.

SEC. 3. PRESENTATION OF DRUG BENEFIT AND RISK INFORMATION.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary''), acting through the Commissioner of Food and Drugs, shall determine whether standardized, quantitative summaries of the benefits and risks of drugs in a tabular or drug facts box format, or any alternative format, in the labeling and print advertising of such drugs would improve health care decision making by clinicians and patients and consumers.

(b) REVIEW AND CONSULTATION.—In making the determination under subsection (a), the Secretary shall review all available scientific evidence and consult with drug manufacturers, clinicians, patients and consumers, experts in health literacy, and representatives of racial and ethnic minorities.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report that provides—

(1) the determination by the Secretary under subsection (a); and

(2) the reasoning and analysis underlying that determination.

(d) AUTHORITY.—

(1) IN GENERAL.—If the Secretary determines under subsection (a) that standardized, quantitative summaries of the benefits and risks of drugs in a tabular or drug facts box format, or any alternative format, in the labeling and print advertising of such drugs would improve health care decision making by clinicians and patients and consumers, then the Secretary, not later than 1 year after the date of submission of the report under subsection (c), shall promulgate regulations as necessary to implement such format.

(2) OBJECTIVE AND UP-TO-DATE INFORMATION.—In carrying out paragraph (1), the Secretary shall ensure that the information presented in a summary described under such paragraph is objective and up-to-date, and is the result of a review process that considers the totality of published and unpublished data.

(3) POSTING OF INFORMATION.—In carrying out paragraph (1), the Secretary shall post the information presented in a summary described under such paragraph on the Internet Web site of the Food and Drug Administration.

SEC. 4. STANDARDS FOR COMPARATIVE CLINICAL EFFECTIVENESS INFORMATION.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall establish and periodically update methodological standards and criteria for the sources of evidence and the adequacy and degree of evidence that are appropriate for inclusion of comparative clinical effectiveness information in labeling and advertisements under subsections (f), (n)(3), and (r) of section 502 of the Federal Food, Drug, and Cosmetic Act (as amended by section 5).

(b) REQUIREMENTS.—The standards and criteria established under subsection (a) shall ensure that comparative clinical effectiveness information provides reliable and useful information that improves health care decision making, adheres to rigorous scientific standards, and is produced through a transparent process that includes consultation with stakeholders.

(c) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with manufacturers of drugs and devices, clinicians, patients and consumers, experts in health literacy, and representatives of racial and ethnic minorities.

(d) DEFINITION.—For purposes of this section, the term ''comparative clinical effectiveness'' means the clinical outcomes, effectiveness, safety, and clinical appropriateness of a drug or device in comparison to 1 or more drugs or devices, respectively, approved to prevent, diagnose, or treat the same health condition for the same patient demographic subpopulation.

SEC. 5. DISCLOSURE OF COMPARATIVE CLINICAL EFFECTIVENESS INFORMATION.

(a) COMPARATIVE CLINICAL EFFECTIVENESS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(rr) The term 'comparative clinical effectiveness' means the clinical outcomes, effectiveness, safety, and clinical appropriateness of a drug or device in comparison to 1 or more drugs or devices, respectively, approved to prevent, diagnose, or treat the same health condition for the same patient demographic subpopulation, on the basis of research that meets standards adopted by the Secretary under section 4 of the Informed Health Care Decision Making Act.''.

(b) LABELING AND ADVERTISING INFORMATION.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended—

(1) in subsection (f), by striking ''for use; and (2)'' and inserting ''for use; (2) such information in brief summary relating to comparative clinical effectiveness as shall be required in regulations which shall be issued by the Secretary in accordance with the procedure specified in section 701(a); and (3)'';

(2) in subsection (n)(3), by striking ''and effectiveness'' and inserting ''effectiveness, and comparative clinical effectiveness (or a disclosure that there is no such information relating to comparative clinical effectiveness if another drug has been approved for the same use),''; and

(3) in subsection (r)—

(A) by striking ''In the case of any'' and inserting ''(1) In the case of any'';

(B) by striking ''(1) a true'' and inserting ''(A) a true'';

(C) by striking ''(2) a brief'' and inserting ''(B) a brief''; and

(D) by striking ''and contraindications'' and inserting ''contraindications, and, if appropriate after taking into consideration the type of device, effectiveness and comparative clinical effectiveness (or a disclosure that there is no such information relating to comparative clinical effectiveness if another device has been approved for the same use)''.

By Mr. DURBIN:

S. 1143. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, the people who work in public health are responsible for some of the most important jobs that protect the lives and health of ordinary Americans. The scope of public health includes preventing the spread of communicable diseases and pandemics, managing the health system's response to biological and chemical attacks, fighting foodborne illnesses, assisting communities in preparing for disasters, and promoting best health practices.

The recent outbreak of Influenza A H1N1 virus reminds us how much we depend on the people who work in public health. This virus has infected thousands of people and caused nearly a hundred deaths worldwide. The American people have looked to the Centers for Disease Control and Prevention and their State and local health departments to collect data, monitor the threat, provide accurate information, and prepare to respond if the situation worsens. But even when a pandemic or other widespread threat is not imminent, the public health workforce remains on the front lines in promoting healthy lifestyles and preventing chronic disease.

Our ability to prevent, respond to, and recover from a pandemic or other health challenges depends largely on a strong pipeline of public health professionals. Unfortunately, a critical—and growing—shortage of public health workers is putting our nation at risk.

The Association of Schools of Public Health recently reported that there were 50,000 fewer public health workers in 2000 than there were in 1980. In my home State of Illinois, the average Illinois Department of Public Health worker is 48 years old, and 39 percent of the staff will be eligible to retire within 5 years. Compounding this problem is the fact that 13 percent of agency positions are vacant, and when a new hire is found, the average age is 41. The ''graying'' workforce and weak pipeline of new public health graduates are problems across all levels of government. Nearly half of the federal employees in occupations critical to U.S. biodefense will be eligible to retire by 2012.

We cannot stay on the same trajectory in the future. We are not educating enough people in public health to replace retiring public health workers, and the salaries for those who do work in public health disciplines are not competitive with comparable employment in the private sector. The Association of State and Territorial Health Officials reports that in 2004, most of the approximately 6,400 graduates from accredited schools of public health took jobs in the private sector.

I am pleased to introduce the Public Health Workforce Development Act of 2009 today to help address this challenge. This legislation provides several common-sense solutions to develop a strong pipeline of public health professionals. This bill would provide scholarships to students going into public health and provide loan repayment for current public health workers in exchange for a commitment to additional years of service in public health.

The legislation also encourages states to set up their own public health training programs and creates a scholarship program for mid-career professionals to maintain or upgrade their training. Finally, it creates an online clearinghouse of public health jobs available in the Federal Government. Together, these programs will help attract young people to a career in public health and give current public health professionals incentives to remain in the field in the long-term

Our health care system today focuses too much on treating sickness, at the expense of preserving wellness. As the process of health reform moves forward, two key concerns are improving health care quality, while holding health care costs down. To do this, we need to focus on wellness, preventive care, and effective management of chronic conditions, all of which are hallmarks of the public health system. This bill will help maintain a strong and effective public health system by alleviating the dangerous shortage of public health workers

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. 1143

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 ''Public Health Workforce Development Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The ability of the public health system to prevent, respond to, and recover from bioterrorism, acute outbreaks of infectious diseases, or other health threats and emergencies, and to prevent and reduce chronic disease, depends upon the existence of adequate numbers of well-trained public health professionals in Federal, State, local, and tribal public health departments and health centers.

(2) The public health system has an aging staff nearing retirement with no clear pipeline of highly-skilled and capable employees to fill the void, with the average age of the State public health workforce at 47 years.

(3) Retirement rates in some State public health agencies were as high as 20 percent as of June 2007, and projected to be as high as 45 percent in 2009.

(4) The ratio of public health workers to the population has dropped from 219 per 100,000 in 1980 to 158 per 100,000 in 2000, while responsibilities of such workers have continued to expand.

(5) Public health nurses comprise the largest segment of the public health workforce. A study by the Institute of Medicine in 2003 identified nursing as facing one of the most severe shortages of public health workers. The average age of public health nurses is nearly 50 years, with the leaders of State public health nursing averaging more than 30 years of service. In one State nearly 40 percent of the public health nursing workforce was eligible for retirement as of June 2007.

(6) According to the Association of State and Territorial Health Officials, most of the approximately 6,400 graduates from accredited schools of public health took jobs in the private sector in 2004. The Bureau of Labor Statistics projects that there will be an increase in private sector demand for highly-educated graduates in scientific fields during the 10-year period ending in 2017. Public health agencies will have difficulty competing for those highly-skilled scientists.

(7) As of June 2007, approximately 42 percent of the epidemiology workforce in State and territorial health departments lacked formal academic training in epidemiology. States have reported that approximately 47 percent more epidemiologists are needed to adequately prevent and control avian influenza and other emerging diseases.

(8) The Partnership for Public Service reports that in the field of microbiology, there are more than 4 times as many full-time permanent employees over age 40 as under age 40 at the Centers for Disease Control and Prevention. Among full-time permanent employees with medical backgrounds at the Centers for Disease Control and Prevention and the Food and Drug Administration, there are 3 times as many employees over 40 years of age as under 40.

(9) More than 50 percent of States cite the lack of qualified individuals or individuals willing to relocate as being a major barrier to preparedness. A study conducted by the Health Resources and Services Association reported difficulty with recruiting more educated, skilled public health providers to work in traditionally medically underserved areas, such as rural populations. Public health agencies continue to face an unmet need for public health workers who are bilingual and culturally competent.

(10) Lack of access to advanced education, including baccalaureate nursing and graduate studies, is a significant barrier to upgrading the existing public health workforce, particularly in rural areas.

SEC. 3. PUBLIC HEALTH WORKFORCE RECRUITMENT AND RETENTION PROGRAMS.

Part E of title VII of the Public Health Service Act (42 U.S.C. 294n et seq.) is amended by adding at the end the following:

''Subpart 3—Public Health Workforce Recruitment and Retention Programs

''SEC. 780. PUBLIC HEALTH WORKFORCE SCHOLARSHIP PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish the Public Health Workforce Scholarship Program (referred to in this section as the 'Program') to assure an adequate supply of public health professionals to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and health centers.

''(b) ELIGIBILITY.—To be eligible to participate in the Program, an individual shall—

''(1) be accepted for enrollment, or be enrolled, as a full-time student—

''(A) in an accredited (as determined by the Secretary) educational institution in a State or territory; and

''(B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a health professions degree (graduate, undergraduate, or associate) or certificate, which may include public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration;

''(2) be a United States citizen;

''(3) submit an application to the Secretary to participate in the Program; and

''(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (d)) to serve, upon the completion of the course of study or program involved, for the applicable period of obligated service in the full-time employment of a Federal, State, local, or tribal public health agency or a health center.

''(c) DISSEMINATION OF INFORMATION.—

''(1) APPLICATION AND CONTRACT FORMS.—The Secretary shall disseminate application forms and contract forms to individuals desiring to participate in the Program. The Secretary shall include with such forms—

''(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled in the case of the individual's breach of the contract; and

''(B) information relating to the service obligation and such other information as may be necessary for the individual to understand the individual's prospective participation in the Program.

''(2) INFORMATION FOR SCHOOLS.—The Secretary shall distribute to health professions schools and other appropriate accredited academic institutions and relevant Federal, State, local, and tribal public health agencies, materials providing information on the Program and shall encourage such schools, institutions, and agencies to disseminate such materials to potentially eligible students.

''(3) UNDERSTANDABILITY AND TIMING.—The application form, contract form, and all other information furnished by the Secretary under this section shall—

''(A) be written in a manner calculated to be understood by the average individual applying to participate in the Program; and

''(B) be made available by the Secretary on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) CONTRACT.—The written contract between the Secretary and an individual shall contain—

''(1) an agreement on the part of the Secretary that the Secretary will provide the individual with a scholarship for a period of years (not to exceed 4 academic years) during which the individual shall pursue an approved course of study or program to prepare the individual to serve in the public health workforce;

''(2) an agreement on the part of the individual that the individual will—

''(A) maintain full-time enrollment in the approved course of study or program described in subsection (b)(1) until the individual completes that course of study or program;

''(B) while enrolled in the course of study or program, maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or program); and

''(C) immediately upon graduation, serve in the full-time employment of a Federal, State, local, or tribal public health agency or a health center in a position related to the course of study or program for which the contract was awarded for a period of time (referred to in this section as the 'period of obligated service') equal to the greater of—

''(i) 1 year for each academic year for which the individual was provided a scholarship under the Program; or

''(ii) 2 years;

''(3) an agreement by both parties as to the nature and extent of the scholarship assistance, which may include—

''(A) payment of the tuition expenses of the individual;

''(B) payment of all other reasonable educational expenses of the individual including fees, books, equipment, and laboratory expenses; and

''(C) payment of a stipend of not more than $1,200 per month for each month of the academic year involved (indexed to account for increases in the Consumer Price Index);

''(4) a provision that any financial obligation of the United States arising out of a contract entered into under this subsection and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this section;

''(5) a statement of the damages to which the United States is entitled for the individual's breach of the contract; and

''(6) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this section.

''(e) POSTPONING OBLIGATED SERVICE.—With respect to an individual receiving a degree or certificate from a school of medicine, public health, nursing, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, psychology, or social work under a scholarship under the Program, the date of the initiation of the period of obligated service may be postponed, upon the submission by the individual of a petition for such postponement and approval by the Secretary, to the date on which the individual completes an approved internship, residency, or other relevant public health advanced training program.

''(f) ADMINISTRATIVE PROVISIONS.—

''(1) CONTRACTS WITH INSTITUTIONS.—The Secretary may contract with an educational institution in which a participant in the Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (d)(3).

''(2) EMPLOYMENT CEILINGS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department or any other Federal agency.

''(g) BREACH OF CONTRACT.—An individual who fails to comply with the contract entered into under subsection (d) shall be subject to the same financial penalties as provided for under section 338E for breaches of scholarship contracts under sections 338A.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $35,000,000 for each of the fiscal years 2010 through 2015.

''(i) DEFINITION.—For purposes of this subpart, the term 'health center' has the meaning given such term in section 330(a).

''SEC. 781. PUBLIC HEALTH WORKFORCE LOAN REPAYMENT PROGRAM.

''(a) ESTABLISHMENT.—The Secretary shall establish the Public Health Workforce Loan Repayment Program (referred to in this section as the 'Program') to assure an adequate supply of public health professionals to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies and in health centers.

''(b) ELIGIBILITY.—To be eligible to participate in the Program, an individual shall—

''(1)(A) be accepted for enrollment, or be enrolled, as a full-time or part-time student in an accredited academic educational institution in a State or territory in the final year of a course of study or program offered by that institution leading to a health professions degree or certificate, which may include a degree (graduate, undergraduate, or associate) or certificate relating to public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration; or

''(B) have graduated, within 10 years, from an accredited educational institution in a State or territory and received a health professions degree (graduate, undergraduate, or associate) or certificate, which may include a degree (graduate, undergraduate, or associate) or certificate relating to public health, laboratory sciences, epidemiology, environmental health, health communications, health education and behavioral sciences, information sciences, or public administration;

''(2)(A) in the case of an individual described in paragraph (1)(A), have accepted employment with a Federal, State, local, or tribal public health agency or a health center, as recognized by the Secretary, to commence upon graduation; or

''(B) in the case of an individual described in paragraph (1)(B), be employed by, or have accepted employment with, a Federal, State, local, or tribal public health agency or a health center, as recognized by the Secretary;

''(3) be a United States citizen;

''(4) submit an application to the Secretary to participate in the Program; and

''(5) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (d)) to serve for the applicable period of obligated service in the full-time employment of a Federal, State, local, or tribal public health agency or a health center.

''(c) DISSEMINATION OF INFORMATION.—

''(1) APPLICATION AND CONTRACT FORMS.—The Secretary shall disseminate application forms and contract forms to individuals desiring to participate in the Program. The Secretary shall include with such forms—

''(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled to recover in the case of the individual's breach of the contract; and

''(B) information relating to the service obligation and such other information as may be necessary for the individual to understand the individual's prospective participation in the Program.

''(2) INFORMATION FOR SCHOOLS.—The Secretary shall distribute to health professions schools and other appropriate accredited academic institutions and relevant Federal, State, local, and tribal public health agencies and health centers, materials providing information on the Program and shall encourage such schools, institutions, and agencies to disseminate such materials to potentially eligible students.

''(3) UNDERSTANDABILITY AND TIMING.—The application form, contract form, and all

other information furnished by the Secretary under this section shall—

''(A) be written in a manner calculated to be understood by the average individual applying to participate in the Program; and

''(B) be made available by the Secretary on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

''(d) CONTRACT.—The written contract (referred to in this section) between the Secretary and an individual shall contain—

''(1) an agreement on the part of the Secretary that the Secretary will repay on behalf of the individual loans incurred by the individual in the pursuit of the relevant public health workforce educational degree or certificate in accordance with the terms of the contract;

''(2) an agreement on the part of the individual that the individual will serve, immediately upon graduation in the case of an individual described in subsection (b)(1)(A) service, or in the case of an individual described in subsection (b)(1)(B) continue to serve, in the full-time employment of a Federal, State, local, or tribal public health agency or health center in a position related to the course of study or program for which the contract was awarded for a period of time (referred to in this section as the 'period of obligated service') equal to the greater of—

''(A) 3 years; or

''(B) such longer period of time as determined appropriate by the Secretary and the individual;

''(3) an agreement, as appropriate, on the part of the individual to relocate for the entire period of obligated service to a political jurisdiction designated by the Secretary to be a priority service area in exchange for an additional loan repayment incentive amount that does not exceed 20 percent of the individual's eligible loan repayment award per academic year such that the total of the loan repayment and the incentive amount shall not exceed ⅓ of the eligible loan balance per year;

''(4) in the case of an individual described in subsection (b)(1)(A) who is in the final year of study and who has accepted employment with a Federal, State, local, or tribal public health agency or a health center upon graduation, an agreement on the part of the individual to complete the education or training, maintain an acceptable level of academic standing (as determined by the education institution offering the course of study or training), and agree to the period of obligated service;

''(5) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual that is conditioned thereon, is contingent on funds being appropriated for loan repayments under this section;

''(6) a statement of the damages to which the United States is entitled, under this section for the individual's breach of the contract; and

''(7) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

''(e) PAYMENTS.—

''(1) IN GENERAL.—A loan repayment provided for an individual under a written contract under the Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

''(A) tuition expenses; or

''(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual.

''(2) PAYMENTS FOR YEARS SERVED.—

''(A) IN GENERAL.—For each year of obligated service that an individual contracts to serve under subsection (d) the Secretary may pay up to $35,000 on behalf of the individual for loans described in paragraph (1). With respect to participants under the Program whose total eligible loans are less than $105,000, the Secretary shall pay an amount that does not exceed ⅓ of the eligible loan balance for each year of obligated service of the individual.

''(B) REPAYMENT SCHEDULE.—Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

''(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

''(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount not to exceed 39 percent of the total amount of loan repayments made for the taxable year involved; and

''(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

''(4) PAYMENT SCHEDULE.—The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Program to establish a schedule for the making of such payments.

''(f) POSTPONING OBLIGATED SERVICE.—With respect to an individual receiving a degree or certificate from a school of medicine, public health, nursing, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, psychology, or social work, the date of the initiation of the period of obligated service may be postponed, upon the submission by the individual of a petition for such postponement and approval by the Secretary, to the date on which the individual completes an approved internship, residency, or other relevant public health advanced training program.

''(g) ADMINISTRATIVE PROVISIONS.—

''(1) HIRING PRIORITY.—Notwithstanding any other provision of law, Federal, State, local, and tribal public health agencies and health centers may give hiring priority to any individual who has qualified for and is willing to execute a contract to participate in the Program.

''(2) EMPLOYMENT CEILINGS.—Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, who are serving as full-time employees of a State, local, or tribal public health agency or a health center, or who are in the last year of public health workforce academic preparation, shall not be counted against any employment ceiling affecting the Department or any other Federal agency.

''(h) BREACH OF CONTRACT.—An individual who fails to comply with the contract entered into under subsection (d) shall be subject to the same financial penalties as provided for under section 338E for breaches of loan repayment contracts under section 338B.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $195,000,000 for each of the fiscal years 2010 through 2015.

''SEC. 782. GRANTS FOR STATE AND LOCAL PROGRAMS.

''(a) IN GENERAL.—For the purpose of operating State, local, tribal, and health center public health workforce loan repayment programs under this subpart, the Secretary shall award a grant to any public health agency that receives public health preparedness cooperative agreements, or other successor cooperative agreements, from the Department of Health and Human Services.

''(b) REQUIREMENTS.—A State or local loan repayment program operated with a grant under subsection (a) shall incorporate all provisions of the Public Health Workforce Loan Repayment Program under section 781, including the ability to designate priority service areas within the relevant political jurisdiction.

''(c) ADMINISTRATION.—The head of the State or local office that receives a grant under subsection (a) shall be responsible for contracting and operating the loan repayment program under the grant.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to obligate or limit any State, local, or tribal government entity from implementing independent or supplemental public health workforce development programs within their borders.

''SEC. 783. TRAINING FOR MID-CAREER PUBLIC HEALTH PROFESSIONALS.

''(a) IN GENERAL.—The Secretary may make grants to, or enter into contracts with, any eligible entity to award scholarships to eligible individuals to enroll in degree or professional training programs for the purpose of enabling mid-career professionals in the public health workforce to receive additional training in the field of public health.

''(b) ELIGIBILITY.—

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' indicates an accredited educational institution that offers a course of study, certificate program, or professional training program in infectious disease science, medicine, public health, veterinary medicine, or other discipline impacting or influenced by bioterrorism or emerging infectious diseases.

''(2) ELIGIBLE INDIVIDUALS.—The term 'eligible individuals' includes those individuals employed in public health positions at the Federal, State, tribal, or local level or a health center who are interested in retaining or upgrading their education.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $30,000,000 for each of the fiscal years 2010 through 2015.

''SEC. 784. CATALOGUE OF FEDERAL PUBLIC HEALTH WORKFORCE EMPLOYMENT OPPORTUNITIES.

''(a) IN GENERAL.—The Director of the Office of Personnel Management, in cooperation with the Secretary, shall ensure that, included in the Internet website of the Office of Personnel Management, there is an online catalogue, or link to an online catalogue, of public health workforce employment opportunities in the Federal Government.

''(b) REQUIREMENTS.—To the extent practicable, the catalogue described in subsection (a) shall include—

''(1) existing and projected job openings in the Federal public health workforce; and

''(2) a general discussion of the occupations that comprise the Federal public health workforce.

''(c) INFORMATION.—The Secretary shall include a copy of the catalogue described in subsection (a), or a prominent reference to the catalogue, in—

''(1) the application forms provided under section 780(c)(1); and

''(2) the information for schools provided under section 780(c)(2).''.

By Mr. KOHL (for himself and Mr. LEAHY):

S. 1147. A bill to prevent tobacco smuggling, to ensure the collection of

all tobacco taxes, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today with Senator LEAHY to introduce the Prevent All Cigarette Trafficking, PACT, Act of 2009. As the problem of cigarette trafficking continues to worsen, we must provide law enforcement officials with the tools they need to crack down on cigarette trafficking. The PACT Act closes loopholes in current tobacco trafficking laws, enhances penalties for violations, and provides law enforcement with new tools to combat the innovative new methods being used by cigarette traffickers to distribute their products. Each day we delay passage of this important legislation, terrorists and criminals raise more money, States lose significant amounts of tax revenue, and kids have easy access to tobacco products over the internet.

The cost to Americans is not merely financial. Tobacco smuggling also poses a significant threat to innocent people around the world. It has developed into a popular, and highly profitable, means of generating revenue for criminal and terrorist organizations. Hezbollah, for example, earned $1.5 million between 1996 and 2000 by engaging in tobacco trafficking in the U.S. Al Qaeda and Hamas have also generated significant revenue from the sale of counterfeit cigarettes. That money is often raised right here in the U.S. and it is then funneled back to these international terrorist groups. Cutting off financial support to terrorist groups is an integral part of the protecting this country against future attacks. We can no longer continue to let terrorist organizations exploit weaknesses in our tobacco laws to generate significant amounts of money. The cost of doing nothing is too great.

This is not a minor problem. Cigarette smuggling is a multibillion dollar a year phenomenon, and it is getting worse. In 1998, the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) had six active tobacco smuggling investigations. In 2005, that number swelled to 452. Today there are more than 400 open cases.

The number of cases alone, however, does not sufficiently put this problem into perspective. The amount of money involved is truly astonishing. Cigarette trafficking, including the illegal sale of tobacco products over the internet, costs States billions of dollars in lost tax revenue each year. It is estimated that we lose $5 billion in state revenues due to illegal tobacco sales. As lost tobacco tax revenue lines the pockets of criminals and terrorist groups, states are being forced to college tuition and restrict access to other public programs. Tobacco smuggling may provide some with cheap access to cigarettes, but those cheap cigarettes are coming at a significant cost to the rest of us.

According to the Government Accountability Office, each year, cigarette trafficking investigations are growing more and more complex, and take longer to resolve. More people are selling cigarettes illegally, and they are getting better at it. As these cases get tougher to solve, we owe it to law enforcement officials to do our part to lend a helping hand. The PACT Act enhances BATFE's authority to enter premises to investigate and enforce cigarette trafficking laws, and increasing penalties for violations. Unless these existing laws are strengthened, traffickers will continue to operate with near impunity.

Just as important, though, we must provide law enforcement with new enforcement tools—tools that enable them to combat the cigarette smugglers of the 21st century. The internet represents one of those new obstacles to enforcement. Illegal tobacco vendors around the world evade detection by conducting transactions over the internet, and then employing the services of common carriers and the U.S. Postal Service to deliver their illegal products around the country. Just a few years ago, there were less than 100 vendors selling cigarettes online. Today, we estimate that approximately 500 vendors sell illegal tobacco products over the internet.

Without new and innovative enforcement methods, law enforcement will not be able to effectively address the growing challenges facing them today. The PACT Act sets out to do just that by cutting off the delivery. A significant part of this problem involves the shipment of contraband cigarettes through the U.S. Postal Service, USPS. This bill would cut off access to the USPS by making tobacco products non-mailable. We would treat cigarettes just like we treat alcohol, making it illegal to ship them through the U.S. mails and cutting off a large portion of the delivery system.

It also employs a novel approach, one being used in some of our States today, to combat illegal sales of tobacco over the internet. Specifically, it will allow the Attorney General, in collaboration with State and local law enforcement, to create a list of companies that are illegally selling tobacco products. That list will then be distributed to legitimate businesses whose services are indispensable to illegal internet vendors—common carriers. Once a common carrier knows which customers are breaking the law, this bill will ensure that they take appropriate action to prevent their companies from being exploited by terrorists and other criminals.

It is important to point out that this bill has been carefully negotiated with the common carriers, including UPS, to ensure that it does not place any unreasonable burdens on these businesses. In recognition of UPS and other common carriers' agreements to not deliver cigarettes to individual consumers on a nationwide basis, pursuant to agreements with the State of New York, we have exempted them from the bill provided this agreement remains in effect.

In addition to these important law enforcement needs, it is important to mention another aspect of this legislation that is equally important. One of the primary ways children get access to cigarettes today is on the internet and through the mails. The PACT Act now contains a strong age verification section that will ensure that online vendors are not selling cigarettes to our children. This provision would prohibit the sale of tobacco products to children, and it would also require sellers to use a method of shipment that requires a signature and photo ID check upon delivery. Most States already have similar laws on the books, and this would simply make sure that we have a national standard to ensure that the internet is not being used to evade similar ID checks we require at our grocery and convenience stores.

The recognition that this is a significant problem, along with the commonsense approach taken in the PACT Act to combat it, has brought together a coalition of strange bedfellows. The legislation has not just garnered the support of the law enforcement community, including the National Association of Attorneys General, and public health advocates, such as the Campaign for Tobacco Free Kids. It also has the strong support of tobacco companies like Altria. These groups, who sometimes find themselves on opposite sides of these issues, all agree that this is an issue begging to be addressed. They all recognize the urgent need to provide our law enforcement officials with the tools they need to combat a very serious threat to our security and protect public health.

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. 1147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Prevent All Cigarette Trafficking Act of 2009'' or ''PACT Act''.

