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# Senate

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

## PRAYER

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

Let us pray.

Loving God, our mighty rock and fortress, we have no secrets from You. You know us far better than we know ourselves. Help the Members of this body to humble themselves before You and find in Your love a very present help in times of trouble. Touch every person in the Senate with grace and love and healing. Forgive and restore wherever there is need in heart and office and home. Help us to see that it is our weakness that qualifies us for Your strength.

Lord, we commit this day to live and work for You, inviting the indwelling power of Your spirit to control our minds and give us discernment. We pray in the Name of Him who never fails to supply our needs. Amen.

## PLEDGE OF ALLEGIANCE

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

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 31, 2008.*

*To the Senate:*

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

ROBERT C. BYRD,
*President pro tempore.*

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

## RECOGNITION OF THE MAJORITY LEADER

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

## SCHEDULE

Mr. REID. Mr. President, following leader remarks, if any, there will be a period of morning business until 10:30, for 1 hour, with Senators permitted to speak for up to 10 minutes each. The majority will control the first half, the Republicans the second half. Following morning business, the Senate will resume consideration of the motion to proceed to S. 3001, the Department of Defense authorization bill. The time from 10:30 until 12:30 will be controlled in alternating 30-minute blocks of time between the majority and Republican sides, with the Republicans controlling the first 30 minutes. We hope to be able, later today, to turn to the Consumer Product Safety Commission conference report and the higher education conference report. We assume there could be votes throughout the day.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 10:30 a.m., with the time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, with the majority controlling the first half of the time and the Republicans controlling the second half.

The Senator from Wisconsin.

## SOMALIA

Mr. FEINGOLD. Mr. President, I rise to express my deep concern about the continued crisis in Somalia and my dismay at the failure of the United States and also the international community to give this situation the attention and resources it deserves.

Time and again, I have called for a comprehensive, coordinated U.S. strategy to bring security and stability to Somalia. Yet despite Somalia's continued collapse, the administration has clung to a clumsy set of tactics that have done little to quell the relentless violence or to enhance our own national security.

According to the U.N. High Commissioner on Refugees and the U.N.'s Under Secretary General for Humanitarian Affairs, the crisis in Somalia has become the world's worst humanitarian crisis. Yes, let me repeat that: the world's worst humanitarian crisis. Ongoing violence, a poor harvest, drought, rising food prices, and skyrocketing inflation have created a perfect storm. Over 2.6 million or 35 percent of Somalis are currently in need of aid, with that number likely to increase to 3.5 million or nearly 50 percent of the population by the end of the year. Simultaneously, the fighting has forced an estimated 1 million Somalis from their homes into overcrowded and squalid camps both within the country and in northern Kenya and Ethiopia.

In the midst of this disaster, those individuals working courageously to provide aid to the battered population have themselves become targets. I have been deeply troubled by the recent

killings of aid workers, including the head of the U.N. Development Program in Mogadishu and three Somali elders who were shot while they were distributing food to displaced communities. According to the New York Times, at least 20 aid workers have been killed and 17 kidnapped since January. This is unacceptable. The international community, with the U.S. leading the way, must make clear that attacks on humanitarian workers will not be tolerated. Moreover, we must make sure that aid agencies, including the World Food Program, have sufficient resources to respond to the escalating needs on the ground.

Humanitarian assistance, however, only stops the bleeding temporarily. Transforming the underlying causes of Somalia's instability requires a political solution leading to a national government that is both representative and reconciliatory. As I said shortly after it was brokered last month, the Djibouti agreement—between the Transitional Federal Government and a moderate faction of the opposition group for the Alliance for the Re-Liberation of Somalia, ARS—was a positive step forward. I applaud the U.N. Representative of the Secretary General for taking a lead role and the U.S. Special Envoy for Somalia, Ambassador John Yates, for ensuring the U.S. was actively involved—but now it is time to get down to business.

I am concerned by the slow progress of implementation. Rather than moving quickly to shore up that agreement and injecting the necessary diplomatic resources, the international community has remained in a wait-and-see posture. This has allowed al-Shabaab and other spoilers to undermine the legitimacy of the agreement and divide the opposition party, rather than the other way around.

I have repeatedly called on the administration to develop a long-term comprehensive regional strategy toward Somalia backed by sufficient resources and political commitment. Our current approach is clearly not working. Relying on reactive and short-term tactics has limited our ability to change the security dynamics on the ground and in the wider region. An effective strategy begins with refocusing on the bigger picture and committing to our long-term goals, namely, helping Somalis to build robust democratic institutions that can provide security and undercut violent extremism—which poses a direct threat to the U.S.