(b) FINDINGS.—Congress finds that—

(1) the sale of illegal cigarettes and smokeless tobacco products significantly reduces Federal, State, and local government revenues, with Internet sales alone accounting for billions of dollars of lost Federal, State, and local tobacco tax revenue each year;

(2) Hezbollah, Hamas, al Qaeda, and other terrorist organizations have profited from trafficking in illegal cigarettes or counterfeit cigarette tax stamps;

(3) terrorist involvement in illicit cigarette trafficking will continue to grow because of the large profits such organizations can earn;

(4) the sale of illegal cigarettes and smokeless tobacco over the Internet, and through mail, fax, or phone orders, makes it cheaper and easier for children to obtain tobacco products;

(5) the majority of Internet and other remote sales of cigarettes and smokeless tobacco are being made without adequate precautions to protect against sales to children,

without the payment of applicable taxes, and without complying with the nominal registration and reporting requirements in existing Federal law;

(6) unfair competition from illegal sales of cigarettes and smokeless tobacco is taking billions of dollars of sales away from law-abiding retailers throughout the United States;

(7) with rising State and local tobacco tax rates, the incentives for the illegal sale of cigarettes and smokeless tobacco have increased;

(8) the number of active tobacco investigations being conducted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives rose to 452 in 2005;

(9) the number of Internet vendors in the United States and in foreign countries that sell cigarettes and smokeless tobacco to buyers in the United States increased from only about 40 in 2000 to more than 500 in 2005; and

(10) the intrastate sale of illegal cigarettes and smokeless tobacco over the Internet has a substantial effect on interstate commerce.

(c) PURPOSES.—It is the purpose of this Act to—

(1) require Internet and other remote sellers of cigarettes and smokeless tobacco to comply with the same laws that apply to law-abiding tobacco retailers;

(2) create strong disincentives to illegal smuggling of tobacco products;

(3) provide government enforcement officials with more effective enforcement tools to combat tobacco smuggling;

(4) make it more difficult for cigarette and smokeless tobacco traffickers to engage in and profit from their illegal activities;

(5) increase collections of Federal, State, and local excise taxes on cigarettes and smokeless tobacco; and

(6) prevent and reduce youth access to inexpensive cigarettes and smokeless tobacco through illegal Internet or contraband sales.

SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) DEFINITIONS.—The Act of October 19, 1949 (15 U.S.C. 375 et seq.; commonly referred to as the ''Jenkins Act'') (referred to in this Act as the ''Jenkins Act''), is amended by striking the first section and inserting the following:

''SECTION 1. DEFINITIONS.

''As used in this Act, the following definitions apply:

''(1) ATTORNEY GENERAL.—The term 'attorney general', with respect to a State, means the attorney general or other chief law enforcement officer of the State.

''(2) CIGARETTE.—

''(A) IN GENERAL.—The term 'cigarette'—

''(i) has the meaning given that term in section 2341 of title 18, United States Code; and

''(ii) includes roll-your-own tobacco (as defined in section 5702 of the Internal Revenue Code of 1986).

''(B) EXCEPTION.—The term 'cigarette' does not include a cigar (as defined in section 5702 of the Internal Revenue Code of 1986).

''(3) COMMON CARRIER.—The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise (regardless of whether the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided) between a port or place and a port or place in the United States.

''(4) CONSUMER.—The term 'consumer'—

''(A) means any person that purchases cigarettes or smokeless tobacco; and

''(B) does not include any person lawfully operating as a manufacturer, distributor, wholesaler, or retailer of cigarettes or smokeless tobacco.

''(5) DELIVERY SALE.—The term 'delivery sale' means any sale of cigarettes or smokeless tobacco to a consumer if—

''(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

''(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier, private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

''(6) DELIVERY SELLER.—The term 'delivery seller' means a person who makes a delivery sale.

''(7) INDIAN COUNTRY.—The term 'Indian country'—

''(A) has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

''(B) includes any other land held by the United States in trust or restricted status for one or more Indian tribes.

''(8) INDIAN TRIBE.—The term 'Indian tribe', 'tribe', or 'tribal' refers to an Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

''(9) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian country in the State, or commerce between points in the same State but through any place outside the State or through any Indian country.

''(10) PERSON.—The term 'person' means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such a government, or joint stock company.

''(11) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(12) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

''(13) TOBACCO TAX ADMINISTRATOR.—The term 'tobacco tax administrator' means the State, local, or tribal official duly authorized to collect the tobacco tax or administer the tax law of a State, locality, or tribe, respectively.

''(14) USE.—The term 'use' includes the consumption, storage, handling, or disposal of cigarettes or smokeless tobacco.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of the Jenkins Act (15 U.S.C. 376) is amended—

(1) by striking ''cigarettes'' each place it appears and inserting ''cigarettes or smokeless tobacco'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''CONTENTS.—'' after ''(a)'';

(ii) by striking ''or transfers'' and inserting '', transfers, or ships'';

(iii) by inserting '', locality, or Indian country of an Indian tribe'' after ''a State'';

(iv) by striking ''to other than a distributor licensed by or located in such State,''; and

(v) by striking ''or transfer and shipment'' and inserting '', transfer, or shipment'';

(B) in paragraph (1)—

(i) by striking ''with the tobacco tax administrator of the State'' and inserting ''with the Attorney General of the United States and with the tobacco tax administrators of the State and place''; and

(ii) by striking ''; and'' and inserting the following: '', as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of the person;'';

(C) in paragraph (2), by striking ''and the quantity thereof.'' and inserting ''the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and''; and

(D) by adding at the end the following:

''(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of the memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian tribes operating within the borders of the State that apply their own local or tribal taxes on cigarettes or smokeless tobacco.'';

(3) in subsection (b)—

(A) by inserting ''PRESUMPTIVE EVIDENCE.—'' after ''(b)'';

(B) by striking ''(1) that'' and inserting ''that''; and

(C) by striking '', and (2)'' and all that follows and inserting a period; and

(4) by adding at the end the following:

''(c) USE OF INFORMATION.—A tobacco tax administrator or chief law enforcement officer who receives a memorandum or invoice under paragraph (2) or (3) of subsection (a) shall use the memorandum or invoice solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco, and shall keep confidential any personal information in the memorandum or invoice except as required for such purposes.''.

(c) REQUIREMENTS FOR DELIVERY SALES.—The Jenkins Act is amended by inserting after section 2 the following:

''SEC. 2A. DELIVERY SALES.

''(a) IN GENERAL.—With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

''(1) the shipping requirements set forth in subsection (b);

''(2) the recordkeeping requirements set forth in subsection (c);

''(3) all State, local, tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if the delivery sales occurred entirely within the specific State and place, including laws imposing—

''(A) excise taxes;

''(B) licensing and tax-stamping requirements;

''(C) restrictions on sales to minors; and

''(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

''(4) the tax collection requirements set forth in subsection (d).

''(b) SHIPPING AND PACKAGING.—

''(1) REQUIRED STATEMENT.—For any shipping package containing cigarettes or smokeless tobacco, the delivery seller shall include on the bill of lading, if any, and on

the outside of the shipping package, on the same surface as the delivery address, a clear and conspicuous statement providing as follows: 'CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX–STAMPING OBLIGATIONS'.

''(2) FAILURE TO LABEL.—Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nondeliverable matter by a common carrier or other delivery service, if the common carrier or other delivery service knows or should know the package contains cigarettes or smokeless tobacco. If a common carrier or other delivery service believes a package is being submitted for delivery in violation of paragraph (1), it may require the person submitting the package for delivery to establish that it is not being sent in violation of paragraph (1) before accepting the package for delivery. Nothing in this paragraph shall require the common carrier or other delivery service to open any package to determine its contents.

''(3) WEIGHT RESTRICTION.—A delivery seller shall not sell, offer for sale, deliver, or cause to be delivered in any single sale or single delivery any cigarettes or smokeless tobacco weighing more than 10 pounds.

''(4) AGE VERIFICATION.—

''(A) IN GENERAL.—A delivery seller who mails or ships tobacco products—

''(i) shall not sell, deliver, or cause to be delivered any tobacco products to a person under the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery;

''(ii) shall use a method of mailing or shipping that requires—

''(I) the purchaser placing the delivery sale order, or an adult who is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery, to sign to accept delivery of the shipping container at the delivery address; and

''(II) the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery; and

''(iii) shall not accept a delivery sale order from a person without—

''(I) obtaining the full name, birth date, and residential address of that person; and

''(II) verifying the information provided in subclause (I), through the use of a commercially available database or aggregate of databases, consisting primarily of data from government sources, that are regularly used by government and businesses for the purpose of age and identity verification and authentication, to ensure that the purchaser is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by the applicable law at the place of delivery.

''(B) LIMITATION.—No database being used for age and identity verification under subparagraph (A)(iii) shall be in the possession or under the control of the delivery seller, or be subject to any changes or supplementation by the delivery seller.

''(c) RECORDS.—

''(1) IN GENERAL.—Each delivery seller shall keep a record of any delivery sale, including all of the information described in section 2(a)(2), organized by the State, and within the State, by the city or town and by zip code, into which the delivery sale is so made.

''(2) RECORD RETENTION.—Records of a delivery sale shall be kept as described in paragraph (1) until the end of the 4th full calendar year that begins after the date of the delivery sale.

''(3) ACCESS FOR OFFICIALS.—Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian tribes that apply local or tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of the local governments and Indian tribes, and to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

''(d) DELIVERY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no delivery seller may sell or deliver to any consumer, or tender to any common carrier or other delivery service, any cigarettes or smokeless tobacco pursuant to a delivery sale unless, in advance of the sale, delivery, or tender—

''(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

''(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarettes or smokeless tobacco are to be delivered has been paid to the local government; and

''(C) any required stamps or other indicia that the excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

''(2) EXCEPTION.—Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

''(e) LIST OF UNREGISTERED OR NONCOMPLIANT DELIVERY SELLERS.—

''(1) IN GENERAL.—

''(A) INITIAL LIST.—Not later than 90 days after this subsection goes into effect under the Prevent All Cigarette Trafficking Act of 2009, the Attorney General of the United States shall compile a list of delivery sellers of cigarettes or smokeless tobacco that have not registered with the Attorney General of the United States pursuant to section 2(a), or that are otherwise not in compliance with this Act, and—

''(i) distribute the list to—

''(I) the attorney general and tax administrator of every State;

''(II) common carriers and other persons that deliver small packages to consumers in interstate commerce, including the United States Postal Service; and

''(III) any other person that the Attorney General of the United States determines can promote the effective enforcement of this Act; and

''(ii) publicize and make the list available to any other person engaged in the business of interstate deliveries or who delivers cigarettes or smokeless tobacco in or into any State.

''(B) LIST CONTENTS.—To the extent known, the Attorney General of the United States shall include, for each delivery seller on the list described in subparagraph (A)—

''(i) all names the delivery seller uses or has used in the transaction of its business or on packages delivered to customers;

''(ii) all addresses from which the delivery seller does or has done business, or ships or has shipped cigarettes or smokeless tobacco;

''(iii) the website addresses, primary e-mail address, and phone number of the delivery seller; and

''(iv) any other information that the Attorney General of the United States determines would facilitate compliance with this subsection by recipients of the list.

''(C) UPDATING.—The Attorney General of the United States shall update and distribute the list described in subparagraph (A) at least once every 4 months, and may distribute the list and any updates by regular mail, electronic mail, or any other reasonable means, or by providing recipients with access to the list through a nonpublic website that the Attorney General of the United States regularly updates.

''(D) STATE, LOCAL, OR TRIBAL ADDITIONS.—The Attorney General of the United States shall include in the list described in subparagraph (A) any noncomplying delivery sellers identified by any State, local, or tribal government under paragraph (6), and shall distribute the list to the attorney general or chief law enforcement official and the tax administrator of any government submitting any such information, and to any common carriers or other persons who deliver small packages to consumers identified by any government pursuant to paragraph (6).

''(E) ACCURACY AND COMPLETENESS OF LIST OF NONCOMPLYING DELIVERY SELLERS.—In preparing and revising the list described in subparagraph (A), the Attorney General of the United States shall—

''(i) use reasonable procedures to ensure maximum possible accuracy and completeness of the records and information relied on for the purpose of determining that a delivery seller is not in compliance with this Act;

''(ii) not later than 14 days before including a delivery seller on the list, make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the list, which shall cite the relevant provisions of this Act and the specific reasons for which the delivery seller is being placed on the list;

''(iii) provide an opportunity to the delivery seller to challenge placement on the list;

''(iv) investigate each challenge described in clause (iii) by contacting the relevant Federal, State, tribal, and local law enforcement officials, and provide the specific findings and results of the investigation to the delivery seller not later than 30 days after the date on which the challenge is made; and

''(v) if the Attorney General of the United States determines that the basis for including a delivery seller on the list is inaccurate, based on incomplete information, or cannot be verified, promptly remove the delivery seller from the list as appropriate and notify each appropriate Federal, State, tribal, and local authority of the determination.

''(F) CONFIDENTIALITY.—The list described in subparagraph (A) shall be confidential, and any person receiving the list shall maintain the confidentiality of the list and may deliver the list, for enforcement purposes, to any government official or to any common carrier or other person that delivers tobacco products or small packages to consumers. Nothing in this section shall prohibit a common carrier, the United States Postal Service, or any other person receiving the list from discussing with a listed delivery seller the inclusion of the delivery seller on the list and the resulting effects on any services requested by the listed delivery seller.

''(2) PROHIBITION ON DELIVERY.—

''(A) IN GENERAL.—Commencing on the date that is 60 days after the date of the initial distribution or availability of the list

described in paragraph (1)(A), no person who receives the list under paragraph (1), and no person who delivers cigarettes or smokeless tobacco to consumers, shall knowingly complete, cause to be completed, or complete its portion of a delivery of any package for any person whose name and address are on the list, unless—

''(i) the person making the delivery knows or believes in good faith that the item does not include cigarettes or smokeless tobacco;

''(ii) the delivery is made to a person lawfully engaged in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

''(iii) the package being delivered weighs more than 100 pounds and the person making the delivery does not know or have reasonable cause to believe that the package contains cigarettes or smokeless tobacco.

''(B) IMPLEMENTATION OF UPDATES.—Commencing on the date that is 30 days after the date of the distribution or availability of any updates or corrections to the list described in paragraph (1)(A), all recipients and all common carriers or other persons that deliver cigarettes or smokeless tobacco to consumers shall be subject to subparagraph (A) in regard to the corrections or updates.

''(3) EXEMPTIONS.—

''(A) IN GENERAL.—Subsection (b)(2) and any requirements or restrictions placed directly on common carriers under this subsection, including subparagraphs (A) and (B) of paragraph (2), shall not apply to a common carrier that—

''(i) is subject to a settlement agreement described in subparagraph (B); or

''(ii) if a settlement agreement described in subparagraph (B) to which the common carrier is a party is terminated or otherwise becomes inactive, is administering and enforcing policies and practices throughout the United States that are at least as stringent as the agreement.

''(B) SETTLEMENT AGREEMENT.—A settlement agreement described in this subparagraph—

''(i) is a settlement agreement relating to tobacco product deliveries to consumers; and

''(ii) includes—

''(I) the Assurance of Discontinuance entered into by the Attorney General of New York and DHL Holdings USA, Inc. and DHL Express (USA), Inc. on or about July 1, 2005, the Assurance of Discontinuance entered into by the Attorney General of New York and United Parcel Service, Inc. on or about October 21, 2005, and the Assurance of Compliance entered into by the Attorney General of New York and Federal Express Corporation and FedEx Ground Package Systems, Inc. on or about February 3, 2006, if each of those agreements is honored throughout the United States to block illegal deliveries of cigarettes or smokeless tobacco to consumers; and

''(II) any other active agreement between a common carrier and a State that operates throughout the United States to ensure that no deliveries of cigarettes or smokeless tobacco shall be made to consumers or illegally operating Internet or mail-order sellers and that any such deliveries to consumers shall not be made to minors or without payment to the States and localities where the consumers are located of all taxes on the tobacco products.

''(4) SHIPMENTS FROM PERSONS ON LIST.—

''(A) IN GENERAL.—If a common carrier or other delivery service delays or interrupts the delivery of a package in the possession of the common carrier or delivery service because the common carrier or delivery service determines or has reason to believe that the person ordering the delivery is on a list described in paragraph (1)(A) and that the package contains cigarettes or smokeless tobacco—

''(i) the person ordering the delivery shall be obligated to pay—

''(I) the common carrier or other delivery service as if the delivery of the package had been timely completed; and

''(II) if the package is not deliverable, any reasonable additional fee or charge levied by the common carrier or other delivery service to cover any extra costs and inconvenience and to serve as a disincentive against such noncomplying delivery orders; and

''(ii) if the package is determined not to be deliverable, the common carrier or other delivery service shall offer to provide the package and its contents to a Federal, State, or local law enforcement agency.

''(B) RECORDS.—A common carrier or other delivery service shall maintain, for a period of 5 years, any records kept in the ordinary course of business relating to any delivery interrupted under this paragraph and provide that information, upon request, to the Attorney General of the United States or to the attorney general or chief law enforcement official or tax administrator of any State, local, or tribal government.

''(C) CONFIDENTIALITY.—Any person receiving records under subparagraph (B) shall—

''(i) use the records solely for the purposes of the enforcement of this Act and the collection of any taxes owed on related sales of cigarettes and smokeless tobacco; and

''(ii) keep confidential any personal information in the records not otherwise required for such purposes.

''(5) PREEMPTION.—

''(A) IN GENERAL.—No State, local, or tribal government, nor any political authority of 2 or more State, local, or tribal governments, may enact or enforce any law or regulation relating to delivery sales that restricts deliveries of cigarettes or smokeless tobacco to consumers by common carriers or other delivery services on behalf of delivery sellers by—

''(i) requiring that the common carrier or other delivery service verify the age or identity of the consumer accepting the delivery by requiring the person who signs to accept delivery of the shipping container to provide proof, in the form of a valid, government-issued identification bearing a photograph of the individual, that the person is at least the minimum age required for the legal sale or purchase of tobacco products, as determined by either State or local law at the place of delivery;

''(ii) requiring that the common carrier or other delivery service obtain a signature from the consumer accepting the delivery;

''(iii) requiring that the common carrier or other delivery service verify that all applicable taxes have been paid;

''(iv) requiring that packages delivered by the common carrier or other delivery service contain any particular labels, notice, or markings; or

''(v) prohibiting common carriers or other delivery services from making deliveries on the basis of whether the delivery seller is or is not identified on any list of delivery sellers maintained and distributed by any entity other than the Federal Government.

''(B) RELATIONSHIP TO OTHER LAWS.—Except as provided in subparagraph (C), nothing in this paragraph shall be construed to nullify, expand, restrict, or otherwise amend or modify—

''(i) section 14501(c)(1) or 41713(b)(4) of title 49, United States Code;

''(ii) any other restrictions in Federal law on the ability of State, local, or tribal governments to regulate common carriers; or

''(iii) any provision of State, local, or tribal law regulating common carriers that is described in section 14501(c)(2) or 41713(b)(4)(B) of title 49 of the United States Code.

''(C) STATE LAWS PROHIBITING DELIVERY SALES.—

''(i) IN GENERAL.—Except as provided in clause (ii), nothing in the Prevent All Cigarette Trafficking Act of 2009, the amendments made by that Act, or in any other Federal statute shall be construed to preempt, supersede, or otherwise limit or restrict State laws prohibiting the delivery sale, or the shipment or delivery pursuant to a delivery sale, of cigarettes or other tobacco products to individual consumers or personal residences.

''(ii) EXEMPTIONS.—No State may enforce against a common carrier a law prohibiting the delivery of cigarettes or other tobacco products to individual consumers or personal residences without proof that the common carrier is not exempt under paragraph (3) of this subsection.

''(6) STATE, LOCAL, AND TRIBAL ADDITIONS.—

''(A) IN GENERAL.—Any State, local, or tribal government shall provide the Attorney General of the United States with—

''(i) all known names, addresses, website addresses, and other primary contact information of any delivery seller that—

''(I) offers for sale or makes sales of cigarettes or smokeless tobacco in or into the State, locality, or tribal land; and

''(II) has failed to register with or make reports to the respective tax administrator as required by this Act, or that has been found in a legal proceeding to have otherwise failed to comply with this Act; and

''(ii) a list of common carriers and other persons who make deliveries of cigarettes or smokeless tobacco in or into the State, locality, or tribal land.

''(B) UPDATES.—Any government providing a list to the Attorney General of the United States under subparagraph (A) shall also provide updates and corrections every 4 months until such time as the government notifies the Attorney General of the United States in writing that the government no longer desires to submit information to supplement the list described in paragraph (1)(A).

''(C) REMOVAL AFTER WITHDRAWAL.—Upon receiving written notice that a government no longer desires to submit information under subparagraph (A), the Attorney General of the United States shall remove from the list described in paragraph (1)(A) any persons that are on the list solely because of the prior submissions of the government of the list of the government of noncomplying delivery sellers of cigarettes or smokeless tobacco or a subsequent update or correction by the government.

''(7) DEADLINE TO INCORPORATE ADDITIONS.—The Attorney General of the United States shall—

''(A) include any delivery seller identified and submitted by a State, local, or tribal government under paragraph (6) in any list or update that is distributed or made available under paragraph (1) on or after the date that is 30 days after the date on which the information is received by the Attorney General of the United States; and

''(B) distribute any list or update described in subparagraph (A) to any common carrier or other person who makes deliveries of cigarettes or smokeless tobacco that has been identified and submitted by a government pursuant to paragraph (6).

''(8) NOTICE TO DELIVERY SELLERS.—Not later than 14 days before including any delivery seller on the initial list described in paragraph (1)(A), or on an update to the list for the first time, the Attorney General of the United States shall make a reasonable attempt to send notice to the delivery seller by letter, electronic mail, or other means that the delivery seller is being placed on the

list or update, with that notice citing the relevant provisions of this Act.

''(9) LIMITATIONS.—

''(A) IN GENERAL.—Any common carrier or other person making a delivery subject to this subsection shall not be required or otherwise obligated to—

''(i) determine whether any list distributed or made available under paragraph (1) is complete, accurate, or up-to-date;

''(ii) determine whether a person ordering a delivery is in compliance with this Act; or

''(iii) open or inspect, pursuant to this Act, any package being delivered to determine its contents.

''(B) ALTERNATE NAMES.—Any common carrier or other person making a delivery subject to this subsection—

''(i) shall not be required to make any inquiries or otherwise determine whether a person ordering a delivery is a delivery seller on the list described in paragraph (1)(A) who is using a different name or address in order to evade the related delivery restrictions; and

''(ii) shall not knowingly deliver any packages to consumers for any delivery seller on the list described in paragraph (1)(A) who the common carrier or other delivery service knows is a delivery seller who is on the list and is using a different name or address to evade the delivery restrictions of paragraph (2).

''(C) PENALTIES.—Any common carrier or person in the business of delivering packages on behalf of other persons shall not be subject to any penalty under section 14101(a) of title 49, United States Code, or any other provision of law for—

''(i) not making any specific delivery, or any deliveries at all, on behalf of any person on the list described in paragraph (1)(A);

''(ii) refusing, as a matter of regular practice and procedure, to make any deliveries, or any deliveries in certain States, of any cigarettes or smokeless tobacco for any person or for any person not in the business of manufacturing, distributing, or selling cigarettes or smokeless tobacco; or

''(iii) delaying or not making a delivery for any person because of reasonable efforts to comply with this Act.

''(D) OTHER LIMITS.—Section 2 and subsections (a), (b), (c), and (d) of this section shall not be interpreted to impose any responsibilities, requirements, or liability on common carriers.

''(f) PRESUMPTION.—For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.''.

(d) PENALTIES.—The Jenkins Act is amended by striking section 3 and inserting the following:

''SEC. 3. PENALTIES.

''(a) CRIMINAL PENALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), whoever knowingly violates this Act shall be imprisoned for not more than 3 years, fined under title 18, United States Code, or both.

''(2) EXCEPTIONS.—

''(A) GOVERNMENTS.—Paragraph (1) shall not apply to a State, local, or tribal government.

''(B) DELIVERY VIOLATIONS.—A common carrier or independent delivery service, or employee of a common carrier or independent delivery service, shall be subject to criminal penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed knowingly—

''(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

''(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—Except as provided in paragraph (3), whoever violates this Act shall be subject to a civil penalty in an amount not to exceed—

''(A) in the case of a delivery seller, the greater of—

''(i) $5,000 in the case of the first violation, or $10,000 for any other violation; or

''(ii) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of the delivery seller during the 1-year period ending on the date of the violation.

''(B) in the case of a common carrier or other delivery service, $2,500 in the case of a first violation, or $5,000 for any violation within 1 year of a prior violation.

''(2) RELATION TO OTHER PENALTIES.—A civil penalty imposed under paragraph (1) for a violation of this Act shall be imposed in addition to any criminal penalty under subsection (a) and any other damages, equitable relief, or injunctive relief awarded by the court, including the payment of any unpaid taxes to the appropriate Federal, State, local, or tribal governments.

''(3) EXCEPTIONS.—

''(A) DELIVERY VIOLATIONS.—An employee of a common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) only if the violation is committed intentionally—

''(i) as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value; or

''(ii) for the purpose of assisting a delivery seller to violate, or otherwise evading compliance with, section 2A.

''(B) OTHER LIMITATIONS.—No common carrier or independent delivery service shall be subject to civil penalties under paragraph (1) for a violation of section 2A(e) if—

''(i) the common carrier or independent delivery service has implemented and enforces effective policies and practices for complying with that section; or

''(ii) the violation consists of an employee of the common carrier or independent delivery service who physically receives and processes orders, picks up packages, processes packages, or makes deliveries, taking actions that are outside the scope of employment of the employee, or that violate the implemented and enforced policies of the common carrier or independent delivery service described in clause (i).''.

(e) ENFORCEMENT.—The Jenkins Act is amended by striking section 4 and inserting the following:

''SEC. 4. ENFORCEMENT.

''(a) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of this Act and to provide other appropriate injunctive or equitable relief, including money damages, for the violations.

''(b) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States shall administer and enforce this Act.

''(c) STATE, LOCAL, AND TRIBAL ENFORCEMENT.—

''(1) IN GENERAL.—

''(A) STANDING.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may bring an action in a United States district court to prevent and restrain violations of this Act by any person or to obtain any other appropriate relief from any person for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

''(B) SOVEREIGN IMMUNITY.—Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

''(2) PROVISION OF INFORMATION.—A State, through its attorney general, or a local government or Indian tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer, may provide evidence of a violation of this Act by any person not subject to State, local, or tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United States attorney, who shall take appropriate actions to enforce this Act.

''(3) USE OF PENALTIES COLLECTED.—

''(A) IN GENERAL.—There is established a separate account in the Treasury known as the 'PACT Anti-Trafficking Fund'. Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the Federal Government in enforcing this Act shall be transferred into the PACT Anti-Trafficking Fund and shall be available to the Attorney General of the United States for purposes of enforcing this Act and other laws relating to contraband tobacco products.

''(B) ALLOCATION OF FUNDS.—Of the amount available to the Attorney General of the United States under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department of Justice that were responsible for the enforcement actions in which the penalties concerned were imposed or for any underlying investigations.

''(4) NONEXCLUSIVITY OF REMEDY.—

''(A) IN GENERAL.—The remedies available under this section and section 3 are in addition to any other remedies available under Federal, State, local, tribal, or other law.

''(B) STATE COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(C) TRIBAL COURT PROCEEDINGS.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian tribal government official to proceed in tribal court, or take other enforcement actions, on the basis of an alleged violation of tribal law.

''(D) LOCAL GOVERNMENT ENFORCEMENT.—Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

''(d) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 (regarding permitting of manufacturers and importers of tobacco products and export warehouse proprietors) may bring an action in an appropriate United States district court to prevent and restrain violations of this Act by any person other than a State, local, or tribal government.

''(e) NOTICE.—

''(1) PERSONS DEALING IN TOBACCO PRODUCTS.—Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

''(2) STATE, LOCAL, AND TRIBAL ACTIONS.—It is the sense of Congress that the attorney general of any State, or chief law enforcement officer of any locality or tribe, that commences a civil action under this section should inform the Attorney General of the United States of the action.

''(f) PUBLIC NOTICE.—

''(1) IN GENERAL.—The Attorney General of the United States shall make available to the public, by posting information on the Internet and by other appropriate means, information regarding all enforcement actions brought by the United States, or reported to the Attorney General of the United States, under this section, including information regarding the resolution of the enforcement actions and how the Attorney General of the United States has responded to referrals of evidence of violations pursuant to subsection (c)(2).

''(2) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, and every year thereafter until the date that is 5 years after such date of enactment, the Attorney General of the United States shall submit to Congress a report containing the information described in paragraph (1).''.

SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.

(a) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by inserting after section 1716D the following:

''§ 1716E. Tobacco products as nonmailable

''(a) PROHIBITION.—

''(1) IN GENERAL.—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for delivery or transmit through the mails any package that it knows or has reasonable cause to believe contains any cigarettes or smokeless tobacco made nonmailable by this paragraph.

''(2) REASONABLE CAUSE.—For the purposes of this subsection reasonable cause includes—

''(A) a statement on a publicly available website, or an advertisement, by any person that the person will mail matter which is nonmailable under this section in return for payment; or

''(B) the fact that the person is on the list created under section 2A(e) of the Jenkins Act.

''(b) EXCEPTIONS.—

''(1) CIGARS.—Subsection (a) shall not apply to cigars (as defined in section 5702(a) of the Internal Revenue Code of 1986).

''(2) GEOGRAPHIC EXCEPTION.—Subsection (a) shall not apply to mailings within the State of Alaska or within the State of Hawaii.

''(3) BUSINESS PURPOSES.—

''(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed only—

''(i) for business purposes between legally operating businesses that have all applicable State and Federal Government licenses or permits and are engaged in tobacco product manufacturing, distribution, wholesale, export, import, testing, investigation, or research; or

''(ii) for regulatory purposes between any business described in clause (i) and an agency of the Federal Government or a State government.

''(B) RULES.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

''(ii) CONTENTS.—The final rule issued under clause (i) shall require—

''(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is a business or government agency permitted to make a mailing under this paragraph;

''(II) the United States Postal Service to ensure that any recipient of an otherwise nonmailable tobacco product sent through the mails under this paragraph is a business or government agency that may lawfully receive the product;

''(III) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

''(IV) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package;

''(V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on the date of the mailing and make the information available to the Postal Service, the Attorney General of the United States, and to persons eligible to bring enforcement actions under section 3(d) of the Prevent All Cigarette Trafficking Act of 2009;

''(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to a permitted government agency or business and may not be delivered to any residence or individual person; and

''(VII) that any mailing described in subparagraph (A) be delivered only to a verified employee of the recipient business or government agency, who is not a minor and who shall be required to sign for the mailing.

''(C) DEFINITION.—In this paragraph, the term 'minor' means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

''(4) CERTAIN INDIVIDUALS.—

''(A) IN GENERAL.—Subsection (a) shall not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

''(B) RULES.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

''(ii) CONTENTS.—The final rule issued under clause (i) shall require—

''(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the individual identified on the return address label of the package and is not a minor;

''(II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor;

''(III) that any package mailed under this paragraph shall weigh not more than 10 ounces;

''(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

''(V) that a mailing described in subparagraph (A) shall not be delivered or placed in the possession of any individual who has not been verified as not being a minor;

''(VI) for a mailing described in subparagraph (A) to an individual, that the United States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

''(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during any 30-day period.

''(C) DEFINITION.—In this paragraph, the term 'minor' means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

''(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

''(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) shall not preclude a legally operating cigarette manufacturer or a legally authorized agent of a legally operating cigarette manufacturer from using the United States Postal Service to mail cigarettes to verified adult smoker solely for consumer testing purposes, if—

''(i) the cigarette manufacturer has a permit, in good standing, issued under section 5713 of the Internal Revenue Code of 1986;

''(ii) the package of cigarettes mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes);

''(iii) the recipient does not receive more than 1 package of cigarettes from any 1 cigarette manufacturer under this paragraph during any 30-day period;

''(iv) all taxes on the cigarettes mailed under this paragraph levied by the State and locality of delivery are paid to the State and locality before delivery, and tax stamps or other tax-payment indicia are affixed to the cigarettes as required by law; and

''(v)(I) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

''(II) the recipient is paid a fee by the manufacturer or agent of the manufacturer for participation in consumer product tests; and

''(III) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent.

''(B) LIMITATIONS.—Subparagraph (A) shall not—

''(i) permit a mailing of cigarettes to an individual located in any State that prohibits the delivery or shipment of cigarettes to individuals in the State, or preempt, limit, or otherwise affect any related State laws; or

''(ii) permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette sales of the manufacturer in the United States during the calendar year before the date of the mailing.

''(C) RULES.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Prevent All Cigarette Trafficking Act of 2009, the Postmaster General shall issue a final rule which shall establish the standards and requirements that apply to all mailings described in subparagraph (A).

''(ii) CONTENTS.—The final rule issued under clause (i) shall require—

''(I) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer permitted to make a mailing under this paragraph, or an agent legally authorized by the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

''(II) the legally operating cigarette manufacturer submitting the cigarettes into the mails under this paragraph to affirm that—

''(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

''(bb) the recipient has not made any payment for the cigarettes;

''(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

''(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) not less frequently than once in every 3-month period;

''(III) the legally operating cigarette manufacturer or the legally authorized agent of the manufacturer submitting the cigarettes into the mails under this paragraph to affirm that any package mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all related State tax stamps or other tax-payment indicia have been applied;

''(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

''(V) the United States Postal Service to maintain records relating to a mailing described in subparagraph (A) during the 3-year period beginning on the date of the mailing and make the information available to persons enforcing this section;

''(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult; and

''(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

''(D) DEFINITIONS.—In this paragraph—

''(i) the term 'adult' means an individual who is not less than 21 years of age; and

''(ii) the term 'consumer testing' means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

''(6) FEDERAL GOVERNMENT AGENCIES.—An agency of the Federal Government involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, restrictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay the recipients for participating in the consumer testing.

''(c) SEIZURE AND FORFEITURE.—Any cigarettes or smokeless tobacco made nonmailable by this subsection that are deposited in the mails shall be subject to seizure and forfeiture, pursuant to the procedures set forth in chapter 46 of this title. Any tobacco products seized and forfeited under this subsection shall be destroyed or retained by the Federal Government for the detection or prosecution of crimes or related investigations and then destroyed.

''(d) ADDITIONAL PENALTIES.—In addition to any other fines and penalties under this title for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

''(e) CRIMINAL PENALTY.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that is nonmailable matter under this section shall be fined under this title, imprisoned not more than 1 year, or both.

''(f) USE OF PENALTIES.—There is established a separate account in the Treasury, to be known as the 'PACT Postal Service Fund'. Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal fines, civil penalties, or other monetary penalties collected by the Federal Government in enforcing this section shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this subsection.

''(g) COORDINATION OF EFFORTS.—The Postmaster General shall cooperate and coordinate efforts to enforce this section with related enforcement activities of any other Federal agency or agency of any State, local, or tribal government, whenever appropriate.

''(h) ACTIONS BY STATE, LOCAL, OR TRIBAL GOVERNMENTS RELATING TO CERTAIN TOBACCO PRODUCTS.—

''(1) IN GENERAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

''(2) SOVEREIGN IMMUNITY.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

''(3) ATTORNEY GENERAL REFERRAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

''(4) NONEXCLUSIVITY OF REMEDIES.—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

''(5) OTHER ENFORCEMENT ACTIONS.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

''(i) DEFINITION.—In this section, the term 'State' has the meaning given that term in section 1716(k).''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 83 of title 18 is amended by inserting after the item relating to section 1716D the following:

''1716E. Tobacco products as nonmailable.''.

SEC. 4. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in a State that is a party to the Master Settlement Agreement, any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by the State requiring funds to be placed into a qualified escrow account under specified conditions, and with any regulations promulgated pursuant to the statute.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—

(1) IN GENERAL.—The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) INITIATION OF ACTION.—A State, through its attorney general, may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(3) ATTORNEY FEES.—In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have knowingly violated subsection (a).

(4) NONEXCLUSIVITY OF REMEDIES.—The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law. No provision of this Act or any other Federal law shall be held or construed to prohibit or preempt the Master Settlement Agreement, the Model Statute (as defined in the Master Settlement Agreement), any legislation amending or complementary to the Model Statute in effect as of June 1, 2006, or any legislation substantially similar to such existing, amending, or complementary legislation enacted after the date of enactment of this Act.

(5) OTHER ENFORCEMENT ACTIONS.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General of the United States may bring an action in an appropriate United States district court to prevent and restrain violations of subsection (a) by any person.

(c) DEFINITIONS.—In this section the following definitions apply:

(1) DELIVERY SALE.—The term ''delivery sale'' means any sale of cigarettes or smokeless tobacco to a consumer if—

(A) the consumer submits the order for the sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered to the buyer by common carrier,

private delivery service, or other method of remote delivery, or the seller is not in the physical presence of the buyer when the buyer obtains possession of the cigarettes or smokeless tobacco.

(2) IMPORTER.—The term ''importer'' means each of the following:

(A) SHIPPING OR CONSIGNING.—Any person in the United States to whom nontaxpaid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) MANUFACTURING WAREHOUSES.—Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs-bonded manufacturing warehouse.

(C) UNLAWFUL IMPORTING.—Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

(3) MASTER SETTLEMENT AGREEMENT.—The term ''Master Settlement Agreement'' means the agreement executed November 23, 1998, between the attorneys general of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and 4 territories of the United States and certain tobacco manufacturers.

(4) MODEL STATUTE; QUALIFYING STATUTE.—The terms ''Model Statute'' and ''Qualifying Statute'' means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(5) TOBACCO PRODUCT MANUFACTURER.—The term ''Tobacco Product Manufacturer'' has the meaning given that term in section II(uu) of the Master Settlement Agreement.

SEC. 5. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS; CIVIL PENALTY.

Section 2343(c) of title 18, United States Code, is amended to read as follows:

''(c)(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

''(A) any records or information required to be maintained by the person under this chapter; or

''(B) any cigarettes or smokeless tobacco kept or stored by the person at the premises.

''(2) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by paragraph (1).

''(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed $10,000.''.

SEC. 6. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to amend, modify, or otherwise affect—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian country;

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian country;

(3) any limitations under Federal or State law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian tribes, tribal members, tribal enterprises, or in Indian country;

(4) any Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any tribe, tribal members, tribal enterprises, tribal reservations, or other lands held by the United States in trust for one or more Indian tribes; or

(5) any State or local government authority to bring enforcement actions against persons located in Indian country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Nothing in this Act or the amendments made by this Act shall be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act shall prohibit, limit, or restrict enforcement by the Attorney General of the United States of this Act or an amendment made by this Act within Indian country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application and any other provision of this Act shall be resolved in favor of this section.

(f) DEFINITIONS.—In this section—

(1) the term ''Indian country'' has the meaning given that term in section 1 of the Jenkins Act, as amended by this Act; and

(2) the term ''tribal enterprise'' means any business enterprise, regardless of whether incorporated or unincorporated under Federal or tribal law, of an Indian tribe or group of Indian tribes.

SEC. 7. ENHANCED CONTRABAND TOBACCO ENFORCEMENT.

(a) REQUIREMENTS.—The Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall—

(1) not later than the end of the 3-year period beginning on the effective date of this Act, create a regional contraband tobacco trafficking team in each of New York, New York, the District of Columbia, Detroit, Michigan, Los Angeles, California, Seattle, Washington, and Miami, Florida;

(2) create a Tobacco Intelligence Center to oversee investigations and monitor and coordinate ongoing investigations and to serve as the coordinator for all ongoing tobacco diversion investigations within the Bureau of Alcohol, Tobacco, Firearms, and Explosives, in the United States and, where applicable, with law enforcement organizations around the world;

(3) establish a covert national warehouse for undercover operations; and

(4) create a computer database that will track and analyze information from retail sellers of tobacco products that sell through the Internet or by mail order or make other non-face-to-face sales.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $8,500,000 for each of fiscal years 2010 through 2014.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) BATFE AUTHORITY.—The amendments made by section 5 shall take effect on the date of enactment of this Act.

SEC. 9. SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of the Act to any other person or circumstance shall not be affected thereby.

SEC. 10. SENSE OF CONGRESS CONCERNING THE PRECEDENTIAL EFFECT OF THIS ACT.

It is the sense of Congress that unique harms are associated with online cigarette sales, including problems with verifying the ages of consumers in the digital market and the long-term health problems associated with the use of certain tobacco products. This Act was enacted recognizing the longstanding interest of Congress in urging compliance with States' laws regulating remote sales of certain tobacco products to citizens of those States, including the passage of the Jenkins Act over 50 years ago, which established reporting requirements for out-of-State companies that sell certain tobacco products to citizens of the taxing States, and which gave authority to the Department of Justice and the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the Jenkins Act. In light of the unique harms and circumstances surrounding the online sale of certain tobacco products, this Act is intended to help collect cigarette excise taxes, to stop tobacco sales to underage youth, and to help the States enforce their laws that target the online sales of certain tobacco products only. This Act is in no way meant to create a precedent regarding the collection of State sales or use taxes by, or the validity of efforts to impose other types of taxes on, out-of-State entities that do not have a physical presence within the taxing State.

By Mr. GRASSLEY (for himself, Mrs. MCCASKILL, Mr. BOND, and Mr. THUNE):

S. 1148. A bill to amend the Clean Air Act to modify a provision relating to the renewable fuel program; to the Committee on Environment and Public Works.

Mr. GRASSLEY. Mr. President, I am pleased to be joined today in introducing commonsense legislation with Senators MCCASKILL and BOND. The Renewable Fuel Standard Improvement Act, seeks to improve a number of provisions included in the expanded Renewable Fuels Standard that was enacted in the Energy Independence and Security Act of 2007, EISA.

Just a week ago, the Chairman of the House Agriculture Committee, Representative COLLIN PETERSON, introduced this legislation in the House of Representatives. It now has more than 44 bipartisan cosponsors. Because Chairman PETERSON crafted such thoughtful modifications to the Renewable Fuel Standard, I want to give my Senate colleagues an opportunity to consider the bill. So, today I am introducing companion legislation in the Senate.

A component of the new Renewable Fuels Standard was a requirement that various biofuels meet specified lifecycle greenhouse gas emission reduction targets. The law specified that lifecycle greenhouse gas emissions are to include direct emissions and significant indirect emissions from indirect land use changes. In the Notice of Proposed Rulemaking released by the Environmental Protection Agency earlier this month, the EPA relies on incomplete science and inaccurate assumptions to penalize U.S. biofuels for so-called ''indirect land use changes.'' So, this bill ensures that the greenhouse gas calculations are based on proven science by removing the requirement to include indirect land use changes.

The bill also includes a number of other commonsense fixes to the expanded Renewable Fuels Standard. Under EISA, the life-cycle greenhouse gas reduction requirements do not apply to corn ethanol plants that were in operation or under construction prior to the date of enactment. This grandfather provision does not apply to biodiesel facilities, however. The legislation I am introducing today would extend the same grandfathered treatment to biodiesel facilities.

Finally, the bill includes a more inclusive definition of renewable biomass, and it expands the role of the U.S. Departments of Agriculture and Energy in administering the program.

This bill goes a long way to rectifying a few provisions that are undermining and harming our efforts toward energy independence. I do not think it makes sense to impose hurdles on our domestic renewable fuels industry, particularly if it prolongs our dependence on dirtier fossil fuels, or increases our dependence on energy from countries like Iran and Venezuela.

I would like to thank the cosponsors for their support. I look forward to Senate consideration of this important legislation.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1149. A bill to eliminate annual and lifetime aggregate limits imposed by health plans; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Annual and Lifetime Health Care Limit Elimination Act of 2009, legislation that would prohibit insurance companies from imposing any annual or lifetime limit on any individual or group health insurance policy, thus providing continuity and affordability of health care coverage for those with serious chronic conditions.

Each year, thousands of insured Americans face daunting medical expenses and challenges when they reach the annual or lifetime limit on their individual or employer-sponsored health insurance plan. Once a beneficiary's medical costs have exceeded the annual or lifetime limit of their plan, the insurance company no longer pays for the medical costs incurred by that individual.

In April, I held a roundtable discussion on health care in Raleigh County. There, I met a woman who had myelodysplastic syndrome, which is a non-curable pre-leukemia type disease. Unfortunately, her husband's insurance policy had a lifetime limit of $300,000, which she had reached. Another young West Virginian, born with serious congenital heart defects, reached the $1 million limit on his mother's insurance policy within the first nine months of his life. The limits on their health insurance plans have left these families struggling to find a way to pay for the expensive and life-sustaining treatments their loved ones desperately need.

Unfortunately, these two West Virginia families are not alone. In 2007, it was estimated that 55 percent of all people who obtain health benefits from their employer have some type of lifetime limit on their plan, an increase of approximately 4 percent since 2004. More than 23 percent of people have health insurance plans that impose limits of $2 million or less. Also, some health insurance policies renew less frequently than annually and contain annual limits to reduce the medical expenses paid by insurance companies. It is estimated that approximately 20,000 to 25,000 people no longer have health care benefits through their employers because of lifetime limits on their employer-sponsored health care plans.

When individuals with serious chronic conditions—such as transplant recipients, patients living with hemophilia, and newborns with life-threatening illnesses—hit the annual or lifetime limits on their policies, they are often left with very few options to meet their health care needs. Individuals and families that can afford it can try to pay for their health care costs completely out-of-pocket. However, this is rarely financially feasible; therefore, many people are forced to leave good, stable jobs and seek different employment in an effort to obtain new employer-sponsored coverage. Unfortunately, new enrollees are often subject to a waiting period for coverage if there was any break in their previous health care coverage.

Should an individual try to find health insurance in the individual market, coverage is likely to be prohibitively expensive. More often then not, these individuals are denied coverage altogether because of the insurer's preexisting condition exclusion. Annual or lifetime limits can force people to turn to public programs such as Medicaid, or spend down their savings to meet the financial restrictions of the program. Others are forced to forgo treatment altogether, which can lead to serious complications and greater long-term health care costs.

It is time to stop health insurance companies from imposing annual or lifetime limits on health insurance policies. The beneficiaries affected by these limits have paid their premiums, deductibles, and copays faithfully, only to lose access to life-saving treatment when they need care the most. This is unacceptable and I encourage my colleagues to join me in supporting the Annual and Lifetime Health Care Limit Elimination Act.

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. 1149

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 ''Annual and Lifetime Health Care Limit Elimination Act of 2009''.

SEC. 2. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following:

''SEC. 715. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

''(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar annual or lifetime limit with respect to benefits payable under the plan or coverage.

''(b) DEFINITION.—In this section, the term 'aggregate dollar annual or lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual or other coverage unit on an annual or lifetime basis.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, is amended by inserting after the item relating to section 714 the following new item:

''Sec. 715. Elimination of annual or lifetime aggregate limits.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after the date that is 1 year after the date of enactment of this Act.

SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT RELATING TO THE GROUP MARKET.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following:

''SEC. 2708. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

''(a) IN GENERAL.—A group health plan and a health insurance issuer providing health insurance coverage in connection with a group health plan, may not impose an aggregate dollar annual or lifetime limit with respect to benefits payable under the plan or coverage.

''(b) DEFINITION.—In this section, the term 'aggregate dollar annual or lifetime limit' means, with respect to benefits under a group health plan or health insurance coverage, a dollar limitation on the total amount that may be paid with respect to such benefits under the plan or health insurance coverage with respect to an individual

or other coverage unit on an annual or lifetime basis.''.

(b) INDIVIDUAL MARKET.—Subpart 2 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-51 et seq.) is amended by adding at the end the following:

''SEC. 2754. ELIMINATION OF ANNUAL OR LIFETIME AGGREGATE LIMITS.

''The provisions of section 2708 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning on or after the date that is 1 year after the date of enactment of this Act.

By Mr. REID (for Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. KOHL, Mr. WYDEN, and Mr. CARPER)):

S. 1150. A bill to improve end-of-life care; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my friends and colleagues—Senators COLLINS, KOHL, WYDEN and CARPER—to introduce the Advance Planning and Compassionate Care Act of 2009, comprehensive legislation that recognizes the critical importance of advance care planning and quality end-of-life care. Senator COLLINS and I have worked on this legislation for over a decade—with the ultimate goal of one day passing comprehensive end-of-life care legislation. We are encouraged by the prospect of comprehensive health reform this year and believe that it is absolutely critical that end-of-life care provisions be included.

In preparation for the impending health reform debate, Senator COLLINS and I decided last year that it was time to update our Advance Planning and Compassionate Care Act to incorporate all of the best ideas out there on improving end-of-life care—including new and innovative approaches being implemented in the states, approaches suggested by scholars in this field, and recommendations based on our own experiences with loved ones facing the end of life. This new and improved bill is truly a labor of love and we are certainly hopeful that we can finally get something comprehensive and meaningful done for the millions of individuals and families faced with the agonizing issues surrounding the end of life.

A modern health care delivery system is well within our reach and something that we can start to achieve this year. A critical component of a modernized health system is the ability to address the health care needs of patients across the life-span—especially at the end of life. Death is a serious, personal, and complicated part of the life cycle. Yet, care at the end of life is eventually relevant to everyone. Americans deserve end-of-life care that is effective in providing information about diagnosis and prognosis, integrating appropriate support services, fulfilling individual wishes, and avoiding unnecessary disputes.

The bitter dispute that played out publicly for Terri Schiavo and her family is an agonizing experience that countless other families quietly face over the care of a loved one because clear advance directives are not in place. End-of-life care is a very delicate, yet important, issue and we must act to ensure that all Americans have the dignity and comfort they deserve at the end of life. Services should be available to help patients and their families with the medical, psychological, spiritual, and practical issues surrounding death.

Most people want to discuss advance directives when they are healthy and they want their families involved in the process. Yet, the vast majority of Americans have not completed an advance directive expressing their final wishes. In 2007, RAND conducted a comprehensive review of academic literature relating to end-of-life decisionmaking. This review found that only 18 to 30 percent of Americans have completed some type of advance directive expressing their end-of-life wishes. RAND also found that acutely ill individuals, for whom these decisions are particularly relevant, complete advance directives at only slightly higher rates—35 percent of dialysis patients and 32 percent of Chronic Obstructive Pulmonary Disease, COPD, patients. Perhaps most alarmingly, between 65 and 76 percent of physicians whose patients had an advance directive were unaware of its existence.

In its present form, end-of-life planning and care for most Americans is perplexing, disjointed, and lacking an active dialogue. In its 1997 report entitled Approaching Death: Improving Care at the End of Life, the Institute of Medicine found several barriers to effective advance planning and end-of-life care that still persist today.

In addition to the substantial burden of suffering experienced by many at the end of life, there are also significant financial consequences for family members and society as a whole that stem from ineffective end-of-life care. According to one Federal evaluation, 80 percent of all deaths occur in hospitals—the most costly setting to deliver care—even though most people would prefer to die at home. Current studies indicate that around 25 percent of all Medicare spending occurs in the last year of life. Largely because of their poorer health status, dually eligible beneficiaries have Medicare costs that are about 1.5 times that of other Medicare beneficiaries. Research also shows significant variation in expenditures at the end-of-life by geography and hospital, without evidence that greater expenditures are associated with better outcomes or satisfaction.

We must find ways to improve the quality of end-of-life care. Quality measures provide not only information for oversight, but data with which to improve care practices and models. No core sets of end-of-life quality measures are required across provider settings. Even for certified hospices, reporting of quality measures has only recently been required, with each hospice deciding its own indicators. Hospice surveys are behind schedule and not conducted frequently enough.

Facilitating greater advance planning and improving care at the end of life also requires an adequate workforce. Unfortunately, there is a substantial shortage of health professionals who specialize in palliative care. There is a severe shortage of physicians and advance practice nurses trained in palliative medicine. Contributing to these shortages is a shortage of medical and nursing school faculty in palliative medicine and care. There is also a lack of content about end-of-life care in medical school curricula. Medical students in general receive very little formal end-of-life education. Almost half of medical residents in a survey felt unprepared to address patients' fears of dying. For Americans to have a full range of choices in end-of-life care, we must strengthen our health care workforce, including palliative care education of physicians and other health professionals.

Care at the end-of-life can, and should, be better and more consistent with what Americans want. The Advance Planning and Compassionate Care Act takes enormous steps forward to fully inform consumers of their treatment options at the end of life and to actually address patient end-of-life care needs when the time comes. To promote advance care planning, this legislation provides both patients and their physicians with the information and tools to help them in this most personal and often difficult discussion.

Last year's Medicare Improvements for Patients and Providers Act, PL 110–275, took a significant step forward toward improving advance care planning. MIPPA included a provision that I authored, requiring physicians to provide an advance care planning consultation as part of the Welcome to Medicare physical exam. Unfortunately, less than 10 percent of new enrollees use the Welcome to Medicare visit. The MIPPA provision also does not address the advance care planning needs of existing Medicare enrollees.

The legislation we are introducing today establishes physician payment under Medicare, Medicaid, and CHIP for vital patient advance care planning conversations. It provides help in documenting decisions from these conversations in the form of advance directives and in the form of actionable orders for life sustaining treatment. It also takes steps to address the problem of accessing advance directives when needed, including state grants for electronic registries.

This legislation establishes a National Geriatric and Palliative Care Service Corps, modeled after the National Health Service Corps, to increase the woefully inadequate supply

of geriatric and palliative specialists and to even out their geographic distribution. It adopts MedPAC's 2009 hospice payment reforms aimed at aligning payment with the actual trajectory of resources expended over hospice episodes of care, while remaining within the constraints of current reimbursement. Demonstration projects are funded to explore ways to better meet the needs of patients over longer time periods than the 6-month prognoses inherent in the hospice benefit.

Certification standards and processes are developed for hospital-based palliative care teams. Such teams are critical to providing consultation and care to dying patients. Quality measurement and oversight are strengthened, with development of end-of-life measures across care settings and greater data reporting requirements of hospices—so that we can make sure the hospice benefit is keeping pace with the changing diagnostic mix of patients that hospice serves.

Finally, this bill takes the important step of establishing a National Center on Palliative and End-of-Life Care within the NIH. This is a vital step toward prioritizing biomedical research in the areas of palliative and end-of-life care. It will also serve as a symbol to remind us that, as in other phases of life, we need care at the end of life that addresses our individual needs and circumstances.

Death is a serious, personal, and complicated issue that is eventually relevant to each and every one of us. Americans deserve end-of-life care that is effective in fulfilling individual wishes, avoiding unnecessary disputes, and, most importantly, providing quality end-of-life care. Therefore, I urge my colleagues to join us in improving end-of-life care and reducing the amount of grief that inevitably comes with losing those who we hold dear.

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. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advance Planning and Compassionate Care Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) ADVANCE CARE PLANNING.—The term ''advance care planning'' means the process of—

(A) determining an individual's priorities, values and goals for care in the future when the individual is no longer able to express his or her wishes;

(B) engaging family members, health care proxies, and health care providers in an ongoing dialogue about—

(i) the individual's wishes for care;

(ii) what the future may hold for people with serious illnesses or injuries;

(iii) how individuals, their health care proxies, and family members want their beliefs and preferences to guide care decisions; and

(iv) the steps that individuals and family members can take regarding, and the resources available to help with, finances, family matters, spiritual questions, and other issues that impact seriously ill or dying patients and their families; and

(C) executing and updating advance directives and appointing a health care proxy.

(2) ADVANCE DIRECTIVE.—The term ''advance directive'' means a living will, medical directive, health care power of attorney, durable power of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual's wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.

(3) CHIP.—The term ''CHIP'' means the program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(4) END-OF-LIFE-CARE.—The term ''end-of-life care'' means all aspects of care of a patient with a potentially fatal condition, and includes care that is focused on specific preparations for an impending death.

(5) HEALTH CARE POWER OF ATTORNEY.—The term ''health care power of attorney'' means a legal document that identifies a health care proxy or decisionmaker for a patient who has the authority to act on the patient's behalf when the patient is unable to communicate his or her wishes for medical care on matters that the patient specifies when he or she is competent. Such term includes a durable power of attorney that relates to medical care.

(6) LIVING WILL.—The term ''living will'' means a legal document—

(A) used to specify the type of medical care (including any type of medical treatment, including life-sustaining procedures if that person becomes permanently unconscious or is otherwise dying) that an individual wants provided or withheld in the event the individual cannot speak for himself or herself and cannot express his or her wishes; and

(B) that requires a physician to honor the provisions of upon receipt or to transfer the care of the individual covered by the document to another physician that will honor such provisions.

(7) MEDICAID.—The term ''Medicaid'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) MEDICARE.—The term ''Medicare'' means the program established under title

XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(9) ORDERS FOR LIFE-SUSTAINING TREATMENT.—The term ''orders for life-sustaining treatment'' means a process for focusing a patients' values, goals, and preferences on current medical circumstances and to translate such into visible and portable medical orders applicable across care settings, including home, long-term care, emergency medical services, and hospitals.