It is not too late to salvage the opportunity presented by the Djibouti agreement. To do so, the United States and our international partners must move quickly with a coordinated diplomatic push to bring more Somalis into the process as well as put forth the necessary resources for implementation. An inclusive and vigorous political process can marginalize the appeal of al-Shabaab and other violent extremists, but only if we act now. Simultaneously, there must be a more active effort to hold accountable all those who perpetrate violence and violate human rights. This includes strengthening the existing arms embargo and pressuring regional actors who undermine a sustainable political solution. It won't be easy, but it is critical to begin laying the groundwork for long-term peace and security.

The need to bring stability to Somalia is imperative not only to avert humanitarian catastrophe, but also for our national security. Next week, on August 7, we will commemorate the 10-year anniversary of the terrorist attacks on the U.S. Embassies in Nairobi and Dar-es-Salaam, which left 224 people dead, including 12 U.S. citizens and dozens of other Embassy employees. That was a tragic day in American history. While some of those responsible have been brought to justice, there is still work to be done to ensure that the remaining suspects are held to account for their involvement in these heinous acts and that victims receive fair and just compensation.

Meanwhile, Somalia remains a safe haven for terrorists, as we know from the recent designation of the al-Shabaab and periodic Defense Department strikes against terrorist targets. But neither these strikes, nor other ad hoc or fragmented actions, can substitute for a sustained, comprehensive strategy. We must act aggressively against terrorists who pose a threat to our country, but it will take more than just military options alone to solve Somalia's problems. Instead of helping to build a society committed to the development of legitimate democratic institutions, we are effectively allowing Somalia to serve as a recruitment tool for insurgents and extremists as they further isolate various groups from the current political process. This is what the State Department itself said this past April about safe havens in places like Somalia:

> Defeating the terrorist enemy requires a comprehensive effort executed locally, nationally, regionally, and globally. Working with partner nations, we must eliminate terrorist leadership, but incarcerating or killing terrorists will not achieve an end to terrorism. We must simultaneously eliminate terrorist safe havens, tailoring regional strategies to disaggregate terrorist networks and break terrorist financial, travel, communications, and intelligence links. Finally, and most challenging, we must address the underlying conditions that terrorists exploit at the national and local levels to induce alienated or aggrieved populations to become sympathizers, supporters, and ultimately members of terrorist networks. We can marginalize violent extremists by addressing people's needs and grievances, by giving people a stake in their own political future, and by providing alternatives to what terrorists offer.

The problem is not so much that the administration doesn't recognize what needs to be done, but that it doesn't have the will or the commitment to do it. Basically, our bark is bigger than our bite. Ten years after those attacks in Kenya and Tanzania, it appears we have missed the larger lesson of that tragic day, and our front-line diplomats continue to pay the price as they scramble to respond to the problems of weak states caught up in a vicious and turbulent cycle of collapse. They aren't the only ones paying the price, however, as those failed states breed insecurity and conditions favorable for terrorism. Ten years on, the United States still does not have a long-term strategy to bring peace and stability to the Horn of Africa. We have tremendous diplomatic, military, intelligence, and foreign assistance resources at our disposal, but they are ineffective in the absence of a coordinated and balanced strategy that incorporates both the short- and long-term goals. This is no more evident than in Somalia.

It is not too late to chart a new path and prevent future suffering, but we must act decisively. As we remember those who lost their lives 10 years ago, many doing diplomatic work in some of the most demanding postings in the world, let us commit to honor their legacy by ensuring that our country is no longer vulnerable to the terrorists who attacked us a decade ago.

Mr. President, I yield the floor.

## RECOGNITION OF THE MINORITY LEADER

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

## HONORING OUR ARMED FORCES

### SPECIALIST JASON E. AMES

Mr. MCCONNELL. Mr. President, my home State of Kentucky is mourning the loss of a brave young soldier. On August 31, 2005, SPC Jason E. Ames was killed while serving his country in Mosul, Iraq. Hailing from Cerulean, KY, Specialist Ames was 21 years old.

For his valor in uniform, Specialist Ames received several medals, decorations, and awards, including the Army Commendation Medal, the Good Conduct Medal, the National Defense Service Medal, and the Combat Infantryman Badge.

Jason was taken from his loved ones much too soon. But those closest to him know he packed his 21 years with all he could. ''Jason was always a happy-go-lucky person,'' says his mom Susan Foust. ''Whatever he encountered . . . he did it with a lot of life and a lot of laughter.''

Born in Illinois to a military family, Jason moved around a lot as a kid and saw many parts of the world. Wherever he went, he made his own fun.

Susan recalls:

> Jason loved to play Army as a child and played it often with kids in the neighborhood. He made a suit out of camouflage netting, sticks, and leaves. Using the military acronym for Battle Dress Uniform—

She says—

he would also wear his mother's BDUs.