(10) PALLIATIVE CARE.—The term ''palliative care'' means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom management and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual's family.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

TITLE I—ADVANCE CARE PLANNING

Subtitle A—Consumer and Provider Education

PART I—CONSUMER EDUCATION

Subpart A—National Initiatives

SEC. 101. ADVANCE CARE PLANNING TELEPHONE HOTLINE.

(a) IN GENERAL.—Not later than January 1, 2011, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and operate directly, or by grant, contract, or interagency agreement, a 24-hour toll-free telephone hotline to provide consumer information regarding advance care planning, including—

(1) an explanation of advanced care planning and its importance;

(2) issues to be considered when developing an individual's advance care plan;

(3) how to establish an advance directive;

(4) procedures to help ensure that an individual's directives for end-of-life care are followed;

(5) Federal and State-specific resources for assistance with advance care planning; and

(6) hospice and palliative care (including their respective purposes and services).

(b) ESTABLISHMENT.—In carrying out the requirements under subsection (a), the Director of the Centers for Disease Control and Prevention may designate an existing 24-hour toll-free telephone hotline or, if no such service is available or appropriate, establish a new 24-hour toll-free telephone hotline.

SEC. 102. ADVANCE CARE PLANNING INFORMATION CLEARINGHOUSES.

(a) EXPANSION OF NATIONAL CLEARINGHOUSE FOR LONG-TERM CARE INFORMATION.—

(1) DEVELOPMENT.—Not later than January 1, 2010, the Secretary shall develop an online clearinghouse to provide comprehensive information regarding advance care planning.

(2) MAINTENANCE.—The advance care planning clearinghouse, which shall be clearly identifiable and available on the homepage of the Department of Health and Human Service's National Clearinghouse for Long-Term Care Information website, shall be maintained and publicized by the Secretary on an ongoing basis.

(3) CONTENT.—The advance care planning clearinghouse shall include—

(A) any relevant content contained in the national public education campaign required under section 104;

(B) content addressing—

(i) an explanation of advanced care planning and its importance;

(ii) issues to be considered when developing an individual's advance care plan;

(iii) how to establish an advance directive;

(iv) procedures to help ensure that an individual's directives for end-of-life care are followed; and

(v) hospice and palliative care (including their respective purposes and services); and

(C) available Federal and State-specific resources for assistance with advance care planning, including—

(i) contact information for any State public health departments that are responsible for issues regarding end-of-life care;

(ii) contact information for relevant legal service organizations, including those funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(iii) advance directive forms for each State; and

(D) any additional information, as determined by the Secretary.

(b) ESTABLISHMENT OF PEDIATRIC ADVANCE CARE PLANNING CLEARINGHOUSE.—

(1) DEVELOPMENT.—Not later than January 1, 2011, the Secretary, in consultation with the Assistant Secretary for Children and Families of the Department of Health and Human Services, shall develop an online clearinghouse to provide comprehensive information regarding pediatric advance care planning.

(2) MAINTENANCE.—The pediatric advance care planning clearinghouse, which shall be clearly identifiable on the homepage of the Administration for Children and Families website, shall be maintained and publicized by the Secretary on an ongoing basis.

(3) CONTENT.—The pediatric advance care planning clearinghouse shall provide advance care planning information specific to children with life-threatening illnesses or injuries and their families.

SEC. 103. ADVANCE CARE PLANNING TOOLKIT.

(a) DEVELOPMENT.—Not later than July 1, 2010, the Secretary, in consultation with the Director of the Centers for Disease Control and Prevention, shall develop an online advance care planning toolkit.

(b) MAINTENANCE.—The advance care planning toolkit, which shall be available in English, Spanish, and any other languages that the Secretary deems appropriate, shall be maintained and publicized by the Secretary on an ongoing basis and made available on the following websites:

(1) The Centers for Disease Control and Prevention.

(2) The Department of Health and Human Service's National Clearinghouse for Long-Term Care Information.

(3) The Administration for Children and Families.

(c) CONTENT.—The advance care planning toolkit shall include content addressing—

(1) common issues and questions regarding advance care planning, including individuals and resources to contact for further inquiries;

(2) advance directives and their uses, including living wills and durable powers of attorney;

(3) the roles and responsibilities of a health care proxy;

(4) Federal and State-specific resources to assist individuals and their families with advance care planning, including—

(A) the advance care planning toll-free telephone hotline established under section 101;

(B) the advance care planning clearinghouses established under section 102;

(C) the advance care planning toolkit established under this section;

(D) available State legal service organizations to assist individuals with advance care planning, including those organizations that receive funding pursuant to the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(E) website links or addresses for State-specific advance directive forms; and

(5) any additional information, as determined by the Secretary.

SEC. 104. NATIONAL PUBLIC EDUCATION CAMPAIGN.

(a) NATIONAL PUBLIC EDUCATION CAMPAIGN.—

(1) IN GENERAL.—Not later than January 1, 2011, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants, contracts, or interagency agreements, develop and implement a national campaign to inform the public of the importance of advance care planning and of an individual's right to direct and participate in their health care decisions.

(2) CONTENT OF EDUCATIONAL CAMPAIGN.—The national public education campaign established under paragraph (1) shall—

(A) employ the use of various media, including regularly televised public service announcements;

(B) provide culturally and linguistically appropriate information;

(C) be conducted continuously over a period of not less than 5 years;

(D) identify and promote the advance care planning information available on the Department of Health and Human Service's National Clearinghouse for Long-Term Care Information website and Administration for Children and Families website, as well as any other relevant Federal or State-specific advance care planning resources;

(E) raise public awareness of the consequences that may result if an individual is no longer able to express or communicate their health care decisions;

(F) address the importance of individuals speaking to family members, health care proxies, and health care providers as part of an ongoing dialogue regarding their health care choices;

(G) address the need for individuals to obtain readily available legal documents that express their health care decisions through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care);

(H) raise public awareness regarding the availability of hospice and palliative care; and

(I) encourage individuals to speak with their physicians about their options and intentions for end-of-life care.

(3) EVALUATION.—

(A) IN GENERAL.—Not later than July 1, 2013, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct a nationwide survey to evaluate whether the national campaign conducted under this subsection has achieved its goal of changing public awareness, attitudes, and behaviors regarding advance care planning.

(B) BASELINE SURVEY.—In order to evaluate the effectiveness of the national campaign, the Secretary shall conduct a baseline survey prior to implementation of the campaign.

(C) REPORTING REQUIREMENT.—Not later than December 31, 2013, the Secretary shall report the findings of such survey, as well as any recommendations that the Secretary determines appropriate regarding the need for continuation or legislative or administrative changes to facilitate changing public awareness, attitudes, and behaviors regarding advance care planning, to the appropriate committees of the Congress.

(b) REPEAL.—Section 4751(d) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1396a note; Public Law 101–508) is repealed.

SEC. 105. UPDATE OF MEDICARE AND SOCIAL SECURITY HANDBOOKS.

(a) MEDICARE & YOU HANDBOOK.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall update the online version of

the ''Planning Ahead'' section of the Medicare & You Handbook to include—

(A) an explanation of advance care planning and advance directives, including—

(i) living wills;

(ii) health care proxies; and

(iii) after-death directives;

(B) Federal and State-specific resources to assist individuals and their families with advance care planning, including—

(i) the advance care planning toll-free telephone hotline established under section 101;

(ii) the advance care planning clearinghouses established under section 102;

(iii) the advance care planning toolkit established under section 103;

(iv) available State legal service organizations to assist individuals with advance care planning, including those organizations that receive funding pursuant to the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

(v) website links or addresses for State-specific advance directive forms; and

(C) any additional information, as determined by the Secretary.

(2) UPDATE OF PAPER AND SUBSEQUENT VERSIONS.—The Secretary shall include the information described in paragraph (1) in all paper and electronic versions of the Medicare & You Handbook that are published on or after the date that is 60 days after the date of enactment of this Act.

(b) SOCIAL SECURITY HANDBOOK.—The Commissioner of Social Security shall—

(1) not later than 60 days after the date of enactment of this Act, update the online version of the Social Security Handbook for beneficiaries to include the information described in subsection (a)(1); and

(2) include such information in all paper and online versions of such handbook that are published on or after the date that is 60 days after the date of enactment of this Act.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the period of fiscal years 2010 through 2014—

(1) $195,000,000 to the Secretary to carry out sections 101, 102, 103, 104 and 105(a); and

(2) $5,000,000 to the Commissioner of Social Security to carry out section 105(b).

Subpart B—State and Local Initiatives

SEC. 111. FINANCIAL ASSISTANCE FOR ADVANCE CARE PLANNING.

(a) LEGAL ASSISTANCE FOR ADVANCE CARE PLANNING.—

(1) DEFINITION OF RECIPIENT.—Section 1002(6) of the Legal Services Corporation Act (42 U.S.C. 2996a(6)) is amended by striking ''clause (A) of'' and inserting ''subparagraph (A) or (B) of''.

(2) ADVANCE CARE PLANNING.—Section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) is amended—

(A) in subsection (a)(1)—

(i) by striking ''title, and (B) to make'' and inserting the following: ''title;

''(C) to make''; and

(ii) by inserting after subparagraph (A) the following:

''(B) to provide financial assistance, and make grants and contracts, as described in subparagraph (A), on a competitive basis for the purpose of providing legal assistance in the form of advance care planning (as defined in section 3 of the Advance Planning and Compassionate Care Act of 2009, and including providing information about State-specific advance directives, as defined in that section) for eligible clients under this title, including providing such planning to the family members of eligible clients and persons with power of attorney to make health care decisions for the clients; and''; and

(B) in subsection (b), by adding at the end the following:

''(2) Advance care planning provided in accordance with subsection (a)(1)(B) shall not be construed to violate the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).''.

(3) REPORTS.—Section 1008(a) of the Legal Services Corporation Act (42 U.S.C. 2996g(a)) is amended by adding at the end the following: ''The Corporation shall require such a report, on an annual basis, from each grantee, contractor, or other recipient of financial assistance under section 1006(a)(1)(B).''.

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 1010 of the Legal Services Corporation Act (42 U.S.C. 2996i) is amended—

(A) in subsection (a)—

(i) by striking ''(a)'' and inserting ''(a)(1)'';

(ii) in the last sentence, by striking ''Appropriations for that purpose'' and inserting the following:

''(3) Appropriations for a purpose described in paragraph (1) or (2)''; and

(iii) by inserting before paragraph (3) (as designated by clause (ii)) the following:

''(2) There are authorized to be appropriated to carry out section 1006(a)(1)(B), $10,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014.''; and

(B) in subsection (d), by striking ''subsection (a)'' and inserting ''subsection (a)(1)''.

(5) EFFECTIVE DATE.—This subsection and the amendments made by this subsection take effect July 1, 2010.

(b) STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under paragraph (3) to award grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990 to provide advance care planning services to Medicare beneficiaries, personal representatives of such beneficiaries, and the families of such beneficiaries. Such services shall include information regarding State-specific advance directives and ways to discuss individual care wishes with health care providers.

(2) REQUIREMENTS.—

(A) AWARD OF GRANTS.—In making grants under this subsection for a fiscal year, the Secretary shall satisfy the following requirements:

(i) Two-thirds of the total amount of funds available under paragraph (3) for a fiscal year shall be allocated among those States approved for a grant under this section that have adopted the Uniform Health-Care Decisions Act drafted by the National Conference of Commissioners on Uniform State Laws and approved and recommended for enactment by all States at the annual conference of such commissioners in 1993.

(ii) One-third of the total amount of funds available under paragraph (3) for a fiscal year shall be allocated among those States approved for a grant under this section that have adopted a uniform form for orders regarding life sustaining treatment as defined in section 1861(hhh)(5) of the Social Security Act (as amended by section 211 of this Act) or a comparable approach to advance care planning.

(B) WORK PLAN; REPORT.—As a condition of being awarded a grant under this subsection, a State shall submit the following to the Secretary:

(i) An approved plan for expending grant funds.

(ii) For each fiscal year for which the State is paid grant funds under this subsection, an annual report regarding the use of the funds, including the number of Medicare beneficiaries served and their satisfaction with the services provided.

(C) LIMITATION.—No State shall be paid funds from a grant made under this subsection prior to July 1, 2010.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to the Centers for Medicare & Medicaid Services Program Management Account, $12,000,000 for each of fiscal years 2010 through 2014 for purposes of awarding grants to States under paragraph (1).

(c) MEDICAID TRANSFORMATION GRANTS FOR ADVANCE CARE PLANNING.—Section 1903(z) of the Social Security Act (42 U.S.C. 1396b(z)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

''(G) Methods for improving the effectiveness and efficiency of medical assistance provided under this title by making available to individuals enrolled in the State plan or under a waiver of such plan information regarding advance care planning (as defined in section 3 of the Advance Planning and Compassionate Care Act of 2009), including at time of enrollment or renewal of enrollment in the plan or waiver, through providers, and through such other innovative means as the State determines appropriate.'';

(2) in paragraph (3), by adding at the end the following new subparagraph:

''(D) WORK PLAN REQUIRED FOR AWARD OF ADVANCE CARE PLANNING GRANTS.—Payment to a State under this subsection to adopt the innovative methods described in paragraph (2)(G) is conditioned on the State submitting to the Secretary an approved plan for expending the funds awarded to the State under this subsection.''; and

(3) in paragraph (4)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period at the end and inserting ''; and''; and

(iii) by inserting after clause (ii), the following new clause:

''(iii) $20,000,000 for each of fiscal years 2010 through 2014.''; and

(B) by striking subparagraph (B), and inserting the following:

''(B) ALLOCATION OF FUNDS.—The Secretary shall specify a method for allocating the funds made available under this subsection among States awarded a grant for fiscal year 2010, 2011, 2012, 2013, or 2014. Such method shall provide that—

''(i) 100 percent of such funds for each of fiscal years 2010 through 2014 shall be awarded to States that design programs to adopt the innovative methods described in paragraph (2)(G); and

''(ii) in no event shall a payment to a State awarded a grant under this subsection for fiscal year 2010 be made prior to July 1, 2010.''.

(d) ADVANCE CARE PLANNING COMMUNITY TRAINING GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under paragraph (3) to award grants to area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)).

(2) REQUIREMENTS.—

(A) USE OF FUNDS.—Funds awarded to an area agency on aging under this subsection shall be used to provide advance care planning education and training opportunities for local aging service providers and organizations.

(B) WORK PLAN; REPORT.—As a condition of being awarded a grant under this subsection, an area agency on aging shall submit the following to the Secretary:

(i) An approved plan for expending grant funds.

(ii) For each fiscal year for which the agency is paid grant funds under this subsection, an annual report regarding the use of the funds, including the number of Medicare beneficiaries served and their satisfaction with the services provided.

(C) LIMITATION.—No area agency on aging shall be paid funds from a grant made under this subsection prior to July 1, 2010.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to the Centers for Medicare & Medicaid Services Program Management Account, $12,000,000 for each of fiscal years 2010 through 2014 for purposes of awarding grants to area agencies on aging under paragraph (1).

(e) NONDUPLICATION OF ACTIVITIES.—The Secretary shall establish procedures to ensure that funds made available under grants awarded under this section or pursuant to amendments made by this section supplement, not supplant, existing Federal funding, and that such funds are not used to duplicate activities carried out under such grants or under other Federally funded programs.

SEC. 112. GRANTS FOR PROGRAMS FOR ORDERS REGARDING LIFE SUSTAINING TREATMENT.

(a) IN GENERAL.—The Secretary shall make grants to eligible entities for the purpose of—

(1) establishing new programs for orders regarding life sustaining treatment in States or localities;

(2) expanding or enhancing an existing program for orders regarding life sustaining treatment in States or localities; or

(3) providing a clearinghouse of information on programs for orders for life sustaining treatment and consultative services for the development or enhancement of such programs.

(b) AUTHORIZED ACTIVITIES.—Activities funded through a grant under this section for an area may include—

(1) developing such a program for the area that includes home care, hospice, long-term care, community and assisted living residences, skilled nursing facilities, inpatient rehabilitation facilities, hospitals, and emergency medical services within the area;

(2) securing consultative services and advice from institutions with experience in developing and managing such programs; and

(3) expanding an existing program for orders regarding life sustaining treatment to serve more patients or enhance the quality of services, including educational services for patients and patients' families or training of health care professionals.

(c) DISTRIBUTION OF FUNDS.—In funding grants under this section, the Secretary shall ensure that, of the funds appropriated to carry out this section for each fiscal year—

(1) at least two-thirds are used for establishing or developing new programs for orders regarding life sustaining treatment; and

(2) one-third is used for expanding or enhancing existing programs for orders regarding life sustaining treatment.

(d) DEFINITIONS.—In this section:

(1) The term ''eligible entity'' includes—

(A) an academic medical center, a medical school, a State health department, a State medical association, a multi-State taskforce, a hospital, or a health system capable of administering a program for orders regarding life sustaining treatment for a State or locality; or

(B) any other health care agency or entity as the Secretary determines appropriate.

(2) The term ''order regarding life sustaining treatment'' has the meaning given such term in section 1861(hhh)(5) of the Social Security Act, as added by section 211.

(3) The term ''program for orders regarding life sustaining treatment'' means, with respect to an area, a program that supports the active use of orders regarding life sustaining treatment in the area.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2014.

PART II—PROVIDER EDUCATION

SEC. 121. PUBLIC PROVIDER ADVANCE CARE PLANNING WEBSITE.

(a) DEVELOPMENT.—Not later than January 1, 2010, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Agency for Healthcare Research and Quality, shall establish a website for providers under Medicare, Medicaid, the Children's Health Insurance Program, the Indian Health Service (include contract providers) and other public health providers on each individual's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(b) MAINTENANCE.—The website, shall be maintained and publicized by the Secretary on an ongoing basis.

(c) CONTENT.—The website shall include content, tools, and resources necessary to do the following:

(1) Inform providers about the advance directive requirements under the health care programs described in subsection (a) and other State and Federal laws and regulations related to advance care planning.

(2) Educate providers about advance care planning quality improvement activities.

(3) Provide assistance to providers to—

(A) integrate advance directives into electronic health records, including oral directives; and

(B) develop and disseminate advance care planning informational materials for their patients.

(4) Inform providers about advance care planning continuing education requirements and opportunities.

(5) Encourage providers to discuss advance care planning with their patients of all ages.

(6) Assist providers' understanding of the continuum of end-of-life care services and supports available to patients, including palliative care and hospice.

(7) Inform providers of best practices for discussing end-of-life care with dying patients and their loved ones.

SEC. 122. CONTINUING EDUCATION FOR PHYSICIANS AND NURSES.

(a) IN GENERAL.—Not later than January 1, 2012, the Secretary, acting through the Director of Health Resources and Services Administration, shall develop, in consultation with health care providers and State boards of medicine and nursing, a curriculum for continuing education that States may adopt for physicians and nurses on advance care planning and end-of-life care.

(b) CONTENT.—

(1) IN GENERAL.—The continuing education curriculum developed under subsection (a) for physicians and nurses shall, at a minimum, include—

(A) a description of the meaning and importance of advance care planning;

(B) a description of advance directives, including living wills and durable powers of attorney, and the use of such directives;

(C) palliative care principles and approaches to care; and

(D) the continuum of end-of-life services and supports, including palliative care and hospice.

(2) ADDITIONAL CONTENT FOR PHYSICIANS.—The continuing education curriculum for physicians developed under subsection (a) shall include instruction on how to conduct advance care planning with patients and their loved ones.

Subtitle B—Portability of Advance Directives; Health Information Technology

SEC. 131. PORTABILITY OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following new paragraph:

''(5)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider of services, a Medicare Advantage organization, or a prepaid or eligible organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advanced directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term 'actual knowledge' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual, to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) An advance directive validly executed outside of the State in which such advance directive is presented by an adult individual to a provider or organization shall be given the same effect by that provider or organization as an advance directive validly executed under the law of the State in which it is presented would be given effect.

''(B)(i) The definition of an advance directive shall also include actual knowledge of instructions made while an individual was able to express the wishes of such individual with regard to health care.

''(ii) For purposes of clause (i), the term 'actual knowledge' means the possession of information of an individual's wishes communicated to the health care provider orally or in writing by the individual, the individual's medical power of attorney representative, the individual's health care surrogate, or other individuals resulting in the health care provider's personal cognizance of these wishes. Other forms of imputed knowledge are not actual knowledge.

''(C) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) CHIP.—Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended—

(1) by redesignating subparagraphs (E) through (L) as subparagraphs (D) through (M), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) Section 1902(w) (relating to advance directives).''.

(d) STUDY AND REPORT REGARDING IMPLEMENTATION.—

(1) STUDY.—The Secretary shall conduct a study regarding the implementation of the amendments made by subsections (a) and (b).

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a), (b), and (c) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.) and State child health plans under title XXI of such Act (42 U.S.C. 1397aa et seq.), on or after such date as the Secretary specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act or a State child health plan under title XXI of such Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsections (b) and (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 132. STATE ADVANCE DIRECTIVE REGISTRIES; DRIVER'S LICENSE ADVANCE DIRECTIVE NOTATION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g) is amended—

(1) by redesignating section 399R (as inserted by section 2 of Public Law 110–373) as section 399S;

(2) by redesignating section 399R (as inserted by section 3 of Public Law 110–374) as section 399T; and

(3) by adding at the end the following:

''SEC. 399U. STATE ADVANCE DIRECTIVE REGISTRIES.

''(a) STATE ADVANCE DIRECTIVE REGISTRY.—In this section, the term 'State advance directive registry' means a secure, electronic database that—

''(1) is available free of charge to residents of a State; and

''(2) stores advance directive documents and makes such documents accessible to medical service providers in accordance with Federal and State privacy laws.

''(b) GRANT PROGRAM.—Beginning on July 1, 2010, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants on a competitive basis to eligible entities to establish and operate, directly or indirectly (by competitive grant or competitive contract), State advance directive registries.

''(c) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—To be eligible to receive a grant under this section, an entity shall—

''(A) be a State department of health; and

''(B) submit to the Director an application at such time, in such manner, and containing—

''(i) a plan for the establishment and operation of a State advance directive registry; and

''(ii) such other information as the Director may require.

''(2) NO REQUIREMENT OF NOTATION MECHANISM.—The Secretary shall not require that an entity establish and operate a driver's license advance directive notation mechanism for State residents under section 399V to be eligible to receive a grant under this section.

''(d) ANNUAL REPORT.—For each year for which an entity receives an award under this section, such entity shall submit an annual report to the Director on the use of the funds received pursuant to such award, including the number of State residents served through the registry.

''(e) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2010 and each fiscal year thereafter.

''SEC. 399V. DRIVER'S LICENSE ADVANCE DIRECTIVE NOTATION.

''(a) IN GENERAL.—Beginning July 1, 2010, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants on a competitive basis to States to establish and operate a mechanism for a State resident with a driver's license to include a notice of the existence of an advance directive for such resident on such license.

''(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall—

''(1) establish and operate a State advance directive registry under section 399U; and

''(2) submit to the Director an application at such time, in such manner, and containing—

''(A) a plan that includes a description of how the State will—

''(i) disseminate information about advance directives at the time of driver's license application or renewal;

''(ii) enable each State resident with a driver's license to include a notice of the existence of an advance directive for such resident on such license in a manner consistent with the notice on such a license indicating a driver's intent to be an organ donor; and

''(iii) coordinate with the State department of health to ensure that, if a State resident has an advance directive notice on his or her driver's license, the existence of such advance directive is included in the State registry established under section 399U; and

''(B) any other information as the Director may require.

''(c) ANNUAL REPORT.—For each year for which a State receives an award under this section, such State shall submit an annual report to the Director on the use of the funds received pursuant to such award, including the number of State residents served through the mechanism.

''(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2010 and each fiscal year thereafter.''.

SEC. 133. GAO STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191).

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Comptroller General of the United States determines to be appropriate.

Subtitle C—National Uniform Policy on Advance Care Planning

SEC. 141. STUDY AND REPORT BY THE SECRETARY REGARDING THE ESTABLISHMENT AND IMPLEMENTATION OF A NATIONAL UNIFORM POLICY ON ADVANCE DIRECTIVES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary, acting through the Office of the Assistant Secretary for Planning and Evaluation, shall conduct a thorough study of all matters relating to the establishment and implementation of a national uniform policy on advance directives for individuals receiving items and services under titles XVIII, XIX, or XXI of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.; 1397aa et seq.).

(2) MATTERS STUDIED.—The matters studied by the Secretary under paragraph (1) shall include issues concerning—

(A) family satisfaction that a patient's wishes, as stated in the patient's advance directive, were carried out;

(B) the portability of advance directives, including cases involving the transfer of an individual from 1 health care setting to another;

(C) immunity from civil liability and criminal responsibility for health care providers that follow the instructions in an individual's advance directive that was validly executed in, and consistent with the laws of, the State in which it was executed;

(D) conditions under which an advance directive is operative;

(E) revocation of an advance directive by an individual;

(F) the criteria used by States for determining that an individual has a terminal condition;

(G) surrogate decisionmaking regarding end-of-life care;

(H) the provision of adequate palliative care (as defined in paragraph (3)), including pain management;

(I) adequate and timely referrals to hospice care programs; and

(J) the end-of-life care needs of children and their families.

(3) PALLIATIVE CARE.—For purposes of paragraph (2)(H), the term ''palliative care'' means interdisciplinary care for individuals with a life-threatening illness or injury relating to pain and symptom management and psychological, social, and spiritual needs and that seeks to improve the quality of life for the individual and the individual's family.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under subsection (a), together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(c) CONSULTATION.—In conducting the study and developing the report under this section, the Secretary shall consult with the Uniform Law Commissioners, and other interested parties.

TITLE II—COMPASSIONATE CARE

Subtitle A—Workforce Development

PART I—EDUCATION AND TRAINING

SEC. 201. NATIONAL GERIATRIC AND PALLIATIVE CARE SERVICES CORPS.

Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i), the following:

''(j) NATIONAL GERIATRIC AND PALLIATIVE CARE SERVICES CORPS.—

''(1) ESTABLISHMENT.—Not later than January 1, 2012, the Secretary shall establish within the National Health Service Corps a National Geriatric and Palliative Care Services Corps (referred to in this subsection as the 'Corps') which shall consist of—

''(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate;

''(B) such civilian employees of the United States as the Secretary may appoint; and

''(C) such other individuals who are not employees of the United States.

''(2) DUTIES.—The Corps shall be utilized by the Secretary to provide geriatric and palliative care services within health professional shortage areas.

''(3) APPLICATION OF PROVISIONS.—The loan-forgiveness, scholarship, and direct financial incentives programs provided for under this section shall apply to physicians, nurses, and other health professionals (as identified by the Secretary) with respect to the training necessary to enable such individuals to become geriatric or palliative care specialists and provide geriatric and palliative care services in health professional shortage areas.

''(4) REPORT.—Not later than 6 months prior to the date on which the Secretary establishes the Corps under paragraph (1), the Secretary shall submit to Congress a report concerning the organization of the Corps, the application process for membership in the Corps, and the funding necessary for the Corps (targeted by profession and by specialization).''.

SEC. 202. EXEMPTION OF PALLIATIVE MEDICINE FELLOWSHIP TRAINING FROM MEDICARE GRADUATE MEDICAL EDUCATION CAPS.

(a) DIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended—

(1) in clause (i), by inserting ''clause (iii) and'' after ''subject to''; and

(2) by adding at the end the following new clause:

''(iii) INCREASE ALLOWED FOR PALLIATIVE MEDICINE FELLOWSHIP TRAINING.—For cost reporting periods beginning on or after January 1, 2011, in applying clause (i), there shall not be taken into account full-time equivalent residents in the field of allopathic or osteopathic medicine who are in palliative medicine fellowship training that is approved by the Accreditation Council for Graduate Medical Education.''.

(b) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clause:

''(x) Clause (iii) of subsection (h)(4)(F) shall apply to clause (v) in the same manner and for the same period as such clause (iii) applies to clause (i) of such subsection.''.

SEC. 203. MEDICAL SCHOOL CURRICULA.

(a) IN GENERAL.—The Secretary, in consultation with the Association of American Medical Colleges, shall establish guidelines for the imposition by medical schools of a minimum amount of end-of-life training as a requirement for obtaining a Doctor of Medicine degree in the field of allopathic or osteopathic medicine.

(b) TRAINING.—Under the guidelines established under subsection (a), minimum training shall include—

(1) training in how to discuss and help patients and their loved ones with advance care planning;

(2) with respect to students and trainees who will work with children, specialized pediatric training;

(3) training in the continuum of end-of-life services and supports, including palliative care and hospice;

(4) training in how to discuss end-of-life care with dying patients and their loved ones; and

(5) medical and legal issues training.

(c) DISTRIBUTION.—Not later than January 1, 2011, the Secretary shall disseminate the guidelines established under subsection (a) to medical schools.

(d) COMPLIANCE.—Effective beginning not later than July 1, 2012, a medical school that is receiving Federal assistance shall be required to implement the guidelines established under subsection (a). A medical school that the Secretary determines is not implementing such guidelines shall not be eligible for Federal assistance.

Subtitle B—Coverage Under Medicare, Medicaid, and CHIP

PART I—COVERAGE OF ADVANCE CARE PLANNING

SEC. 211. MEDICARE, MEDICAID, AND CHIP COVERAGE.

(a) MEDICARE.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking ''and'' at the end of subparagraph (DD);

(ii) by adding ''and'' at the end of subparagraph (EE); and

(iii) by adding at the end the following new subparagraph:

''(FF) advance care planning consultation (as defined in subsection (hhh)(1));''; and

(B) by adding at the end the following new subsection:

''Advance Care Planning Consultation

''(hhh)(1) Subject to paragraphs (3) and (4), the term 'advance care planning consultation' means a consultation between the individual and a practitioner described in paragraph (2) regarding advance care planning, if, subject to subparagraphs (A) and (B) of paragraph (3), the individual involved has not had such a consultation within the last 5 years. Such consultation shall include the following:

''(A) An explanation by the practitioner of advance care planning, including key questions and considerations, important steps, and suggested people to talk to.

''(B) An explanation by the practitioner of advance directives, including living wills and durable powers of attorney, and their uses.

''(C) An explanation by the practitioner of the role and responsibilities of a health care proxy.

''(D) The provision by the practitioner of a list of national and State-specific resources to assist consumers and their families with advance care planning, including the national toll-free hotline, the advance care planning clearinghouses, and State legal service organizations (including those funded through the Older Americans Act).

''(E) An explanation by the practitioner of the continuum of end-of-life services and supports available, including palliative care and hospice, and benefits for such services and supports that are available under this title.

''(F)(i) Subject to clause (ii), an explanation of orders regarding life sustaining treatment or similar orders, which shall include—

''(I) the reasons why the development of such an order is beneficial to the individual and the individual's family and the reasons why such an order should be updated periodically as the health of the individual changes;

''(II) the information needed for an individual or legal surrogate to make informed decisions regarding the completion of such an order; and

''(III) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decisionmaker (also known as a health care proxy).

''(ii) The Secretary may limit the requirement for explanations under clause (i) to consultations furnished in States, localities, or other geographic areas in which orders described in such clause have been widely adopted.

''(2) A practitioner described in this paragraph is—

''(A) a physician (as defined in subsection (r)(1)); and

''(B) a nurse practitioner or physician's assistant who has the authority under State law to sign orders for life sustaining treatments.

''(3)(A) An initial preventive physical examination under subsection (ww), including any related discussion during such examination, shall not be considered an advance care planning consultation for purposes of applying the 5-year limitation under paragraph (1).

''(B) An advance care planning consultation with respect to an individual shall be conducted more frequently than provided under paragraph (1) if there is a significant change in the health condition of the individual, including diagnosis of a chronic, progressive, life-limiting disease, a life-threatening or terminal diagnosis or life-threatening injury, or upon admission to a skilled nursing facility, a long-term care facility (as defined by the Secretary), or a hospice program.

''(4) A consultation under this subsection may include the formulation of an order regarding life sustaining treatment or a similar order.

''(5)(A) For purposes of this section, the term 'order regarding life sustaining treatment' means, with respect to an individual,

an actionable medical order relating to the treatment of that individual that—

''(i) is signed and dated by a physician (as defined in subsection (r)(1)) or another health care professional (as specified by the Secretary and who is acting within the scope of the professional's authority under State law in signing such an order) and is in a form that permits it to stay with the patient and be followed by health care professionals and providers across the continuum of care, including home care, hospice, long-term care, community and assisted living residences, skilled nursing facilities, inpatient rehabilitation facilities, hospitals, and emergency medical services;

''(ii) effectively communicates the individual's preferences regarding life sustaining treatment, including an indication of the treatment and care desired by the individual;

''(iii) is uniquely identifiable and standardized within a given locality, region, or State (as identified by the Secretary);

''(iv) is portable across care settings; and

''(v) may incorporate any advance directive (as defined in section 1866(f)(3)) if executed by the individual.

''(B) The level of treatment indicated under subparagraph (A)(ii) may range from an indication for full treatment to an indication to limit some or all or specified interventions. Such indicated levels of treatment may include indications respecting, among other items—

''(i) the intensity of medical intervention if the patient is pulseless, apneic, or has serious cardiac or pulmonary problems;

''(ii) the individual's desire regarding transfer to a hospital or remaining at the current care setting;

''(iii) the use of antibiotics; and

''(iv) the use of artificially administered nutrition and hydration.''.

(2) PAYMENT.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(FF),'' after ''(2)(EE),''.

(3) FREQUENCY LIMITATION.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (N), by striking ''and'' at the end;

(ii) in subparagraph (O) by striking the semicolon at the end and inserting '', and''; and

(iii) by adding at the end the following new subparagraph:

''(P) in the case of advance care planning consultations (as defined in section 1861(hhh)(1)), which are performed more frequently than is covered under such section;''; and

(B) in paragraph (7), by striking ''or (K)'' and inserting ''(K), or (P)''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to consultations furnished on or after January 1, 2011.

(b) MEDICAID.—

(1) MANDATORY BENEFIT.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)) is amended in the matter preceding clause (i) by striking ''and (21)'' and inserting '', (21), and (28)''.

(2) MEDICAL ASSISTANCE.—Section 1905 of such Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) in paragraph (27), by striking ''and'' at the end;

(ii) by redesignating paragraph (28) as paragraph (29); and

(iii) by inserting after paragraph (27) the following new paragraph:

''(28) advance care planning consultations (as defined in subsection (y));''; and

(B) by adding at the end the following:

''(y)(1) For purposes of subsection (a)(28), the term 'advance care planning consultation' means a consultation between the individual and a practitioner described in paragraph (2) regarding advance care planning, if, subject to paragraph (3), the individual involved has not had such a consultation within the last 5 years. Such consultation shall include the following:

''(A) An explanation by the practitioner of advance care planning, including key questions and considerations, important steps, and suggested people to talk to.

''(B) An explanation by the practitioner of advance directives, including living wills and durable powers of attorney, and their uses.

''(C) An explanation by the practitioner of the role and responsibilities of a health care proxy.

''(D) The provision by the practitioner of a list of national and State-specific resources to assist consumers and their families with advance care planning, including the national toll-free hotline, the advance care planning clearinghouses, and State legal service organizations (including those funded through the Older Americans Act).

''(E) An explanation by the practitioner of the continuum of end-of-life services and supports available, including palliative care and hospice, and benefits for such services and supports that are available under this title.

''(F)(i) Subject to clause (ii), an explanation of orders for life sustaining treatments or similar orders, which shall include—

''(I) the reasons why the development of such an order is beneficial to the individual and the individual's family and the reasons why such an order should be updated periodically as the health of the individual changes;

''(II) the information needed for an individual or legal surrogate to make informed decisions regarding the completion of such an order; and

''(III) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decisionmaker (also known as a health care proxy).

''(ii) The Secretary may limit the requirement for explanations under clause (i) to consultations furnished in States, localities, or other geographic areas in which orders described in such clause have been widely adopted.

''(2) A practitioner described in this paragraph is—

''(A) a physician (as defined in section 1861(r)(1)); and

''(B) a nurse practitioner or physician's assistant who has the authority under State law to sign orders for life sustaining treatments.

''(3) An advance care planning consultation with respect to an individual shall be conducted more frequently than provided under paragraph (1) if there is a significant change in the health condition of the individual including diagnosis of a chronic, progressive, life-limiting disease, a life-threatening or terminal diagnosis or life-threatening injury, or upon admission to a nursing facility, a long-term care facility (as defined by the Secretary), or a hospice program.

''(4) A consultation under this subsection may include the formulation of an order regarding life sustaining treatment or a similar order.

''(5) For purposes of this subsection, the term 'orders regarding life sustaining treatment' has the meaning given that term in section 1861(hhh)(5).''.

(c) CHIP.—

(1) CHILD HEALTH ASSISTANCE.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj) is amended—

(A) by redesignating paragraph (28) as paragraph (29); and

(B) by inserting after paragraph (27), the following:

''(28) Advance care planning consultations (as defined in section 1905(y)).''.

(2) MANDATORY COVERAGE.—

(A) IN GENERAL.—Section 2103 of such Act (42 U.S.C. 1397cc), is amended—

(i) in subsection (a), in the matter preceding paragraph (1), by striking ''and (7)'' and inserting ''(7), and (9)''; and

(ii) in subsection (c), by adding at the end the following:

''(9) END-OF-LIFE CARE.—The child health assistance provided to a targeted low-income child shall include coverage of advance care planning consultations (as defined in section 1905(y) and at the same payment rate as the rate that would apply to such a consultation under the State plan under title XIX).''.

(B) CONFORMING AMENDMENT.—Section 2102(a)(7)(B) of such Act (42 U.S.C. 1397bb(a)(7)(B)) is amended by striking ''section 2103(c)(5)'' and inserting ''paragraphs (5) and (9) of section 2103(c)''.

(d) DEFINITION OF ADVANCE DIRECTIVE UNDER MEDICARE, MEDICAID, AND CHIP.—

(1) MEDICARE.—Section 1866(f)(3) of the Social Security Act (42 U.S.C. 1395cc(f)(3)) is amended by striking ''means'' and all that follows through the period and inserting ''means a living will, medical directive, health care power of attorney, durable power of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual's wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.''.

(2) MEDICAID AND CHIP.—Section 1902(w)(4) of such Act (42 U.S.C. 1396a(w)(4)) is amended by striking ''means'' and all that follows through the period and inserting ''means a living will, medical directive, health care power of attorney, durable power of attorney, or other written statement by a competent individual that is recognized under State law and indicates the individual's wishes regarding medical treatment in the event of future incompetence. Such term includes an advance health care directive and a health care directive recognized under State law.''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect January 1, 2010.

PART II—HOSPICE

SEC. 221. ADOPTION OF MEDPAC HOSPICE PAYMENT METHODOLOGY RECOMMENDATIONS.

Section 1814(i) of the Social Security Act (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(6)(A) The Secretary shall conduct an evaluation of the recommendations of the Medicare Payment Commission for reforming the hospice care benefit under this title that are contained in chapter 6 of the Commission's report entitled 'Report to Congress: Medicare Payment Policy (March 2009)', including the impact that such recommendations if implemented would have on access to care and the quality of care. In conducting such evaluation, the Secretary shall take into account data collected in accordance with section 263(b) of the Advance Planning and Compassionate Care Act of 2009.

''(B) Based on the results of the examination conducted under subparagraph (A), the

Secretary shall make appropriate refinements to the recommendations described in subparagraph (A). Such refinements shall take into account—

''(i) the impact on patient populations with longer that average lengths of stay;

''(ii) the impact on populations with shorter that average lengths of stay; and

''(iii) the utilization patterns of hospice providers in underserved areas, including rural hospices.

''(C) Not later than January 1, 2013, the Secretary shall submit to Congress a report that contains a detailed description of—

''(i) the refinements determined appropriate by the Secretary under subparagraph (B);

''(ii) the revisions that the Secretary will implement through regulation under this title pursuant to subparagraph (D); and

''(iii) the revisions that the Secretary determines require additional legislative action by Congress.

''(D)(i) The Secretary shall implement the recommendations described in subparagraph (A), as refined under subparagraph (B).

''(ii) Subject to clause (iii), the implementation of such recommendations shall apply to hospice care furnished on or after January 1, 2014.

''(iii) The Secretary shall establish an appropriate transition to the implementation of such recommendations.

''(E) For purposes of carrying out the provisions of this paragraph, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817, of such sums as may be necessary to the Centers for Medicare & Medicaid Services Program Management Account.''.

SEC. 222. REMOVING HOSPICE INPATIENT DAYS IN SETTING PER DIEM RATES FOR CRITICAL ACCESS HOSPITALS.

Section 1814(l) of the Social Security Act (42 U.S.C. 1395f(l)), as amended by section 4102(b)(2) of the HITECH Act (Public Law 111–5), is amended by adding at the end the following new paragraph:

''(6) For cost reporting periods beginning on or after January 1, 2011, the Secretary shall remove Medicare-certified hospice inpatient days from the calculation of per diem rates for inpatient critical access hospital services.''.

SEC. 223. HOSPICE PAYMENTS FOR DUAL ELIGIBLE INDIVIDUALS RESIDING IN LONG-TERM CARE FACILITIES.

(a) IN GENERAL.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

''(f) PAYMENTS FOR DUAL ELIGIBLE INDIVIDUALS RESIDING IN LONG-TERM CARE FACILITIES.—For cost reporting periods beginning on or after January 1, 2011, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall establish procedures under which payments for room and board under the State Medicaid plan with respect to an applicable individual are made directly to the long-term care facility (as defined by the Secretary for purposes of title XIX) the individual is a resident of. For purposes of the preceding sentence, the term 'applicable individual' means an individual who is entitled to or enrolled for benefits under part A or enrolled for benefits under part B and is eligible for medical assistance for hospice care under a State plan under title XIX.''.

(b) STATE PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (72), by striking ''and'' at the end;

(B) in paragraph (73), by striking the period at the end and inserting ''; and''; and

(C) by inserting after paragraph (73) the following new paragraph:

''(74) provide that the State will make payments for room and board with respect to applicable individuals in accordance with section 1888(f).''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) take effect on January 1, 2011.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 224. DELINEATION OF RESPECTIVE CARE RESPONSIBILITIES OF HOSPICE PROGRAMS AND LONG-TERM CARE FACILITIES.

Section 1888 of the Social Security Act (42 U.S.C. 1395yy), as amended by section 223(a), is amended by adding at the end the following new subsection:

''(g) DELINEATION OF RESPECTIVE CARE RESPONSIBILITIES OF HOSPICE PROGRAMS AND LONG-TERM CARE FACILITIES.—Not later than July 1, 2011, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall delineate and enforce the respective care responsibilities of hospice programs and long-term care facilities (as defined by the Secretary for purposes of title XIX) with respect to individuals residing in such facilities who are furnished hospice care.''.

SEC. 225. ADOPTION OF MEDPAC HOSPICE PROGRAM ELIGIBILITY CERTIFICATION AND RECERTIFICATION RECOMMENDATIONS.

In accordance with the recommendations of the Medicare Payment Advisory Commission contained in the March 2009 report entitled ''Report to Congress: Medicare Payment Policy'', section 1814(a)(7) of the Social Security Act (42 U.S.C. 1395f(a)(7)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end; and

(2) by adding at the end the following new subparagraph:

''(D) on or after January 1, 2011—

''(i) a hospice physician or advance practice nurse visits the individual to determine continued eligibility of the individual for hospice care prior to the 180th-day recertification and each subsequent recertification under subparagraph (A)(ii) and attests that such visit took place (in accordance with procedures established by the Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services); and

''(ii) any certification or recertification under subparagraph (A) includes a brief narrative describing the clinical basis for the individual's prognosis (in accordance with procedures established by the Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services); and''.

SEC. 226. CONCURRENT CARE FOR CHILDREN.

(a) PERMITTING MEDICARE HOSPICE BENEFICIARIES 18 YEARS OF AGE OR YOUNGER TO RECEIVE CURATIVE CARE.—

(1) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended—

(A) in subsection (a)(4), by inserting ''(subject to the second sentence of subsection (d)(2)(A))'' after ''in lieu of certain other benefits''; and

(B) in subsection (d)—

(i) in paragraph (1), by inserting '' , subject to the second sentence of paragraph (2)(A),'' after ''instead''; and

(ii) in paragraph (2)(A), by adding at the end the following new sentence: ''Clause (ii)(I) shall not apply to an individual who is 18 years of age or younger.''

(2) CONFORMING AMENDMENT.—Section 1862(a)(1)(C) of the Social Security Act (42 U.S.C. 1395y(a)(1)(C)) is amended inserting ''subject to the second sentence of section 1812(d)(2)(A),'' after ''hospice care,''.

(b) APPLICATION TO MEDICAID AND CHIP.—

(1) MEDICAID.—Section 1905(o)(1)(A) of the Social Security Act (42 U.S.C. 1395d(o)(1)(A)) is amended by inserting ''(subject, in the case of an individual who is a child, to the second sentence of such section)'' after ''section 1812(d)(2)(A)''.

(2) CHIP.—Section 2110(a)(23) of the Social Security Act (42 U.S.C. 1397jj(a)(23)) is amended by inserting ''(concurrent, in the case of an individual who is a child, with care related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made)'' after ''hospice care''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.

SEC. 227. MAKING HOSPICE A REQUIRED BENEFIT UNDER MEDICAID AND CHIP.

(a) MANDATORY BENEFIT.—

(1) MEDICAID.—

(A) IN GENERAL.—Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)), as amended by section 211(b)(1), is amended in the matter preceding clause (i) by inserting ''(18),'' after ''(17),''.

(B) CONFORMING AMENDMENT.—Section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) is amended—

(i) in clause (iii)—

(I) in subclause (I), by inserting ''and hospice care'' after ''ambulatory services''; and

(II) in subclause (II), by inserting ''and hospice care'' after ''delivery services''; and

(ii) in clause (iv), by inserting ''and (18)'' after ''(17)''.

(2) CHIP.—Section 2103(c)(9) of such Act (42 U.S.C. 1397cc(c)(9))), as added by section 211(c)(2)(A), is amended by inserting ''and hospice care'' before the period.

(b) EFFECTIVE DATE.—The amendments made subsection (a) take effect on January 1, 2011.

SEC. 228. MEDICARE HOSPICE PAYMENT MODEL DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—Not later than July 1, 2012, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Agency for Healthcare Research and Quality, shall conduct demonstration projects to examine ways to improve how the Medicare hospice care benefit predicts disease trajectory. Projects shall include the following models:

(1) Models that better and more appropriately care for, and transition as needed, patients in their last years of life who need palliative care, but do not qualify for hospice care under the Medicare hospice eligibility criteria.

(2) Models that better and more appropriately care for long-term patients who are not recertified in hospice but still need palliative care.

(3) Any other models determined appropriate by the Secretary.

(b) WAIVER AUTHORITY.—The Secretary may waive compliance of such requirements of titles XI and XVIII of the Social Security Act as the Secretary determines necessary to conduct the demonstration projects under this section.

(c) REPORTS.—The Secretary shall submit to Congress periodic reports on the demonstration projects conducted under this section.

SEC. 229. MEDPAC STUDIES AND REPORTS.

(a) STUDY AND REPORT REGARDING AN ALTERNATIVE PAYMENT METHODOLOGY FOR HOSPICE CARE UNDER THE MEDICARE PROGRAM.—

(1) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on the establishment of a reimbursement system for hospice care furnished under the Medicare program that is based on diagnoses. In conducting such study, the Commission shall use data collected under new provider data requirements. Such study shall include an analysis of the following:

(A) Whether such a reimbursement system better meets patient needs and better corresponds with provider resource expenditures than the current system.

(B) Whether such a reimbursement system improves quality, including facilitating standardization of care toward best practices and diagnoses-specific clinical pathways in hospice.

(C) Whether such a reimbursement system could address concerns about the blanket 6-month terminal prognosis requirement in hospice.

(D) Whether such a reimbursement system is more cost effective than the current system.

(E) Any other areas determined appropriate by the Commission.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(b) STUDY AND REPORT REGARDING RURAL HOSPICE TRANSPORTATION COSTS UNDER THE MEDICARE PROGRAM.—

(1) STUDY.—The Commission shall conduct a study on rural Medicare hospice transportation mileage to determine potential Medicare reimbursement changes to account for potential higher costs.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

(c) EVALUATION OF REIMBURSEMENT DISINCENTIVES TO ELECT MEDICARE HOSPICE WITHIN THE MEDICARE SKILLED NURSING FACILITY BENEFIT.—

(1) STUDY.—The Commission shall conduct a study to determine potential Medicare reimbursement changes to remove Medicare reimbursement disincentives for patients in a skilled nursing facility who want to elect hospice.

(2) REPORT.—Not later than June 15, 2013, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Commission determines appropriate.

SEC. 230. HHS EVALUATIONS.

(a) EVALUATION OF ACCESS TO HOSPICE AND HOSPITAL-BASED PALLIATIVE CARE.—

(1) EVALUATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall conduct an evaluation of geographic areas and populations underserved by hospice and hospital-based palliative care to identify potential barriers to access.

(2) REPORT.—Not later than December 31, 2012, the Secretary shall report to Congress, on the evaluation conducted under subsection (a) together with recommendations for such legislation and administrative action as the Secretary determines appropriate to address barriers to access to hospice and hospital-based palliative care.

(b) EVALUATION OF AWARENESS AND USE OF HOSPICE RESPITE CARE UNDER MEDICARE, MEDICAID, AND CHIP.—

(1) EVALUATION.—The Secretary, acting through the Director of the Centers for Medicare and Medicaid Services, shall evaluate the awareness and use of hospice respite care by informal caregivers of beneficiaries under Medicare, Medicaid, and CHIP.

(2) REPORT.—Not later than December 31, 2010, the Secretary shall report to Congress, on the evaluation conducted under subsection (a) together with recommendations for such legislation and administrative action as the Secretary determines appropriate to increase awareness or use of hospice respite care under Medicare, Medicaid, and CHIP.

Subtitle C—Quality Improvement

SEC. 241. PATIENT SATISFACTION SURVEYS.

Not later than January 1, 2012, the Secretary, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall establish a mechanism for—

(1) collecting information from patients (or their health care proxies or families members in the event patients are unable to speak for themselves) in relevant provider settings regarding their care at the end of life; and

(2) incorporating such information in a timely manner into mechanisms used by the Administrator to provide quality of care information to consumers, including the Hospital Compare and Nursing Home Compare websites maintained by the Administrator.

SEC. 242. DEVELOPMENT OF CORE END-OF-LIFE CARE QUALITY MEASURES ACROSS EACH RELEVANT PROVIDER SETTING.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Healthcare Research and Quality (in this section referred to as the ''Administrator'') and in consultation with the Director of the National Institutes of Health, shall require specific end-of-life quality measures for each relevant provider setting, as identified by the Administrator, in accordance with the requirements of subsection (b).

(b) REQUIREMENTS.—For purposes of subsection (a), the requirements specified in this subsection are the following:

(1) Selection of the specific measure or measures for an identified provider setting shall be—

(A) based on an assessment of what is likely to have the greatest positive impact on quality of end-of-life care in that setting; and

(B) made in consultation with affected providers and public and private organizations, that have developed such measures.

(2) The measures may be structure-oriented, process-oriented, or outcome-oriented, as determined appropriate by the Administrator.

(3) The Administrator shall ensure that reporting requirements related to such measures are imposed consistent with other applicable laws and regulations, and in a manner that takes into account existing measures, the needs of patient populations, and the specific services provided.

(4) Not later than—

(A) April 1, 2011, the Secretary shall disseminate the reporting requirements to all affected providers; and

(B) April 1, 2012, initial reporting relating to the measures shall begin.

SEC. 243. ACCREDITATION OF HOSPITAL-BASED PALLIATIVE CARE PROGRAMS.

(a) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, shall designate a public or private agency, entity, or organization to develop requirements, standards, and procedures for accreditation of hospital-based palliative care programs.

(b) REPORTING.—Not later than January 1, 2012, the Secretary shall prepare and submit a report to Congress on the proposed accreditation process for hospital-based palliative care programs.

(c) ACCREDITATION.—Not later than July 1, 2012, the Secretary shall—

(1) establish and promulgate standards and procedures for accreditation of hospital-based palliative care programs; and

(2) designate an agency, entity, or organization that shall be responsible for certifying such programs in accordance with the standards established under paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term ''hospital-based palliative care program'' means a hospital-based program that is comprised of an interdisciplinary team that specializes in providing palliative care services and consultations in a variety of health care settings, including hospitals, nursing homes, and home and community-based services.

(2) The term ''interdisciplinary team'' means a group of health care professionals (consisting of, at a minimum, a doctor, a nurse, and a social worker) that have received specialized training in palliative care.

SEC. 244. SURVEY AND DATA REQUIREMENTS FOR ALL MEDICARE PARTICIPATING HOSPICE PROGRAMS.

(a) HOSPICE SURVEYS.—Section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)) is amended by adding at the end the following new paragraph:

''(6) In accordance with the recommendations of the Medicare Payment Advisory Commission contained in the March 2009 report entitled 'Report to Congress: Medicare Payment Policy', the Secretary shall establish, effective July 1, 2010, the following survey requirements for hospice programs:

''(A) Any hospice program seeking initial certification under this title on or after that date shall be subject to an initial survey by an appropriate State or local agency, or an approved accreditation agency, not later than 6 months after the program first seeks such certification.

''(B) All hospice programs certified for participation under this title shall be subject to a standard survey by an appropriate State or local agency, or an approved accreditation agency, at least every 3 years after initially being so certified.''.

(b) REQUIRED HOSPICE RESOURCE INPUTS DATA.—Section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)), as amended by subsection (a), is amended—

(1) in paragraph (3)—

(A) in subparagraph (F), by striking ''and'' at the end;

(B) by redesignating subparagraph (G) as subparagraph (H); and

(C) by inserting after subparagraph (F) the following new subparagraph:

''(G) to comply with the reporting requirements under paragraph (7); and''; and

(2) by adding at the end the following new paragraph:

''(7)(A) In accordance with the recommendations of the Medicare Payment Advisory Commission for additional data (as

contained in the March 2009 report entitled 'Report to Congress: Medicare Payment Policy'), beginning January 1, 2011, a hospice program shall report to the Secretary, in such form and manner, and at such intervals, as the Secretary shall require, the following data with respect to each patient visit:

''(i) Visit type (such as admission, routine, emergency, education for family, other).

''(ii) Visit length.

''(iii) Professional or paraprofessional disciplines involved in the visit, including nurse, social worker, home health aide, physician, nurse practitioner, chaplain or spiritual counselor, counselor, dietician, physical therapist, occupational therapist, speech language pathologist, music or art therapist, and including bereavement and support services provided to a family after a patient's death.

''(iv) Drugs and other therapeutic interventions provided.

''(v) Home medical equipment and other medical supplies provided.

''(B) In collecting the data required under subparagraph (A), the Secretary shall ensure that the data are reported in a manner that allows for summarized cross-tabulations of the data by patients' terminal diagnoses, lengths of stay, age, sex, and race.''.

Subtitle D—Additional Reports, Research, and Evaluations

SEC. 251. NATIONAL CENTER ON PALLIATIVE AND END-OF-LIFE CARE.

Part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following:

''Subpart 7—National Center on Palliative and End-of-Life Care

''SEC. 485J. NATIONAL CENTER ON PALLIATIVE AND END-OF-LIFE CARE.

''(a) ESTABLISHMENT.—Not later than July 1, 2011, there shall be established within the National Institutes of Health, a National Center on Palliative and End-of-Life Care (referred to in this section as the 'Center').

''(b) PURPOSE.—The general purpose of the Center is to conduct and support research relating to palliative and end-of-life care interventions and approaches.

''(c) ACTIVITIES.—The Center shall—

''(1) develop and continuously update a research agenda with the goal of—

''(A) providing a better biomedical understanding of the end of life; and

''(B) improving the quality of care and life at the end of life; and

''(2) provide funding for peer-review-selected extra- and intra-mural research that includes the evaluation of existing, and the development of new, palliative and end-of-life care interventions and approaches.''.

SEC. 252. NATIONAL MORTALITY FOLLOWBACK SURVEY.

(a) IN GENERAL.—Not later than December 31, 2010, and annually thereafter, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall renew and conduct the National Mortality Followback Survey (referred to in this section as the ''Survey'') to collect data on end-of-life care.

(b) PURPOSE.—The purpose of the Survey shall be to gain a better understanding of current end-of-life care in the United States.

(c) QUESTIONS.—

(1) IN GENERAL.—In conducting the Survey, the Director of the Centers for Disease Control and Prevention shall, at a minimum, include the following questions with respect to the loved one of a respondent:

(A) Did he or she have an advance directive, and if so, when it was completed.

(B) Did he or she have an order for life-sustaining treatment, and if so, when was it completed.

(C) Did he or she have a durable power of attorney, and if so, when it was completed.

(D) Had he or she discussed his or her wishes with loved ones, and if so, when.

(E) Had he or she discussed his or her wishes with his or her physician, and if so, when.

(F) In the opinion of the respondent, was he or she satisfied with the care he or she received in the last year of life and in the last week of life.

(G) Was he or she cared for by hospice, and if so, when.

(H) Was he or she cared for by palliative care specialists, and if so, when.

(I) Did he or she receive effective pain management (if needed).

(J) What was the experience of the main caregiver (including if such caregiver was the respondent), and whether he or she received sufficient support in this role.

(2) ADDITIONAL QUESTIONS.—Additional questions to be asked during the Survey shall be determined by the Director of the Centers for Disease Control and Prevention on an ongoing basis with input from relevant research entities.

SEC. 253. DEMONSTRATION PROJECTS FOR USE OF TELEMEDICINE SERVICES IN ADVANCE CARE PLANNING.

(a) IN GENERAL.—Not later than July 1, 2013, the Secretary shall establish a demonstration program to reimburse eligible entities for costs associated with the use of telemedicine services (including equipment and connection costs) to provide advance care planning consultations with geographically distant physicians and their patients.

(b) DURATION.—The demonstration project under this section shall be conducted for at least a 3-year period.

(c) DEFINITIONS.—For purposes of this section:

(1) The term ''eligible entity'' means a physician or an advance practice nurse who provides services pursuant to a hospital-based palliative care program (as defined in section 262(d)(1)).

(2) The term ''geographically distant'' has the meaning given that term by the Secretary for purposes of conducting the demonstration program established under this section.

(3) The term ''telemedicine services'' means a service or consultation provided via telecommunication equipment that allows an eligible entity to exchange or discuss medical information with a patient or a health care professional at a separate location through real-time videoconferencing, or a similar format, for the purpose of providing health care diagnosis and treatment.

(d) FUNDING.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 254. INSPECTOR GENERAL INVESTIGATION OF FRAUD AND ABUSE.

In accordance with the recommendations of the Medicare Payment Advisory Commission for additional data (as contained in the March 2009 report entitled ''Report to Congress: Medicare Payment Policy''), the Secretary shall direct the Office of the Inspector General of the Department of Health and Human Services to investigate, not later than January 1, 2012, the following with respect to hospice benefit under Medicare, Medicaid, and CHIP:

(1) The prevalence of financial relationships between hospices and long-term care facilities, such as nursing facilities and assisted living facilities, that may represent a conflict of interest and influence admissions to hospice.

(2) Differences in patterns of nursing home referrals to hospice.

(3) The appropriateness of enrollment practices for hospices with unusual utilization patterns (such as high frequency of very long stays, very short stays, or enrollment of patients discharged from other hospices).

(4) The appropriateness of hospice marketing materials and other admissions practices and potential correlations between length of stay and deficiencies in marketing or admissions practices.

SEC. 255. GAO STUDY AND REPORT ON PROVIDER ADHERENCE TO ADVANCE DIRECTIVES.

Not later than January 1, 2012, the Comptroller General of the United States shall conduct a study of the extent to which providers comply with advance directives under the Medicare and Medicaid programs and shall submit a report to Congress on the results of such study, together with such recommendations for administrative or legislative changes as the Comptroller General determines appropriate.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Ms. SNOWE)):

S. 1151. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today I am pleased to introduce with my distinguished colleague Senator OLYMPIA SNOWE, bipartisan legislation known as the State Child Well-Being Research Act of 2009. Companion legislation has already been introduced in the House by Congressmen FATTAH and CAMP. This bill is designed to enhance child well-being by requiring the Secretary of Health and Human Services to facilitate the collection of state-specific data based on a defined set of indicators. The well-being of children is important to both national and State governments. Therefore, data collection is a priority that cannot be ignored if we hope to make informed decisions on public policy.

In 1996, Congress passed bold legislation, which I supported to dramatically change our welfare system. The driving force behind this reform was to promote the work and self-sufficiency of families and to provide the flexibility to States necessary to achieve these goals. States, which is where most child and family legislation takes place, have used this flexibility to design different programs that work better for the families who rely on them. The design and benefits available under other programs that serve children, ranging from the Children Health Insurance Program, CHIP, to child welfare services, can vary widely among States.

It is obvious that in order for policy makers to evaluate child well-being, we need state-specific data on child well-being to measure the results. Current surveys provide minimal data on some important indicators of child well-being, but insufficient data is available on low-income families, geographic variation, and young children. Additionally, the information is not provided in a timely manner, which impedes legislators' ability to effectively measure child well-being and design effective programs to support our children.

The State Child Well-Being Research Act of 2009 is intended to fill this information gap by collecting up-to-date, State-specific data that can be used by policymakers, researchers, and child advocates to assess the well-being of children. As we strive to promote quality programs, we need basic benchmarks to measure outcomes. Our bill would require that a survey examine the physical and emotional health of children, adequately represent the experiences of families in individual states, be consistent across states, be collected annually, articulate results in easy to understand terms, and focus on low-income children and families. This legislation also establishes an advisory committee, consisting of a panel of experts who specialize in survey methodology and indicators of child well-being, and the application of this data to ensure that the purpose is being achieved.

Further, this bill avoids some of the problems in the current system by making data files easier to use and more readily available to the public. As a result, the information will be more useful for policy-makers managing welfare reform and programs for children and families. Finally, this legislation also offers the potential for the Health and Human Service Department to partner with private charitable foundations, like the Annie E. Casey Foundations, which has already expressed an interest in forming a partnership to provide outreach, support and a guarantee that the data collected would be broadly disseminated. This type of public-private partnership helps to leverage additional resources for children and families and increases the study's impact. Given the tight budget we face, partnerships make sense to meet this essential need.

I hope my colleagues review this legislation carefully and choose to support it so that Federal and state policy makers and advocates have the information necessary to make good decisions for children.

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. 1151

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 ''State Child Well-Being Research Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The well-being of children is a paramount concern for our Nation and for every State, and most programs for children and families are managed at the State or local level.

(2) Child well-being varies over time and across social, economic, and geographic groups, and can be affected by changes in the circumstances of families, by the economy, by the social and cultural environment, and by public policies and programs at the Federal, State, and local level.

(3) States, including small States, need information about child well-being that is specific to their State and that is up-to-date, cost-effective, and consistent across States and over time.

(4) Regular collection of child well-being information at the State level is essential so that Federal and State officials can track child well-being over time.

(5) Information on child well-being is necessary for all States, particularly small States that do not have State-level data in other federally supported databases. Information is needed on the well-being of all children, not just children participating in Federal programs.

(6) Telephone surveys of parents represent a relatively cost-effective strategy for obtaining information on child well-being at the State level for all States, including small States, and can be conducted alone or in mixed mode strategy with other survey techniques.

(7) Data from telephone surveys of the population are currently used to monitor progress toward many important national goals, including immunization of preschool children with the National Immunization Survey, and the identification of health care issues of children with special needs with the National Survey of Children with Special Health Care Needs.

(8) A State-level telephone survey, alone or in combination with other techniques, can provide information on a range of topics, including children's social and emotional development, education, health, safety, family income, family employment, and child care. Information addressing marriage and family structure can also be obtained for families with children. Information obtained from such a survey would not be available solely for children or families participating in programs but would be representative of the entire State population and consequently, would inform welfare policymaking on a range of important issues, such as income support, child care, child abuse and neglect, child health, family formation, and education.

SEC. 3. RESEARCH ON INDICATORS OF CHILD WELL-BEING.

Section 413 of the Social Security Act (42 U.S.C. 613) is amended by adding at the end the following:

''(k) INDICATORS OF CHILD WELL-BEING.—

''(1) RENAMING OF SURVEY.—On and after the date of the enactment of this subsection, the National Survey of Children's Health conducted by the Director of the Maternal and Child Health Bureau of the Health Resources and Services Administration shall be known as the 'Survey of Children's Health and Well-Being'.

''(2) MODIFICATION OF SURVEY TO INCLUDE MATTERS RELATING TO CHILD WELL-BEING.—The Secretary shall modify the survey so that it may be used to better assess child well-being, as follows:

''(A) NEW INDICATORS INCLUDED.—The indicators with respect to which the survey collects information shall include measures of child-well-being related to the following:

''(i) Education.

''(ii) Social and emotional development.

''(iii) Physical and mental health and safety.

''(iv) Family well-being, such as family structure, income, employment, child care arrangements, and family relationships.

''(B) COLLECTION REQUIREMENTS.—The data collected with respect to the indicators developed under subparagraph (A) shall be—

''(i) statistically representative at the State and national level;

''(ii) consistent across States, except that data shall be collected in States other than the 50 States and the District of Columbia only if technically feasible;

''(iii) collected on an annual or ongoing basis;

''(iv) measured with reliability;

''(v) current;

''(vi) over-sampled (if feasible), with respect to low-income children and families, so that subgroup estimates can be produced by a variety of income categories (such as for 50, 100, and 200 percent of the poverty level, and for children of varied ages, such as 0–5, 6–11, 12–17, and (if feasible) 18–21 years of age); and

''(vii) made publicly available.

''(C) OTHER REQUIREMENTS.—

''(i) PUBLICATION.—The data collected with respect to the indicators developed under subparagraph (A) shall be published as absolute numbers and expressed in terms of rates or percentages.

''(ii) AVAILABILITY OF DATA.—A data file shall be made available to the public, subject to confidentiality requirements, that includes the indicators, demographic information, and ratios of income to poverty.

''(iii) SAMPLE SIZES.—Sample sizes used for the collected data shall be adequate for microdata on the categories included in subparagraph (B)(vi) to be made publicly available, subject to confidentiality requirements.

''(D) CONSULTATION.—

''(i) IN GENERAL.—In developing the indicators under subparagraph (A) and the means to collect the data required with respect to the indicators, the Secretary shall consult and collaborate with a subcommittee of the Federal Interagency Forum on Child and Family Statistics, which shall include representatives with expertise on all the domains of child well-being described in subparagraph (A). The subcommittee shall have appropriate staff assigned to work with the Maternal and Child Health Bureau during the design phase of the survey.

''(ii) DUTIES.—The Secretary shall consult with the subcommittee referred to in clause (i) with respect to the design, content, and methodology for the development of the indicators under subparagraph (A) and the collection of data regarding the indicators, and the availability or lack thereof of similar data through other Federal data collection efforts.

''(iii) COSTS.—Costs incurred by the subcommittee with respect to the development of the indicators and the collection of data related to the indicators shall be treated as costs of the survey.

''(3) ADVISORY PANEL.—

''(A) ESTABLISHMENT.—The Secretary, in consultation with the Federal Interagency Forum on Child and Family Statistics, shall establish an advisory panel of experts to make recommendations regarding—

''(i) the additional matters to be addressed by the survey by reason of this subsection; and

''(ii) the methods, dissemination strategies, and statistical tools necessary to conduct the survey as a whole.

''(B) MEMBERSHIP.—

''(i) IN GENERAL.—The advisory panel established under subparagraph (A) of this paragraph shall include experts on each of the domains of child well-being described in paragraph (2)(A), experts on child indicators, experts from State agencies and from nonprofit organizations that use child indicator data at the State level, and experts on survey methodology.

''(ii) DEADLINE.—The members of the advisory panel shall be appointed not later than 2 months after the date of the enactment of this subsection.

''(C) MEETINGS.—The advisory panel established under subparagraph (A) shall meet—

''(i) at least 3 times during the first year after the date of enactment of this subsection; and

''(ii) annually thereafter for the 4 succeeding years.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2014, $20,000,000 for the purpose of carrying out this subsection.''.

SEC. 4. GAO REPORT ON COLLECTION AND REPORTING OF DATA ON DEATHS OF CHILDREN IN FOSTER CARE.

(a) IN GENERAL.—Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to determine, and submit to the Congress a written report on the adequacy of, the methods of collecting and reporting data on deaths of children in the child welfare system.

(b) MATTERS TO BE CONSIDERED.—In the study, the Comptroller General shall, for each year for which data are available, determine—

(1) the number of children eligible for services or benefits under part B or E of title IV of the Social Security Act who States reported as having died due to abuse or neglect;

(2) the number of children so eligible who died due to abuse or neglect but were not accounted for in State reports; and

(3) the number of children in State child welfare systems who died due to abuse or neglect and whose deaths are not included in the data described in paragraph (1) or (2).

(c) RECOMMENDATIONS.—In the report, the Comptroller General shall include recommendations on how surveys of children by the Federal Government and by State governments can be improved to better capture all data on the death of children in the child welfare system, so that the Congress can work with the States to develop better policies to improve the well-being of children and reduce child deaths.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. INOUYE, Mr. LEVIN, Mr. KERRY, Mr. AKAKA, MRS. BOXER!, MR. FEINGOLD, Mr. DURBIN, Mr. JOHNSON, Mr. SCHUMER, Mr. LAUTENBERG, Mr. MENENDEZ, Mr. BURR, and Mrs. GILLIBRAND)):

S. 1152. A bill to allow Americans to earn paid sick time so that they can address their own health needs and the health needs and the health needs of their families; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, in this turbulent economy, working families are facing enormous challenges. Too many families are living paycheck to paycheck, just one layoff or health crisis away from disaster. Now more than ever, workers are struggling to balance the demands of their jobs and their families. When a sickness or health problem arises, these challenges can easily become insurmountable.

Unfortunately, almost half of all private sector workers—including 79 percent of low-wage workers—have no paid sick days they can use to care for themselves or a sick family member. For these workers, taking a day off to care for their own health or a sick child means losing a much-needed paycheck, or even putting their jobs in danger. In a recent survey, 1 in 6 workers reported that they or a family member have been fired, punished or threatened with termination for taking time off because of their own illness or to care for a sick relative.

Workers can't afford to take that kind of risk now. Losing even one paycheck can mean falling behind on bills, foregoing needed medicines, or skipping meals. As a result, many employees continue to go to work when they are ill, and send their children to school or day care sick, because it's the only way to make ends meet.

The lack of paid sick day is not just a crisis for individual families—it is a public health crisis as well. The current flu outbreak provides a compelling illustration. To prevent the spread of the virus, the World Health Organization, the Center for Disease Control, and numerous state and local public health officials urged people to stay home from work or school if they flu-like symptoms. Strong scientific evidence proves that this is one of the best ways to prevent the spread of disease and protect the public health.

But without paid sick days, following this sound advice is often impossible—millions of employees want to do the right thing and stay home, but our current laws just do not protect them. The Family and Medical Leave Act enables workers to take time off for serious health conditions, but only about half of today's workers are covered by the act, and millions more can not take advantage of it because this leave is unpaid.

Hardworking Americans should not have to make these impossible choices. That's why Senator DODD, Representative ROSA DELAURO and I are introducing the Healthy Families Act, which will enable workers to take up to 56 hours, or about 7 days, of paid sick leave each year. Employees can use this time to stay home and get well when they are ill, to care for a sick family member, to obtain preventive or diagnostic treatment, or to seek help if they are victims of domestic violence.

This important legislation will provide needed security for working families struggling to balance the jobs they need and the families they love. It will improve public health and reduce health costs by preventing the spread of disease and giving employees the access they need to obtain preventive care. It will also help victims of domestic violence to protect their families and their futures.

In addition, the legislation will benefit businesses by decreasing employee turnover, and improving productivity. ''Presenteeism''—sick workers coming to work and infecting their colleagues instead of staying at home—costs our economy $180 billion annually in lost productivity. For employers, the cost averages $255 per employee per year, and exceeds the cost of absenteeism and medical and disability benefits. The lack of paid sick days also leads to higher employee turnover, especially for low-wage workers. When the benefits of the Healthy Families Act are weighed against its costs, providing paid sick days will actually save American businesses up to $9 billion a year by eliminating these productivity losses and reducing turnover.

Above all, enabling workers to earn paid sick time to care for themselves and their families is a matter of fundamental fairness. Every worker has had to miss days of work because of illness. Every child gets sick and needs a parent at home to take care of them. And all hardworking Americans deserve the chance to take care of their families without putting their jobs or their health on the line.

It is long past time for our laws to deal with these difficult choices that working men and women face every day. As President Obama has said, ''Nobody in America should have to choose between keeping their jobs and caring for a sick child.'' I urge all of my colleagues to join in supporting the Healthy Families Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 155—EXPRESSING THE SENSE OF THE SENATE THAT THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA SHOULD IMMEDIATELY CEASE ENGAGING IN ACTS OF CULTURAL, LINGUISTIC, AND RELIGIOUS SUPPRESSION DIRECTED AGAINST THE UYGHUR PEOPLE

Mr. BROWN (for himself and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 155

Whereas protecting the human rights of minority groups is consistent with the actions of a responsible member of the international community;

Whereas recent actions taken against the Uyghur minority by authorities in the People's Republic of China and, specifically, by local officials in the Xinjiang Uyghur Autonomous Region, have included major violations of human rights and acts of cultural suppression;

Whereas the authorities of the People's Republic of China have manipulated the strategic objectives of the international war on terrorism to increase their cultural and religious oppression of the Muslim population residing in the Xinjiang Uyghur Autonomous Region;

Whereas an official campaign to encourage the migration of Han Chinese people into the Xinjiang Uyghur Autonomous Region has resulted in the Uyghur population becoming a minority in the Uyghur traditional homeland and has placed immense pressure on people and organizations that are seeking to preserve the linguistic, cultural, and religious traditions of the Uyghur people;

Whereas, pursuant to a new policy of the Government of the People's Republic of China, young Uyghur women are recruited and forcibly relocated to work in factories in

urban areas in far-off eastern provinces, resulting in tens of thousands of Uyghur women being separated from their families and placed into substandard working conditions thousands of miles from their homes;

Whereas the legal system of the People's Republic of China is used as a tool of repression, including to arbitrarily detain and torture Uyghurs who have only voiced discontent with the Government of the People's Republic of China;

Whereas the Government of the People's Republic of China continues to charge innocent Uyghurs with political crimes and to impose the death penalty on those Uyghurs and other political dissidents, contrary to international humanitarian standards;

Whereas the People's Republic of China is implementing a monolingual Chinese language education system that undermines the linguistic basis of Uyghur culture by transitioning minority students from education in their mother tongue to education in Chinese, shifting dramatically away from past policies that provided choice for the Uyghur people; and

Whereas there have been recent armed crackdowns throughout the Xinjiang Uyghur Autonomous Region against the entire Uyghur population: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of the People's Republic of China should—

(1) recognize, and seek to ensure, the linguistic, cultural, and religious rights of the Uyghur people of the Xinjiang Uyghur Autonomous Region;

(2) immediately release all Uyghur political and religious prisoners that are being held without good cause or evidence, whether those prisoners are held in prisons or are under house arrest;

(3) cease harassment and intimidation of family members and innocent associates of peaceful Uyghur political activists; and

(4) immediately cease all Government-sponsored violence and crackdowns against people in the Xinjiang Uyghur Autonomous Region, including against people involved in peaceful protests or religious or political expression.

SENATE RESOLUTION 156—EXPRESSING THE SENSE OF THE SENATE THAT REFORM OF OUR NATION'S HEALTH CARE SYSTEM SHOULD INCLUDE THE ESTABLISHMENT OF A FEDERALLY-BACKED INSURANCE POOL

Mr. BROWN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DODD, Mr. SCHUMER, Mr. BINGAMAN, Mr. DURBIN, Ms. MIKULSKI, Mr. HARKIN, Mrs. BOXER, Mr. REED, Mr. LEVIN, Mr. LEAHY, Mr. MENENDEZ, Mr. WHITEHOUSE, Ms. STABENOW, Mr. CASEY, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of New Mexico, Mr. INOUYE, Mr. SANDERS, Mr. KAUFMAN, Mr. BURRIS, Mr. LAUTENBERG, Mrs. MCCASKILL, Mrs. SHAHEEN, Mr. CARDIN, and Mr. AKAKA) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 156

Whereas in the presence of a federally-backed insurance pool, those Americans who have become unemployed, live in rural and other traditionally underserved areas, or have been unable to attain affordable health insurance would benefit from consumer choice: Now, therefore, be it

Resolved, That the Senate recognizes that any efforts to reform our Nation's health care system should include as an option the establishment of a federally-backed insurance pool to create options for American consumers.

Mr. BROWN. Mr. President, in my approaching 2½ years in the Senate, I have held some 140 roundtables across my State—from Bryan, to Saint Clairsville, to Ashtabula, to Cincinnati—where I have had the opportunity to listen to health care professionals and advocates and their families speak about their circumstances and struggles. Through these discussions, one thing has become painfully obvious: Health care reform must include insurance reform, and health insurance reform must include the option of a federally backed health insurance plan. That is why I am here today to introduce a resolution, along with 26 of my Senate colleagues, to express the importance of including a federally backed health insurance plan in health care reform.

As we work to reform our health care system, we must protect what works and fix what is broken. It is important that we preserve access to employer-sponsored coverage for those who want to keep their current plan. That is what President Obama is insisting on. If you are satisfied, you keep what coverage you have. But with more and more Americans losing jobs and seeing their health insurance scaled back, it is important that people have access to something else. Americans deserve the chance to go with a private or a federally backed health insurance plan. It is their choice, and this choice is good policy. This choice is good common sense.

Americans are tired of trying to get health insurance coverage and being turned down because they have a pre-existing condition. They are tired of premiums and deductibles and copays that they simply can no longer afford. They are tired of having to fight for every penny when they have paid their insurance premium month after month. They are tired of having to fight for every penny that the insurer owes them when they try to use their insurance and waiting all too often for months to get their claims paid. They are tired of wondering whether their insurance will pay for them at all to see the specialist they need, to get the medicine they need, or to have the operation they need. That is not what insurance should be.

They are tired mostly of the uncertainty surrounding health insurance. If they lose their job, they lose insurance. If they get sick, they can't get insurance. If they submit a claim, it may be paid in 2 or 6 months, or sometimes, even though they are fighting their insurance company and asking and pleading and begging, they may not get the claim paid at all.

To be meaningful, health care reform must be responsive to all of these shortcomings in our current system. To be responsive, health care reform must address insurance affordability, reliability, and insurance continuity. To achieve these goals, health care reform must provide Ohioans and every American with more options. People should be able to choose whether to keep the coverage they have or to purchase coverage backed by the Federal Government.

A federally backed plan would provide continuity. It would be available in every part of the country, no matter how rural, in western North Carolina or in southeast Ohio. Its benefits would be guaranteed, and its cost sharing would be affordable because of the problems of cost shifting—no ifs, no ands, and no buts. A federally backed plan would be an option but certainly not the only option. Americans who have employer-sponsored coverage would still have that coverage. Americans who have individual coverage through a private insurer would still have that coverage. A federally backed plan would be an option, not a mandate. Some will choose it; others will not. That is the kind of choice we ask for.

One reason such an option is important is because hundreds of thousands of Americans are losing their jobs and have no affordable coverage option. This would give them one. If you have ever tried to purchase affordable coverage in the individual insurance market—and I have—you understand why a federally backed insurance program is so important. If you live in a rural area where quality, affordable coverage is unavailable, you know why a federally backed insurance option is so important. There needs to be an option for people who can't find what they need in the private insurance market, just as Medicare is there for seniors. The federally backed option will give those under 65, if not yet eligible for Medicare, a place to turn.

The resolution I am introducing today, with half of the Democrats in the Senate already signed on as cosponsors—there will be more later—demonstrates broad support for a federally backed insurance option and health care reform. I encourage all colleagues to support this resolution.

The majority of the HELP Committee are cosponsors of this bill. That is the committee that will help to write the health insurance bill with the Finance Committee. If consumers have more options, including the option to purchase federally backed coverage designed to provide the three things that matter most—affordability, reliability, and continuity, the three things that too often are absent from private insurance plans—we will have gone a long way toward making the U.S. health care system work for every American. That is why this resolution matters. That is why the option of a federally backed insurance plan makes so much sense.

SENATE RESOLUTION 157—RECOGNIZING BREAD FOR THE WORLD, ON THE 35TH ANNIVERSARY OF ITS FOUNDING, FOR ITS FAITHFUL ADVOCACY ON BEHALF OF POOR AND HUNGRY PEOPLE IN OUR COUNTRY AND AROUND THE WORLD

Mr. LUGAR (for himself, Mrs. LINCOLN, Mr. DURBIN, Mr. KOHL, Mr. BROWN, Ms. SNOWE, Mr. CASEY, Mr. KERRY, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 157

Whereas Bread for the World, now under the leadership of the Reverend David Beckmann, has grown in size and influence, and is now the largest grassroots advocacy network on hunger issues in the United States and on behalf of impoverished people overseas;

Whereas members of Bread for the World believe that by addressing policies, programs, and conditions that allow hunger and poverty to persist, they are providing help and opportunity far beyond the communities in which they live;

Whereas Bread for the World has inspired the engagement of hundreds of thousands of individuals, more than 8,000 congregations, and more than 50 denominations across the religious spectrum to seek justice for hungry and poor people by making our Nation's laws more fair and compassionate to people in need;

Whereas members of Bread for the World use hand-written letters and other personalized forms of communication to convey to their legislators their moral concern for the needs of mothers, children, small farmers, and other hungry and poor people; and

Whereas Bread for the World has a strong record of success in working with Congress to—

(1) strengthen our national nutrition programs;

(2) establish and fund the Child Survival account that has helped reduce child mortality rates worldwide;

(3) increase and improve the Nation's poverty-focused development assistance to help developing countries in Africa and other underprivileged parts of the world;

(4) pass the Africa: Seeds of Hope Act of 1998 that redirected United States resources toward small-scale farmers and struggling rural communities in Africa;

(5) lead an effort to provide debt relief to the world's poorest countries and tie debt relief to poverty reduction; and

(6) establish an emergency grain reserve to improve the Nation's response to humanitarian crises: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and commends Bread for the World, on the 35th anniversary of its founding, for its encouragement of citizen engagement, its advocacy for poor and hungry people, and its successes as a collective voice; and

(2) challenges Bread for the World to continue its work to address world hunger.

SENATE RESOLUTION 158—TO COMMEND THE AMERICAN SAIL TRAINING ASSOCIATION FOR ADVANCING INTERNATIONAL GOODWILL AND CHARACTER BUILDING UNDER SAIL

Mr. KERRY (for himself and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas the American Sail Training Association (ASTA) is an educational nonprofit corporation whose declared mission is ''to encourage character building through sail training, promote sail training to the North American public and support education under sail'';

Whereas, since its founding in 1973, ASTA has supported character-building experiences aboard traditionally-rigged sail training vessels and has established a program of scholarship funds to support such experiences;

Whereas ASTA has a long history of tall ship races, rallies, and maritime festivals, dating back as far as 1976;

Whereas, each year since 2001, ASTA has held the ''Tall Ships Challenge'', a series of races and maritime festivals that involve sail training vessels, trainees, and crews from all the coasts of the United States and around the world;

Whereas the Tall Ships Challenge series has reached an audience of approximately 8,000,000 spectators and brought more than $400,000,000 to more than 30 host communities;

Whereas ASTA supports a membership of more than 200 sail training vessels, including barks, barques, barkentines, brigantines, brigs, schooners, sloops, and full-rigged ships, which carry the flags of the United States, Canada, and many other nations and have brought life-changing adventures to thousands of young trainees;

Whereas ASTA has held a series of more than 30 annual sail training conferences in cities throughout the United States and Canada, including the Safety Under Sail Forum and the Education Under Sail Forum;

Whereas ASTA has collaborated extensively with the Coast Guard and with the premier sail training vessel of the United States, the square-rigged barque *USCGC Eagle*;

Whereas ASTA publishes ''Sail Tall Ships'', a periodic directory of sail training opportunities;

Whereas, in 1982, ASTA supported the enactment of the Sailing School Vessel Act of 1982, title II of Public Law 97-322 (96 Stat. 1588);

Whereas ASTA has ably represented the United States as a founding member of the national sail training organization in Sail Training International, the recognized international body for the promotion of sail training, which has hosted a series of international races of square-rigged and other traditionally-rigged vessels since the 1950s; and

Whereas ASTA and Sail Training International are collaborating with port partners around the Atlantic Ocean to produce the ''Tall Ships Atlantic Challenge 2009'', in which an international fleet of sail training vessels will sail from Europe to North America and return to Europe: Now, therefore, be it

Resolved, That the Senate—

(1) commends the American Sail Training Association for advancing character building experiences for youth at sea in traditionally-rigged sailing vessels and the finest traditions of the sea;

(2) commends the American Sail Training Association for acting as the national sail training association of the United States and representing the sail training community of the United States in the international forum; and

(3) encourages all people of the United States and the world to join in the celebration of the ''Tall Ships Atlantic Challenge 2009'' and in the character-building and educational experience that it represents for the youth of all nations.

SENATE RESOLUTION 159—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF JUNETEENTH INDEPENDENCE DAY AND EXPRESSING THE SENSE OF THE SENATE THAT HISTORY SHOULD BE REGARDED AS A MEANS FOR UNDERSTANDING THE PAST AND SOLVING THE CHALLENGES OF THE FUTURE

Mr. BURRIS submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 159

Whereas news of the end of slavery did not reach frontier areas of the United States, and in particular the southwestern States, for more than 2 years after President Lincoln's Emancipation Proclamation of January 1, 1863, and months after the conclusion of the Civil War;

Whereas on June 19, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas with news that the Civil War had ended and that the enslaved were free;

Whereas African Americans who had been slaves in the Southwest celebrated June 19, commonly known as ''Juneteenth Independence Day'', as the anniversary of their emancipation;

Whereas African Americans from the Southwest continue the tradition of celebrating Juneteenth Independence Day as inspiration and encouragement for future generations;

Whereas for more than 140 years, Juneteenth Independence Day celebrations have been held to honor African-American freedom while encouraging self-development and respect for all cultures;

Whereas although Juneteenth Independence Day is beginning to be recognized as a national, and even global, event, the history behind the celebration should not be forgotten; and

Whereas the faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) recognizes the historical significance of Juneteenth Independence Day to the Nation;

(B) supports the continued celebration of Juneteenth Independence Day to provide an opportunity for the people of the United States to learn more about the past and to understand better the experiences that have shaped the Nation; and

(C) encourages the people of the United States to observe Juneteenth Independence Day with appropriate ceremonies, activities, and programs; and

(2) it is the sense of the Senate that—

(A) history should be regarded as a means for understanding the past and solving the challenges of the future; and

(B) the celebration of the end of slavery is an important and enriching part of the history and heritage of the United States.

SENATE RESOLUTION 160—CONDEMNING THE ACTIONS OF THE BURMESE STATE PEACE AND DEVELOPMENT COUNCIL AGAINST DAW AUNG SAN SUU KYI AND CALLING FOR THE IMMEDIATE AND UNCONDITIONAL RELEASE OF DAW AUNG SAN SUU KYI

Mr. GREGG (for himself, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. DURBIN, Mr. MCCAIN, Mr. LIEBERMAN, Ms. COLLINS, Mr. LUGAR, Mr. BROWNBACK, Mr. BENNETT, Mr. BOND, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 160

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council (SPDC), has carried out a longstanding and brutal campaign of persecution against Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, ethnic minorities, and ordinary citizens of Burma who publicly and courageously speak out against the regime's many injustices, abuses, and atrocities;

Whereas the military regime in Burma is solely responsible for failing to provide for the basic needs of the people of Burma and has restricted the activities and movement of United Nations agencies and humanitarian nongovernmental organizations operating in Burma today;

Whereas Burmese democracy leader Daw Aung San Suu Kyi has been imprisoned in Burma for 13 of the last 19 years, and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas Burmese democracy leader Daw Aung San Suu Kyi currently faces criminal charges by the military regime for breaking the terms of her house arrest, which arose from the uninvited visit of an American citizen; and

Whereas these criminal charges are consistent with other past actions by the military regime to harass and persecute Daw Aung San Suu Kyi and the National League for Democracy: Now, therefore, be it

Resolved, That the Senate—

(1) condemns and deplores the show trial of Burmese democracy leader Daw Aung San Suu Kyi;

(2) condemns and deplores the criminal actions by the State Peace and Development Council against Daw Aung San Suu Kyi and members of the National League for Democracy;

(3) recognizes that currently conditions do not exist in Burma for the conduct of credible and participatory elections;

(4) calls for the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma;

(5) calls upon the Secretary of State to reinvigorate efforts with regional governments and multilateral organizations (including the People's Republic of China, India, and Japan as well as the Association of Southeast Asian Nations and the United Nations Security Council) to secure the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma; and

(6) calls upon the State Peace and Development Council to establish, with the full and unfettered participation of the National League for Democracy and ethnic minorities, a genuine roadmap for the peaceful transition to civilian, democratic rule.

SENATE RESOLUTION 161—RECOGNIZING JUNE 2009 AS THE FIRST NATIONAL HEREDITARY HEMORRHAGIC TELANGIECSTASIA (HHT) MONTH, ESTABLISHED TO INCREASE AWARENESS OF HHT, WHICH IS A COMPLEX GENETIC BLOOD VESSEL DISORDER THAT AFFECTS APPROXIMATELY 70,000 PEOPLE IN THE UNITED STATES

Mr. JOHNSON submitted the following resolution; which was considered and agreed to:

S. RES. 161

Whereas according to the HHT Foundation International, Hereditary Hemorrhagic Telangiecstasia (HHT), also referred to as Osler-Weber-Rendu Syndrome, is a long-neglected national health problem that affects approximately 70,000 (1 in 5,000) people in the United States and 1,200,000 worldwide;

Whereas HHT is an autosomal dominant, uncommon complex genetic blood vessel disorder, characterized by telangiectases and artery-vein malformations that occurs in major organs including the lungs, brain, and liver, as well as the nasal mucosa, mouth, gastrointestinal tract, and skin of the face and hands;

Whereas left untreated, HHT can result in considerable morbidity and mortality and lead to acute and chronic health problems or sudden death;

Whereas according to the HHT Foundation International, 20 percent of those with HHT, regardless of age, suffer death and disability;

Whereas according to the HHT Foundation International, due to widespread lack of knowledge of the disorder among medical professionals, approximately 90 percent of the HHT population has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

Whereas the HHT Foundation International estimates that 20 to 40 percent of complications and sudden death due to these ''vascular time bombs'' are preventable;

Whereas patients with HHT frequently receive fragmented care from practitioners who focus on 1 organ of the body, having little knowledge about involvement in other organs or the interrelation of the syndrome systemically;

Whereas HHT is associated with serious consequences if not treated early, yet the condition is amenable to early identification and diagnosis with suitable tests, and there are acceptable treatments available in already-established facilities such as the 8 HHT Treatment Centers of Excellence in the United States; and

Whereas adequate Federal funding is needed for education, outreach, and research to prevent death and disability, improve outcomes, reduce costs, and increase the quality of life for people living with HHT: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need to pursue research to find better treatments, and eventually, a cure for HHT;

(2) recognizes and supports the HHT Foundation International as the only advocacy organization in the United States working to find a cure for HHT while saving the lives and improving the well-being of individuals and families affected by HHT through research, outreach, education, and support;

(3) supports the designation of June 2009 as National Hereditary Hemorrhagic Telangiecstasia (HHT) month, to increase awareness of HHT;

(4) acknowledges the need to identify the approximately 90 percent of the HHT population that has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

(5) recognizes the importance of comprehensive care centers in providing complete care and treatment for each patient with HHT;

(6) recognizes that stroke, lung, and brain hemorrhages can be prevented through early diagnosis, screening, and treatment of HHT;

(7) recognizes severe hemorrhages in the nose and gastrointestinal tract can be controlled through intervention, and that heart failure can be managed through proper diagnosis of HHT and treatments;

(8) recognizes that a leading medical and academic institution estimated that $6,600,000,000 of 1-time health care costs can be saved through aggressive management of HHT in the at-risk population; and

(9) encourages the people of the United States and interested groups to observe and support the month through appropriate programs and activities that promote public awareness of HHT and potential treatments for it.

SENATE RESOLUTION 162—RECOMMENDING THE LANGSTON GOLF COURSE, LOCATED IN NORTHEAST WASHINGTON, DC AND OWNED BY THE NATIONAL PARK SERVICE, BE RECOGNIZED FOR ITS IMPORTANT LEGACY AND CONTRIBUTIONS TO AFRICAN-AMERICAN GOLF HISTORY, AND FOR OTHER PURPOSES

Mr. FEINGOLD (for himself, Mr. CARDIN, Mr. UDALL of Colorado, and Mr. BURRIS) submitted the following resolution; which was considered and agreed to:

S. RES. 162

Whereas the Langston Golf Course was designated for construction by the Department of the Interior in the 1930s as a safe and expanded recreational facility for the local and national African-American communities;

Whereas Langston Golf Course was named for John Mercer Langston, the first African-American Representative elected to Congress from the Commonwealth of Virginia, and who also was a founder of the Howard University School of Law;

Whereas the Langston Golf Course is believed to be the first regulation course in the United States to be built almost entirely on a refuse landfill;

Whereas Langston Golf Course has been placed on the National Register of Historic Places, and the Capital City Open golf tournament has made Langston Golf Course its home for the past 40 years;

Whereas the first American-born golf professional of African-American ancestry was John Shippen, who was born circa 1878 in the Anacostia area of Washington, DC, placed fifth in the second United States Open golf tournament in 1896 when he was 16 years old, and helped found the Capitol City Golf Club in 1925;

Whereas the Capitol City Golf Club, eventually renamed the Royal Golf Club and Wake Robin Women's Club, historically has promoted a safe golf facility for African Americans in Washington, DC, especially during an era when few facilities were available, and these 2 clubs remain the oldest African-American golf clubs in the United States;

Whereas the Langston facility continues to provide important recreational outlets, instructional forums, and a ''safe haven center'' for the enhancement of the lives of Washington, DC's inner-city youth;

Whereas the Langston Golf Course and related recreational facilities provide a home for the Nation's important minority youth ''First Tee'' golf instruction and recreational program in Washington, DC;

Whereas Langston Golf Course's operations and its related facilities seek to increase course-based educational opportunities under the auspices of the National Park Service for persons under 18 years of age, particularly those from populations of the inner-city and historically underrepresented among visitors to units of the National Park System;

Whereas the preservation and ecologically-balanced enhancements via future public and private funding for the lands making up the 212 acres of the Langston Golf Course will benefit the National Park System's Environmental Leadership projects program, the Anacostia River Watershed, the city of Washington, and the entire Washington, DC metropolitan area;

Whereas Federal funds for enhancements to the Langston Golf Course have perennially been promised but rarely provided, even after the designation of Langston Golf Course as a ''Legacy Project for the 21st Century'', and after significant private funding and contributions were committed and provided; and

Whereas the Langston Golf Course and related recreational facilities traditionally have provided additional quality of life value to all residents of Washington, DC, and will do more so once upgraded to meet its obvious athletic and historical promise: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Langston Golf Course, its general management, and the Royal Golf and Wake Robin Golf Clubs are to be commended for their historical and ongoing contributions to the local Washington, DC community and the Nation;

(2) the Director of the National Park Service and the Secretary of the Interior should give appropriate consideration to the future budget needs of this important park in the National Park System that is a historical site, recreational facility, and educational center; and

(3) the Secretary of the Senate should transmit an enrolled copy of this resolution to the general manager of the Langston Golf Course.

SENATE RESOLUTION 163—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO CHILDHOOD STROKE AND DESIGNATING AN APPROPRIATE DATE AS ''NATIONAL CHILDHOOD STROKE AWARENESS DAY''

Mr. CASEY (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 163

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 26 out of every 100,000 newborns and almost 3 out of every 100,000 children have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas stroke is among the top 10 causes of death for children in the United States;

Whereas 9 percent of all children who experience a stroke die as a result;

Whereas stroke recurs in 20 percent of children who have experienced a stroke;

Whereas the death rate for children who experience a stroke before the age of 1 year is the highest out of all age groups;

Whereas the average time from onset of symptoms to diagnosis of stroke is 24 hours, putting many affected children outside the window of 3 hours for the most successful treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including—

(1) hemiplegia, which is paralysis of 1 side of the body;

(2) seizures;

(3) speech and vision problems; and

(4) learning difficulties;

Whereas such disabilities may require ongoing physical therapy and surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the citizens of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas The Children's Hospital of Philadelphia should be commended for its initiative in creating the Nation's first program dedicated to pediatric stroke patients: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of an appropriate date as ''National Childhood Stroke Awareness Day''; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

SENATE CONCURRENT RESOLUTION 24—TO DIRECT THE ARCHITECT OF THE CAPITOL TO PLACE A MARKER IN EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER WHICH ACKNOWLEDGES THE ROLE THAT SLAVE LABOR PLAYED IN THE CONSTRUCTION OF THE UNITED STATES CAPITOL, AND FOR OTHER PURPOSES

Mrs. LINCOLN (for herself, Mr. SCHUMER, and Mr. CHAMBLISS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 24

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. FINDINGS.

Congress finds the following:

(1) Enslaved African Americans provided labor essential to the construction of the United States Capitol.

(2) The report of the Architect of the Capitol entitled ''History of Slave Laborers in the Construction of the United States Capitol'' documents the role of slave labor in the construction of the Capitol.

(3) Enslaved African Americans performed the backbreaking work of quarrying the stone which comprised many of the floors, walls, and columns of the Capitol.

(4) Enslaved African Americans also participated in other facets of construction of the Capitol, including carpentry, masonry, carting, rafting, roofing, plastering, glazing, painting, and sawing.

(5) The marble columns in the Old Senate Chamber and the sandstone walls of the East Front corridor remain as the lasting legacies of the enslaved African Americans who worked the quarries.

(6) Slave-quarried stones from the remnants of the original Capitol walls can be found in Rock Creek Park in the District of Columbia.

(7) The Statue of Freedom now atop the Capitol dome could not have been cast without the pivotal intervention of Philip Reid, an enslaved African-American foundry worker who deciphered the puzzle of how to separate the 5-piece plaster model for casting, when all others failed.

(8) The great hall of the Capitol Visitor Center was named Emancipation Hall to help acknowledge the work of the slave laborers who built the Capitol.

(9) No narrative on the construction of the Capitol that does not include the contribution of enslaved African Americans can fully and accurately reflect its history.

(10) Recognition of the contributions of enslaved African Americans brings to all Americans an understanding of the continuing evolution of our representative democracy.

(11) A marker dedicated to the enslaved African Americans who helped to build the Capitol will reflect the charge of the Capitol Visitor Center to teach visitors about Congress and its development.

SEC. 2. PLACEMENT OF MARKER IN CAPITOL VISITOR CENTER TO ACKNOWLEDGE ROLE OF SLAVE LABOR IN CONSTRUCTION OF CAPITOL.

(a) PROCUREMENT AND PLACEMENT OF MARKER.—The Architect of the Capitol, subject to the approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, shall design, procure, and place in a prominent location in Emancipation Hall in the Capitol Visitor Center a marker which acknowledges the role that slave labor played in the construction of the United States Capitol.

(b) CRITERIA FOR DESIGN OF MARKER.—In developing the design for the marker required under subsection (a), the Architect of the Capitol shall—

(1) take into consideration the recommendations developed by the Slave Labor Task Force Working Group;

(2) to the greatest extent practicable, ensure that the marker includes stone which was quarried by slaves in the construction of the Capitol; and

(3) ensure that the marker includes a plaque or inscription which describes the purpose of the marker.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1202. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 1203. Mr. REID submitted an amendment intended to be proposed to amendment SA 1173 submitted by Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1204. Mr. REID submitted an amendment intended to be proposed to amendment SA 1164 submitted by Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1205. Mr. REID submitted an amendment intended to be proposed to amendment SA 1144 proposed by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1206. Mr. REID submitted an amendment intended to be proposed to amendment SA 1159 submitted by Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) and intended to be proposed to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1207. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1208. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1209. Mr. REID submitted an amendment intended to be proposed to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1210. Mr. REID submitted an amendment intended to be proposed to amendment SA 1138 proposed by Mr. DEMINT to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1211. Mr. REID submitted an amendment intended to be proposed to amendment SA 1185 submitted by Mr. MERKLEY (for himself and Mr. WHITEHOUSE) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1212. Mr. REID submitted an amendment intended to be proposed to amendment SA 1189 submitted by Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1213. Mr. REID submitted an amendment intended to be proposed to amendment SA 1191 submitted by Mr. LEAHY (for himself and Mr. KERRY) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1214. Mr. REID submitted an amendment intended to be proposed to amendment SA 1179 submitted by Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1215. Mr. REID submitted an amendment intended to be proposed to amendment SA 1143 proposed by Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1216. Mr. REID submitted an amendment intended to be proposed to amendment SA 1181 submitted by Mrs. LINCOLN (for herself and Mr. PRYOR) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1217. Mr. REID submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1218. Mr. REID submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1219. Mr. REID submitted an amendment intended to be proposed to amendment SA 1147 submitted by Mr. KYL (for himself and Mr. LIEBERMAN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1220. Mr. REID submitted an amendment intended to be proposed to amendment SA 1157 submitted by Mr. LIEBERMAN (for himself and Mr. GRAHAM) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1221. Mr. REID submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1222. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1223. Mrs. MURRAY (for herself, Mr. BOND, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1224. Mr. REID (for Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 19, expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

TEXT OF AMENDMENTS

SA 1202. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide assistance to Pakistan unless the President first certifies to the appropriate congressional committees that appropriate measures have been and will be taken to ensure that none of such obligated or expended funds are used—

(1) to support, expand, or in any way assist in the development or deployment of the nuclear weapons program of the Government of Pakistan; or

(2) to support programs or purposes for which such funds have not been specifically appropriated by this Act or reprogrammed through appropriate committee notification procedures.

(b)(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the President shall submit to the appropriate congressional committees a report—

(A) certifying whether any funds appropriated or otherwise made available by this Act and obligated or expended during the reporting period to provide assistance to Pakistan were or may have been used for the purposes described in paragraphs (1) and (2) of subsection (a); and

(B) describing the measures taken during such reporting period to ensure that no obligated or expended funds were used for such purposes.

(2) Each report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) Nothing in this section shall be construed to prohibit the expenditure of funds for nonproliferation and disarmament activities in Pakistan.

(d) In this section, the term ''appropriate congressional committees'' means—

(1) the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

SA 1203. Mr. REID submitted an amendment intended to be proposed to amendment SA 1173 submitted by Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 4 days.

SA 1204. Mr. REID submitted an amendment intended to be proposed to amendment SA 1164 submitted by Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 3 days.

SA 1205. Mr. REID submitted an amendment intended to be proposed to amendment SA 1144 submitted by Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 2 days.

SA 1206. Mr. REID submitted an amendment intended to be proposed to amendment SA 1159 submitted by Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) and intended to be proposed to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 1 day.

SA 1207. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter to be inserted, insert the following

(a) FINDINGS.—

(1) Section 403(a) of H.R. 4986, the National Defense Authorization Act for 2008 allows the Secretary of Defense to establish the active-duty end strength for the Army at 547,400.

(2) As provided in sections 115(f) and (g) of Title 10, United States Code, the Secretary of Defense and Secretary of the Army may apply variances for active-duty end strength against this established end strength of 547,400.

(b) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading ''MILITARY PERSONNEL, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1208. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. CORNYN, and Mr. BENNETT) submitted amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

(a) FINDINGS.—

(1) Section 403(a) of H.R. 4986, the National Defense Authorization Act for 2008 allows the Secretary of Defense to establish the active-duty end strength for the Army at 547,400.

(2) As provided by sections 115(f) and (g) of Title 10, United States Code, the Secretary of Defense and Secretary of the Army may apply variances for active-duty end strength against this established end strength of 547,400.

(b) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading ''MILITARY PERSONNEL, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1209. Mr. REID submitted an amendment intended to be proposed to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 17 days.

SA 1210. Mr. REID submitted an amendment intended to be proposed to amendment SA 1138 proposed by Mr. DEMINT to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 16 days.

SA 1211. Mr. REID submitted an amendment intended to be proposed to amendment SA 1185 submitted by Mr. MERKLEY (for himself and Mr. WHITEHOUSE) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 15 days.

SA 1212. Mr. REID submitted an amendment intended to be proposed to amendment SA 1189 submitted by Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 14 days.

SA 1213. Mr. REID submitted an amendment intended to be proposed to amendment SA 1191 submitted by Mr. LEAHY (for himself and Mr. KERRY) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 13 days.

SA 1214. Mr. REID submitted an amendment intended to be proposed to amendment SA 1179 submitted by Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 12 days.

SA 1215. Mr. REID submitted an amendment intended to be proposed to amendment SA 1143 submitted by Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 11 days.

SA 1216. Mr. REID submitted an amendment intended to be proposed to amendment SA 1181 submitted by Mrs. LINCOLN (for herself and Mr. PRYOR) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 10 days.

SA 1217. Mr. REID submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 8 days.

SA 1218. Mr. REID submitted an amendment intended to be proposed to amendment SA 1188 submitted by Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending

September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 9 days.

SA 1219. Mr. REID submitted an amendment intended to be proposed to amendment SA 1147 submitted by Mr. KYL (for himself and Mr. LIEBERMAN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 7 days.

SA 1220. Mr. REID submitted an amendment intended to be proposed to amendment SA 1157 submitted by Mr. LIEBERMAN (for himself and Mr. GRAHAM) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment add the following:

This section shall become effective in 6 days.

SA 1221. Mr. REID submitted an amendment intended to be proposed to amendment SA 1156 submitted by Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table, as follows:

At the end of the amendment add the following:

This section shall become effective in 5 days.

SA 1222. Mr. BROWN submitted an amendment intended to be proposed to amendment SA 1161 submitted by Mr. BROWN to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

(c) The Secretary of the Treasury shall instruct the United States Executive Director at the International Monetary Fund to use the voice and vote of the United States to oppose any loan, project, agreement, memorandum, instrument, or other program of the International Monetary Fund that does not maintain or increase government spending on health care or education in Heavily Indebted Poor Countries or that does not exempt such spending from hiring or wage bill ceilings or other limits to be imposed by the International Monetary Fund in those countries; and to promote government spending on health care, education, food aid, or other critical safety net programs in all of the IMF's activities with respect to Heavily Indebted Poor Countries.

SA 1223. Mrs. MURRAY (for herself, Mr. BOND, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 99, line 14, insert ``, notwithstanding section 204 of Title II of Division K of Public Law 110–161,'' after ``Provided, That''.

SA 1224. Mr. REID (for Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 19, expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed; as follows:

Strike the 11th whereas clause.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 2, 2009, at 2:15 p.m., in room SD–366 of the Dirksen Senate office building. The Chairman intends to conclude the hearing by 3:00 p.m.

The purpose of the hearing is to consider the nomination of Catherine Radford Zoi, to be an Assistant Secretary of Energy (Energy, Efficiency, and Renewable Energy), the nomination of William F. Brinkman, to be Director of the Office of Science, Department of Energy, and the nomination of Anne Castle, to be an Assistant Secretary of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510–6150, or by e-mail to *Amanda kelly@energy.senate.gov*.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KAUFMAN. 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 Thursday, May 21, 2009.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, May 21, 2009 at 10:30 a.m., in room SD–366 of the Dirksen Senate office building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 10 a.m., in room 406 of the Dirksen Senate office building.

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

COMMITTEE ON FINANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, May 21, 2009 at 10 a.m., in room 215 of the Dirksen Senate office building, to conduct a hearing entitled ``The U.S.-Panama Trade Promotion Agreement.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 10 a.m. to hold a hearing entitled ``A New Strategy for Afghanistan and Pakistan.''

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2 p.m. to conduct a hearing entitled ``Where Were the Watchdogs? Financial Regulatory Lessons from Abroad.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2:15 p.m. in room 628 of the Dirksen Senate office building.

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

COMMITTEE ON THE JUDICIARY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate to conduct an executive business meeting on Thursday, May 21,

2009, at 10 a.m. in room SD–226 of the Dirksen Senate office building.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 10 a.m. to conduct a hearing entitled, ''The Role of Small Business in Recovery Act Contracting.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 9:30 a.m. to conduct a markup on pending legislation. The Committee will meet in room 418 of the Russell Senate office building beginning at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 21, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 10:30 a.m., in room 253 of the Russell Senate office building.

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, May 21, 2009, at 2:30 p.m., in room 253 of the Russell Senate office building.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 67, 144, 153, to and including 160, 162, 163, 164, 166, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, and all nominations on the Secretary's desk in the Air Force, NOAA, and Navy; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order, and any statements relating thereto be printed in the RECORD; the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF COMMERCE

Cameron F. Kerry, of Massachusetts, to be General Counsel of the Department of Commerce.

DEPARTMENT OF THE INTERIOR

Michael L. Connor, of Maryland, to be Commissioner of Reclamation.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8036 and 601:

To be lieutenant general

Maj. Gen. Charles B. Green

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Herbert J. Carlisle

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. William M. Fraser, III

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. William L. Shelton

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Daniel J. Darnell

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Richard K. Gallagher

IN THE MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Terry G. Robling

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Joseph F. Dunford, Jr.

DEPARTMENT OF STATE

Philip J Crowley, of Virginia, to be an Assistant Secretary of State (Public Affairs).

Daniel Benjamin, of the District of Columbia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Priscilla E. Guthrie, of Virginia, to be Chief Information Officer, Office of the Director of National Intelligence.

THE JUDICIARY

Florence Y. Pan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

DEPARTMENT OF COMMERCE

Rebecca M. Blank, of Maryland, to be Under Secretary of Commerce for Economic Affairs.

DEPARTMENT OF TRANSPORTATION

John D. Porcari, of Maryland, to be Deputy Secretary of Transportation.

J. Randolph Babbitt, of Virginia, to be Administrator of the Federal Aviation Administration for the term of five years.

EXECUTIVE OFFICE OF THE PRESIDENT

Aneesh Chopra, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF STATE

Judith A. McHale, of Maryland, to be Under Secretary of State for Public Diplomacy.

Robert Orris Blake, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for South Asian Affairs.

DEPARTMENT OF LABOR

Seth David Harris, of New Jersey, to be Deputy Secretary of Labor.

NATIONAL MEDIATION BOARD

Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2009.

Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2012.

DEPARTMENT OF EDUCATION

John Q. Easton, of Illinois, to be Director of the Institute of Education Science, Department of Education for a term of six years.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sandra Brooks Henriquez, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF TRANSPORTATION

Peter M. Rogoff, of Virginia, to be Federal Transit Administrator.

DEPARTMENT OF THE TREASURY

Michael S. Barr, of Michigan, to be an Assistant Secretary of the Treasury.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN239 AIR FORCE nominations (12) beginning WILLIAM A. BARTOUL, and ending GEORGE T. YOUSTRA, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2009.

PN240 AIR FORCE nominations (2394) beginning PETER BRIAN ABERCROMBIE II, and ending ERIC J. ZUHLSDORF, which nominations were received by the Senate and appeared in the Congressional Record of March 25, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN428 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations

(46) beginning MARK H. PICKETT, and ending RYAN A. WARTICK, which nominations were received by the Senate and appeared in the Congressional Record of May 14, 2009.

PN429 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (11) beginning HEATHER L. MOE, and ending MARINA O. KOSENKO, which nominations were received by the Senate and appeared in the Congressional Record of May 14, 2009.

IN THE NAVY

PN52 NAVY nomination of Deandrea G. Fuller, which was received by the Senate and appeared in the Congressional Record of January 7, 2009.

PN57 NAVY nominations (6) beginning DANIEL G. CHRISTOFFERSON, and ending ALBERT D. PERPUSE, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 2009.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

SHI'ITE PERSONAL STATUS LAW IN AFGHANISTAN

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 61, S. Con. Res. 19.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 19) expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause and insert the part printed in italic and to strike out the preamble and insert the part printed in italic.

Whereas in March 2009, the Shi'ite Personal Status Law was approved by the parliament of Afghanistan and signed by President Hamid Karzai;

Whereas according to the United Nations, the law legalizes marital rape by mandating that a wife cannot refuse sex to her husband unless she is ill;

Whereas the law also weakens mothers' rights in the event of a divorce and prohibits a woman from leaving her home unless her husband determines it is for a ''legitimate purpose'';

Whereas President Barack Obama has called the law ''abhorrent'' and stated that ''there are certain basic principles that all nations should uphold, and respect for women and respect for their freedom and integrity is an important principle'';

Whereas the United Nations High Commissioner for Human Rights has said that the law represents a ''huge step in the wrong direction'' and is ''extraordinary, reprehensible and reminiscent of the decrees made by the Taliban regime in Afghanistan in the 1990s'';

Whereas the Secretary-General of the North Atlantic Treaty Organization (NATO) has asserted that passage of the law could discourage countries in Europe from contributing additional troops to help combat terrorism in the region;

Whereas President Karzai has instructed the Government of Afghanistan and members of the clergy to review the law and change any articles that are not in keeping with Afghanistan's Constitution and Islamic Sharia;

Whereas the law includes provisions that are fundamentally incompatible with the obligations of the Government of Afghanistan under various international instruments to which it is a party;

Whereas Afghanistan is a signatory of the Universal Declaration of Human Rights (UDHR), which establishes the principle of nondiscrimination, including on the basis of sex, and states that men and women are entitled to equal rights to marriage, during marriage, and at its dissolution;

Whereas Afghanistan became a party to the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976 (ICESCR), which emphasizes the principle of self-determination, in that men and women may freely determine their political status as well as their economic, social, and cultural development;

Whereas Afghanistan acceded to the Convention on the Elimination of All Forms of Discrimination Against Women, done at New York December 18, 1979, and entered into force September 3, 1981 (CEDAW), which condemns discrimination against women in all its forms and reaffirms the equal rights and responsibilities of men and women during marriage and at its dissolution;

Whereas article 22 of the Constitution of Afghanistan (2003) prohibits any kind of discrimination between and privilege among the citizens of Afghanistan and establishes the equal rights of all citizens before the law;

Whereas the international community and the United States have a long-standing commitment to and interest in working with the people and Government of Afghanistan to re-establish respect for fundamental human rights and protect women's rights in Afghanistan; and

Whereas the provisions in the Shi'ite Personal Status Law that restrict women's rights are inconsistent with those goals: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), [That Congress—

[(1) urges the Government of Afghanistan and President Hamid Karzai to declare the provisions of the Shi'ite Personal Status Law on marital rape and restrictions on women's freedom of movement unconstitutional and an erosion of growth and development in Afghanistan;

[(2) supports the decision by President Karzai to analyze the draft law and strongly urges him not to publish it on the grounds that it violates the Constitution of Afghanistan and the basic human rights of women;

[(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for International Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and

[(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry for Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.]

That Congress—

(1) urges the Government of Afghanistan to revise the Shi'ite Personal Status Law, including its provisions on marital rape and women's freedom of movement, to ensure its consistency with internationally recognized rights of women, including those contained in treaties to which Afghanistan is a party;

(2) supports the decision by President Karzai to analyze the draft law and strongly urges him not to publish it until it has been revised to be consistent with internationally recognized rights of women;

(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for Global Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and

(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.

Mr. REID. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the resolution, as amended, be agreed to, the preamble, as amended, be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to this matter be printed in the RECORD.

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

The amendment (No. 1224) was agreed to, as follows:

Strike the 11th whereas clause.

The committee-reported amendment to the resolution was agreed to.

The committee-reported amendment, as amended, to the preamble was agreed to.

The concurrent resolution (S. Con. Res. 19), as amended, was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 19

Whereas in March 2009, the Shi'ite Personal Status Law was approved by the parliament of Afghanistan and signed by President Hamid Karzai;

Whereas according to the United Nations, the law legalizes marital rape by mandating that a wife cannot refuse sex to her husband unless she is ill;

Whereas the law also weakens mothers' rights in the event of a divorce and prohibits a woman from leaving her home unless her husband determines it is for a ''legitimate purpose'';

Whereas President Barack Obama has called the law ''abhorrent'' and stated that ''there are certain basic principles that all nations should uphold, and respect for women and respect for their freedom and integrity is an important principle'';

Whereas the United Nations High Commissioner for Human Rights has said that the law represents a ''huge step in the wrong direction'' and is ''extraordinary, reprehensible and reminiscent of the decrees made by

the Taliban regime in Afghanistan in the 1990s'';

Whereas the Secretary-General of the North Atlantic Treaty Organization (NATO) has asserted that passage of the law could discourage countries in Europe from contributing additional troops to help combat terrorism in the region;

Whereas President Karzai has instructed the Government of Afghanistan and members of the clergy to review the law and change any articles that are not in keeping with Afghanistan's Constitution and Islamic Sharia;

Whereas the law includes provisions that are fundamentally incompatible with the obligations of the Government of Afghanistan under various international instruments to which it is a party;

Whereas Afghanistan is a signatory of the Universal Declaration of Human Rights (UDHR), which establishes the principle of nondiscrimination, including on the basis of sex, and states that men and women are entitled to equal rights to marriage, during marriage, and at its dissolution;

Whereas Afghanistan became a party to the International Covenant on Economic, Social and Cultural Rights, done at New York December 16, 1966, and entered into force January 3, 1976 (ICESCR), which emphasizes the principle of self-determination, in that men and women may freely determine their political status as well as their economic, social, and cultural development;

Whereas article 22 of the Constitution of Afghanistan (2003) prohibits any kind of discrimination between and privilege among the citizens of Afghanistan and establishes the equal rights of all citizens before the law;

Whereas the international community and the United States have a long-standing commitment to and interest in working with the people and Government of Afghanistan to reestablish respect for fundamental human rights and protect women's rights in Afghanistan; and

Whereas the provisions in the Shi'ite Personal Status Law that restrict women's rights are inconsistent with those goals: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) urges the Government of Afghanistan to revise the Shi'ite Personal Status Law, including its provisions on marital rape and women's freedom of movement, to ensure its consistency with internationally recognized rights of women, including those contained in treaties to which Afghanistan is a party;

(2) supports the decision by President Karzai to analyze the draft law and strongly urges him not to publish it until it has been revised to be consistent with internationally recognized rights of women;

(3) encourages the Secretary of State, the Special Representative to Afghanistan and Pakistan, the Ambassador-at-Large for Global Women's Issues, and the United States Ambassador to Afghanistan to consider and address the status of women's rights and security in Afghanistan to ensure that these rights are not being eroded through unjust laws, policies, or institutions; and

(4) encourages the Government of Afghanistan to solicit information and advice from the Ministry of Justice, the Ministry of Women's Affairs, the Afghanistan Independent Human Rights Commission, and women-led nongovernmental organizations to ensure that current and future legislation and official policies protect and uphold the equal rights of women, including through national campaigns to lead public discourse on the importance of women's status and rights to the overall stability of Afghanistan.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the following items, en bloc: Calendar No. 65, H.R. 663; Calendar No. 66, H.R. 918, Calendar No. 67, H.R. 1284; and Calendar No. 68, H.R. 1595.

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read a third time and passed en bloc, the motions to reconsider be laid upon the table, there be no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

YVONNE INGRAM-EPHRAIM POST OFFICE BUILDING

The bill (H.R. 663) to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the ''Yvonne Ingram-Ephraim Post Office Building'', was ordered to a third reading, was read the third time, and passed.

STAN LUNDINE POST OFFICE BUILDING

The bill (H.R. 918) to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the ''Stan Lundine Post Office Building'', was ordered to a third reading, was read the third time, and passed.

MAJOR ED W. FREEMAN POST OFFICE

The bill (H.R. 1284) to designate the facility of the United States Postal Service located at 103 West Main street in McLain, Mississippi, as the ''Major Ed W. Freeman Post Office'', was ordered to a third reading, was read the third time, and passed.

BRIAN K. SCHRAMM POST OFFICE BUILDING

The bill (H.R. 1595) to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the ''Brian K. Schramm Post Office Building'', was ordered to a third reading, was read the third time, and passed.

CONDEMNING THE ACTIONS OF THE BURMESE STATE PEACE AND DEVELOPMENT COUNCIL

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 160.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 160) condemning the actions of the Burmese State Peace and Development Council against Daw Aung San Suu Kyi and calling for the immediate and unconditional release of Daw Aung San Suu Kyi.

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

Mr. MCCONNELL. Mr. President, I rise to note passage of a Senate resolution on Burma. This resolution reflects the U.S. Senate's unequivocal condemnation of the show trial currently being conducted by Burmese officials against Nobel Peace Prize Laureate Aung San Suu Kyi. It is bad enough that Suu Kyi has been imprisoned for 13 of the past 19 years. Now the Burmese regime, the State Peace and Development Council, has come up with the flimsiest of pretexts to try to detain her further. It appears the regime will do anything to consolidate its grip on power. One suspects that the regime wants Suu Kyi behind bars at least until elections under its sham constitution are held in 2010.

I am gratified that this resolution reflects the strong, bipartisan view of the Senate on this matter. This resolution, which was authored by Senator GREGG, is cosponsored by Senators FEINSTEIN, DURBIN, MCCAIN, BROWNBACK, LIEBERMAN, COLLINS, BENNETT, BOND and me. It is also cosponsored by the chairman and ranking member of the Senate Foreign Relations Committee, Senators KERRY and LUGAR. A clearer signal from this chamber about Suu Kyi could hardly be sent.

As I noted earlier in the week, the members of the Senate have been and will continue to monitor the trial of Suu Kyi with deep concern.

Mr. GREGG. Mr. President, this morning Secretary of State Hillary Clinton appeared before the State Department, Foreign Operations, and Related Programs Appropriations Subcommittee to discuss the fiscal year 2010 budget request for America's international affairs programs and operations. We had a productive discussion on the numerous and extraordinary challenges that our Nation faces in the world today.

During the hearing, I brought up the plight of Burmese democracy leader Daw Aung San Suu Kyi, who faces criminal charges stemming for an uninvited visit by an American citizen to her compound in Rangoon, a compound on which she has spent 13 of the last 19 years under house arrest. These charges are absurd and have been roundly, and appropriately, condemned by the international community.

Unfortunately, this is not an isolated incident but merely the latest attempt by General Than Shwe and the State Peace and Development Council to persecute Suu Kyi and her National League for Democracy party.

I regret that General Than Shwe has made clear his complete and total disinterest in improving Burma's relationship with the United States. It is apparent that any open hand will be met with a clenched fist.

The resolution my colleagues and I offer today recognizes the continued injustices in Burma, and it states unequivocally that we deplore and condemn the show trial of Suu Kyi. The resolution sends a clear message to Suu Kyi and her supporters that the Senate remains squarely on the side of freedom and justice in Burma.

I agree with Secretary Clinton that more can and should be done on a bilateral and multilateral basis to secure the release of Suu Kyi and all prisoners of conscience in Burma today. The resolution calls for the Secretary to reinvigorate such efforts, and I intend to continue to work with her in support of human rights in Burma.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 160) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 160

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council (SPDC), has carried out a longstanding and brutal campaign of persecution against Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, ethnic minorities, and ordinary citizens of Burma who publicly and courageously speak out against the regime's many injustices, abuses, and atrocities;

Whereas the military regime in Burma is solely responsible for failing to provide for the basic needs of the people of Burma and has restricted the activities and movement of United Nations agencies and humanitarian nongovernmental organizations operating in Burma today;

Whereas Burmese democracy leader Daw Aung San Suu Kyi has been imprisoned in Burma for 13 of the last 19 years, and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas Burmese democracy leader Daw Aung San Suu Kyi currently faces criminal charges by the military regime for breaking the terms of her house arrest, which arose from the uninvited visit of an American citizen; and

Whereas these criminal charges are consistent with other past actions by the military regime to harass and persecute Daw Aung San Suu Kyi and the National League for Democracy: Now, therefore, be it

Resolved, That the Senate—

(1) condemns and deplores the show trial of Burmese democracy leader Daw Aung San Suu Kyi;

(2) condemns and deplores the criminal actions by the State Peace and Development Council against Daw Aung San Suu Kyi and members of the National League for Democracy;

(3) recognizes that currently conditions do not exist in Burma for the conduct of credible and participatory elections;

(4) calls for the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma;

(5) calls upon the Secretary of State to reinvigorate efforts with regional governments and multilateral organizations (including the People's Republic of China, India, and Japan as well as the Association of Southeast Asian Nations and the United Nations Security Council) to secure the immediate and unconditional release of Daw Aung San Suu Kyi and all prisoners of conscience in Burma; and

(6) calls upon the State Peace and Development Council to establish, with the full and unfettered participation of the National League for Democracy and ethnic minorities, a genuine roadmap for the peaceful transition to civilian, democratic rule.

RECOGNIZING JUNE 2009 AS THE FIRST HHT MONTH

Mr. REID. Mr. President, I ask unanimous consent to proceed to S. Res. 161.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 161) recognizing June 2009 as the first National Hereditary Hemorrhagic Telangiecstasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 161

Whereas according to the HHT Foundation International, Hereditary Hemorrhagic Telangiecstasia (HHT), also referred to as Osler-Weber-Rendu Syndrome, is a long-neglected national health problem that affects approximately 70,000 (1 in 5,000) people in the United States and 1,200,000 worldwide;

Whereas HHT is an autosomal dominant, uncommon complex genetic blood vessel disorder, characterized by telangiectases and artery-vein malformations that occurs in major organs including the lungs, brain, and liver, as well as the nasal mucosa, mouth, gastrointestinal tract, and skin of the face and hands;

Whereas left untreated, HHT can result in considerable morbidity and mortality and lead to acute and chronic health problems or sudden death;

Whereas according to the HHT Foundation International, 20 percent of those with HHT, regardless of age, suffer death and disability;

Whereas according to the HHT Foundation International, due to widespread lack of knowledge of the disorder among medical professionals, approximately 90 percent of the HHT population has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

Whereas the HHT Foundation International estimates that 20 to 40 percent of complications and sudden death due to these ''vascular time bombs'' are preventable;

Whereas patients with HHT frequently receive fragmented care from practitioners who focus on 1 organ of the body, having little knowledge about involvement in other organs or the interrelation of the syndrome systemically;

Whereas HHT is associated with serious consequences if not treated early, yet the condition is amenable to early identification and diagnosis with suitable tests, and there are acceptable treatments available in already-established facilities such as the 8 HHT Treatment Centers of Excellence in the United States; and

Whereas adequate Federal funding is needed for education, outreach, and research to prevent death and disability, improve outcomes, reduce costs, and increase the quality of life for people living with HHT: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need to pursue research to find better treatments, and eventually, a cure for HHT;

(2) recognizes and supports the HHT Foundation International as the only advocacy organization in the United States working to find a cure for HHT while saving the lives and improving the well-being of individuals and families affected by HHT through research, outreach, education, and support;

(3) supports the designation of June 2009 as National Hereditary Hemorrhagic Telangiecstasia (HHT) month, to increase awareness of HHT;

(4) acknowledges the need to identify the approximately 90 percent of the HHT population that has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

(5) recognizes the importance of comprehensive care centers in providing complete care and treatment for each patient with HHT;

(6) recognizes that stroke, lung, and brain hemorrhages can be prevented through early diagnosis, screening, and treatment of HHT;

(7) recognizes severe hemorrhages in the nose and gastrointestinal tract can be controlled through intervention, and that heart failure can be managed through proper diagnosis of HHT and treatments;

(8) recognizes that a leading medical and academic institution estimated that $6,600,000,000 of 1-time health care costs can be saved through aggressive management of HHT in the at-risk population; and

(9) encourages the people of the United States and interested groups to observe and support the month through appropriate programs and activities that promote public awareness of HHT and potential treatments for it.

RECOGNIZING LANGSTON GOLF COURSE

Mr. REID. Mr. President, I ask unanimous consent to proceed to S. Res. 162.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 162) recommending that the Langston Golf Course, located in northeast Washington, DC and owned by the National Park Service, be recognized for its important legacy and contributions to African-American golf history, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to,

the motions to reconsider be laid upon the table, that there be no intervening action or debate, and that any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 162) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 162

Whereas the Langston Golf Course was designated for construction by the Department of the Interior in the 1930s as a safe and expanded recreational facility for the local and national African-American communities;

Whereas Langston Golf Course was named for John Mercer Langston, the first African-American Representative elected to Congress from the Commonwealth of Virginia, and who also was a founder of the Howard University School of Law;

Whereas the Langston Golf Course is believed to be the first regulation course in the United States to be built almost entirely on a refuse landfill;

Whereas Langston Golf Course has been placed on the National Register of Historic Places, and the Capital City Open golf tournament has made Langston Golf Course its home for the past 40 years;

Whereas the first American-born golf professional of African-American ancestry was John Shippen, who was born circa 1878 in the Anacostia area of Washington, DC, placed fifth in the second United States Open golf tournament in 1896 when he was 16 years old, and helped found the Capitol City Golf Club in 1925;

Whereas the Capitol City Golf Club, eventually renamed the Royal Golf Club and Wake Robin Women's Club, historically has promoted a safe golf facility for African Americans in Washington, DC, especially during an era when few facilities were available, and these 2 clubs remain the oldest African-American golf clubs in the United States;

Whereas the Langston facility continues to provide important recreational outlets, instructional forums, and a ''safe haven center'' for the enhancement of the lives of Washington, DC's inner-city youth;

Whereas the Langston Golf Course and related recreational facilities provide a home for the Nation's important minority youth ''First Tee'' golf instruction and recreational program in Washington, DC;

Whereas Langston Golf Course's operations and its related facilities seek to increase course-based educational opportunities under the auspices of the National Park Service for persons under 18 years of age, particularly those from populations of the inner-city and historically underrepresented among visitors to units of the National Park System;

Whereas the preservation and ecologically-balanced enhancements via future public and private funding for the lands making up the 212 acres of the Langston Golf Course will benefit the National Park System's Environmental Leadership projects program, the Anacostia River Watershed, the city of Washington, and the entire Washington, DC metropolitan area;

Whereas Federal funds for enhancements to the Langston Golf Course have perennially been promised but rarely provided, even after the designation of Langston Golf Course as a ''Legacy Project for the 21st Century'', and after significant private funding and contributions were committed and provided; and

Whereas the Langston Golf Course and related recreational facilities traditionally have provided additional quality of life value to all residents of Washington, DC, and will do more so once upgraded to meet its obvious athletic and historical promise: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Langston Golf Course, its general management, and the Royal Golf and Wake Robin Golf Clubs are to be commended for their historical and ongoing contributions to the local Washington, DC community and the Nation;

(2) the Director of the National Park Service and the Secretary of the Interior should give appropriate consideration to the future budget needs of this important park in the National Park System that is a historical site, recreational facility, and educational center; and

(3) the Secretary of the Senate should transmit an enrolled copy of this resolution to the general manager of the Langston Golf Course.

DESIGNATING ''NATIONAL CHILDHOOD STROKE AWARENESS DAY''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 163.

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

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 163) expressing the sense of the Senate with respect to childhood stroke and designating an appropriate date as ''National Childhood Stroke Awareness Day.''

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table; that there be no intervening action or debate; that any statements related to this resolution be printed in the RECORD.

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

The resolution (S. Res. 163) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 163

Whereas a stroke, also known as a cerebrovascular accident, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas 26 out of every 100,000 newborns and almost 3 out of every 100,000 children have a stroke each year;

Whereas an individual can have a stroke before birth;

Whereas stroke is among the top 10 causes of death for children in the United States;

Whereas 9 percent of all children who experience a stroke die as a result;

Whereas stroke recurs in 20 percent of children who have experienced a stroke;

Whereas the death rate for children who experience a stroke before the age of 1 year is the highest out of all age groups;

Whereas the average time from onset of symptoms to diagnosis of stroke is 24 hours, putting many affected children outside the window of 3 hours for the most successful treatment;

Whereas many children who experience a stroke will suffer serious, long-term neurological disabilities, including—

(1) hemiplegia, which is paralysis of 1 side of the body;

(2) seizures;

(3) speech and vision problems; and

(4) learning difficulties;

Whereas such disabilities may require ongoing physical therapy and surgeries;

Whereas the permanent health concerns and treatments resulting from strokes that occur during childhood and young adulthood have a considerable impact on children, families, and society;

Whereas very little is known about the cause, treatment, and prevention of childhood stroke;

Whereas medical research is the only means by which the citizens of the United States can identify and develop effective treatment and prevention strategies for childhood stroke;

Whereas early diagnosis and treatment of childhood stroke greatly improves the chances that the affected child will recover and not experience a recurrence; and

Whereas The Children's Hospital of Philadelphia should be commended for its initiative in creating the Nation's first program dedicated to pediatric stroke patients: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of an appropriate date as ''National Childhood Stroke Awareness Day''; and

(2) urges the people of the United States to support the efforts, programs, services, and advocacy of organizations that work to enhance public awareness of childhood stroke.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 133.

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

The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 133) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

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

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 133) was agreed to, as follows:

H. CON. RES. 133

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his

designee, it stand adjourned until 2 p.m. on Tuesday, June 2, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 1, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

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

AUTHORITY TO MAKE APPOINTMENTS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

AUTHORITY TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the Senate's recess, committees be authorized to report legislative and executive matters on Friday, May 29, from 10 a.m. to 12 noon.

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

AUTHORITY TO SIGN DULY AUTHORIZED BILLS AND JOINT RESOLUTIONS

Mr. REID. Mr. President, I ask unanimous consent that during the adjournment of the Senate, Mr. REED of Rhode Island be authorized to sign duly authorized bills or joint resolutions.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAREWELL TO JOE LAPIA

Mr. REID. Mr. President, while we are waiting tonight for the staff to get the necessary closing papers ready so we can go out for the recess, I wish to say a couple of things about someone I have gotten to know over the past decade—Joe Lapia. I am going to miss tremendously, when we come back next work period, Joe not being in the cloakroom. He has been there for 10 years. He is a fixture in the cloakroom.

He is someone who is dependable, a great sport, and he is somebody who is so much fun to deal with. I love to talk sports with him. He is from Pittsburgh. I had to tell him—and I spread it on the record here—that the Pittsburgh teams have never been one of my favorites, but they are his. He went to Penn State. They have also not been one of my favorite teams, but they are his. And the records of the Steelers and Penn State speak for themselves—the great Joe Paterno and the wonderful records the Steelers have made. And Joe went to the White House today to see the world champion Super Bowl winners—the Pittsburgh Steelers.

Another thing I am going to miss is every time he went home—which was quite often, frankly—his mom would cook stuff. And maybe she thinks he ate it all, but he didn't. He brought stuff back, and we shared treats Mrs. Lapia fixed. Brownies were my favorite, but there were other things she cooked.

I think I can speak for the entire Senate family, the people who are here who make this place work, when I say we will all miss Joe. He is going to go off into the private sector now, which disappoints me because it is always hard getting used to new things. No matter who replaces Joe, there is only one Joe Lapia. He is someone I will always remember and I will always consider my friend.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RAILROAD ANTITRUST ENFORCEMENT ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 33, S. 146, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

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. 33, S. 146, the Railroad Antitrust Enforcement Act of 2009.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Robert Menendez, Robert P. Casey, Jr., Charles E. Schumer, Kay R. Hagan, Max Baucus, Kirsten E. Gillibrand, Richard Durbin.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 47, H.R. 1256, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

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. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Michael F. Bennet, Mark Udall, Patty Murray, Claire McCaskill, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Jeff Merkley, Robert Menendez, Charles E. Schumer, Max Baucus.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, the motion to proceed is withdrawn.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I now, as in executive session, ask unanimous consent that on Tuesday, June 2, after a period of morning business, the Senate proceed to executive session to consider Calendar No. 63, the nomination of Regina McCarthy to be an Assistant Administrator of EPA; that immediately after the nomination is reported the Senate proceed to vote on the confirmation of the nomination; upon confirmation, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and no further motions be in order and any statements relating to the nomination be printed in the RECORD; that the Senate then resume legislative session; that upon resuming legislative session, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 146.

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

THANKING SENATORS AND STAFF

Mr. REID. Mr. President, I want the record to reflect the cooperation of Dr. Barrasso, Senator BARRASSO. He had some concerns about this. We did our best to answer them. He has been very positive in his approach. He had some questions that needed to be answered. I think they have been answered, and I appreciate very much his being as courteous as he was through this whole process. He has been a real gentleman, and I appreciate it a lot.

Mr. President, let me express my appreciation to the Presiding Officer. All Senators are very busy, but you have been presiding for hours. That is a real burden. We all appreciate it, especially other Senators appreciate it. We have to have someone presiding.

I am so impressed with the skills that the Senator from Colorado has brought to us. I didn't know you before you were appointed by the Governor to come, but the people of Colorado should understand, using an overworked term, you hit the ground running. You have done so well. You adjusted so well to Senate life.

I say it twice tonight, I am very impressed, and I hope the people of Colorado understand what a good choice Governor Ritter made, choosing you to fill the seat of a terrific person, Ken Salazar.

Mr. President, I want all the staff to know of my appreciation. I speak for all of us. Every Senator would come and say the same thing, but I am the one here to express our appreciation for helping this process go forward. It is not easy.

As much time as I have spent over the years on this floor—and it amounts to, all added up—it has probably been years. As familiar as I am with everything, I couldn't do it without the help of the staff.

It is not only Lula Davis—she has been such a wonderful asset to the Democratic caucus—but also the help that I get from the Republican side, the staff. I think we were always very worried after Marty decided to go downtown. We wanted to make sure the same goodwill prevailed between David Schiappa and Lula Davis as we had before.

It is as good if not better. I am very happy with the cooperation we get. I wish I could express this personally to Senator MCCONNELL, but I think he will get the word.

ORDERS FOR MONDAY, JUNE 1, 2009

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of H. Con. Res. 133 until 2 p.m, Monday, June 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each; I also ask that following morning business, the Senate resume consideration of the motion to proceed to Calendar No. 33, S. 146, the railroad antitrust legislation.

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

PROGRAM

Mr. REID. There will be no rollcall votes on Monday, June 1. The next vote will be around 11 o'clock on Tuesday, June 2. The vote will be on the nomination of Virginia McCarthy to be Administrator of the Environmental Protection Agency.

ADJOURNMENT UNTIL MONDAY, JUNE 1, 2009, AT 2 P.M.

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 9:51 p.m., adjourned until Monday, June 1, 2009, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

ENVIRONMENTAL PROTECTION AGENCY

PAUL T. ANASTAS, OF CONNECTICUT, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE GEORGE M. GRAY, RESIGNED.

DEPARTMENT OF STATE

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE, VICE HARRY K. THOMAS, JR., RESIGNED.

DEPARTMENT OF JUSTICE

CRANSTON J. MITCHELL, OF VIRGINIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

JOSHUA D. ROSEN

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

STUART W. SMYTHE, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

SCOTT K. RINEER

To be commander

CYNTHIA S. SIKORSKI

To be lieutenant commander

MARY P. COLVIN

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, May 21, 2009:

DEPARTMENT OF COMMERCE

CAMERON F. KERRY, OF MASSACHUSETTS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE.

DEPARTMENT OF THE INTERIOR

MICHAEL L. CONNOR, OF MARYLAND, TO BE COMMISSIONER OF RECLAMATION.

DEPARTMENT OF STATE

PHILIP J. CROWLEY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (PUBLIC AFFAIRS).

DANIEL BENJAMIN, OF THE DISTRICT OF COLUMBIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

PRISCILLA E. GUTHRIE, OF VIRGINIA, TO BE CHIEF INFORMATION OFFICER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

THE JUDICIARY

FLORENCE Y. PAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

DEPARTMENT OF COMMERCE

REBECCA M. BLANK, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

DEPARTMENT OF TRANSPORTATION

JOHN D. PORCARI, OF MARYLAND, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

J. RANDOLPH BABBITT, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION FOR THE TERM OF FIVE YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

ANEESH CHOPRA, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEPARTMENT OF STATE

JUDITH A. MCHALE, OF MARYLAND, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

ROBERT ORRIS BLAKE, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.

DEPARTMENT OF LABOR

SETH DAVID HARRIS, OF NEW JERSEY, TO BE DEPUTY SECRETARY OF LABOR.

NATIONAL MEDIATION BOARD

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2009.

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2012.

DEPARTMENT OF EDUCATION

JOHN Q. EASTON, OF ILLINOIS, TO BE DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCE, DEPARTMENT OF EDUCATION FOR A TERM OF SIX YEARS.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SANDRA BROOKS HENRIQUEZ, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF TRANSPORTATION

PETER M. ROGOFF, OF VIRGINIA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

DEPARTMENT OF THE TREASURY

MICHAEL S. BARR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8036 AND 601:

To be lieutenant general

MAJ. GEN. CHARLES B. GREEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. HERBERT J. CARLISLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE

AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. WILLIAM L. SHELTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DANIEL J. DARNELL

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. RICHARD K. GALLAGHER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. TERRY G. ROBLING

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH F. DUNFORD, JR.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH WILLIAM A. BARTOUL AND ENDING WITH GEORGE T. YOUSTRA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2009.

AIR FORCE NOMINATIONS BEGINNING WITH PETER BRIAN ABERCROMBIE II AND ENDING WITH ERIC J. ZUHLSDORF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 25, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH MARK H. PICKETT AND ENDING WITH RYAN A. WARTICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 14, 2009.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NOMINATIONS BEGINNING WITH HEATHER L. MOE AND ENDING WITH MARINA O. KOSENKO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 14, 2009.

IN THE NAVY

NAVY NOMINATION OF DEANDREA G. FULLER, TO BE COMMANDER.

NAVY NOMINATIONS BEGINNING WITH DANIEL G. CHRISTOFFERSON AND ENDING WITH ALBERT D. PERPUSE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 7, 2009.