Susan also says:

Another favorite of Jason's was riding in his mother's Dodge convertible with the top down, no matter the weather, and listening to ''Danger Zone'' from ''Top Gun.''

Young Jason could also rely on the companionship of man's best friend. As Susan explains it:

Jason would often play in the woods for hours while trying to hide from the family dog named Moocher. I would tell Moocher to find Jason, and no matter how well hidden Jason thought he was, Moocher would find him.

Jason eventually settled in Cerulean, a town in Trigg County, in the southwestern part of my State. He attended Trigg County High School in Cadiz and graduated in 2003.

Even before reaching high school graduation, however, Jason felt strongly that he wanted to serve his country. Perhaps he was influenced by the respect for duty and service that ran deep in his family. At the age of 17, while still in high school, he asked his mother to grant her permission for him to enlist. Susan wanted Jason to wait until he turned 18, but Jason was so eager he convinced his mom to let him go ahead and sign up.

''We supported him with whatever decision he made,'' Susan says.

Jason enlisted and became an infantryman. By the time he was deployed to Iraq in October 2004, he was assigned to the 3rd Battalion, 21st Infantry Regiment, 1st Brigade, 25th Infantry Division, based in Fort Lewis, WA.

Sadly, Jason's life was taken just a few weeks shy of when he was due to return home and shortly before his 21st birthday.

The Reverend Ron Hicks, a close friend of the Ames family, officiated at the services, and Jason was buried with full military honors at the Kentucky Veterans Cemetery West in Hopkinsville, the Commonwealth's first State veterans cemetery.

Many beloved family members and friends across the country mourn Jason's loss, including his mother, Susan Arlene Ames Foust, and his sister Krystal Dawn Knight. Our thoughts turn to them as they are confronted with this great loss.

Jason's mom Susan says:

Jason had just turned 21 years old when he was taken. For the 21 years that he was with us, those years are priceless.

Susan and all of Jason's family are certainly right to treasure those 21 precious years. It is my hope they are also comforted by the knowledge that this country and this Senate honors SPC Jason E. Ames as a patriot and as a hero. He left his Nation stronger by his service and his sacrifice.

STAFF SERGEANT NICHOLAS R. CARNES

Additionally, Mr. President, I rise because another Kentucky family is missing a husband, son, and brother, and our great State is missing a patriot who loved his country. SSG Nicholas R. Carnes was tragically killed on October 26, 2007, in Afghanistan while in combat with the enemy. A native of Dayton, KY, he was 25 years old.

Staff Sergeant Carnes had volunteered for the mission that would be his last, stepping in for another soldier on leave. For his bravery and service, he received several medals, awards, and decorations, including the Combat Action Badge, the Army Good Conduct Medal, the Kentucky Distinguished Service Medal, the Purple Heart, and the Bronze Star Medal.

Because of a letter he sent to his wife Terri, we know why Nick chose to serve and place himself in harm's way. This is what he wrote in November 2006, a few weeks after he deployed to Afghanistan. He said:

Dear Terri . . . If the other soldiers who came before me did not stand up for freedom, then we would not have freedom. So I feel that I am obliged to stand up for freedom to ensure that everyone else after me has the same freedoms we do today.

Nick's family and friends remain inspired to this day by that young man's courage. His mother, WrayJean, puts it simply:

My son has been a hero from the second he was born. He became a bigger hero when he did the job he did over there.

Nick grew up in Dayton, and WrayJean and his father, Gove, recall he had a fun-filled and active childhood. He loved to hunt and he loved to fish. Gove taught him how to shoot. He played football in high school and practiced martial arts.

Nick loved country music, especially Johnny Cash, George Jones, and Hank Williams, Jr. ''I have a country band and Nicholas would sing with us,'' Gove remembers.

His sister, Amanda Manasra, remembers: ''We went four-wheeling often and got a little muddy.''

She also remembers the time she and Nick built a treehouse, a treehouse Amanda was too scared to climb. ''I never went up there,'' she says.

Nick helped me overcome my fear. He always pushed me over my limits. He always had a can-do attitude. He said: ''can't'' isn't in your vocabulary.

Gove and Gove's uncle were both in the Kentucky National Guard, and Nick grew up climbing on Army trucks. In 1999, when he was 17, he entered a Guard training program and by his senior year at Dayton High School, Nick was in the Guard. ''It was in his blood,'' WrayJean said.

There was no stopping the desire. He would say, ''Who would keep us free if I don't do this?''

Nick graduated from high school in 2000 and went to work for BB Riverboats, a company that runs riverboat cruises along the Ohio River. It was there he met Terri, the woman he would ask to become his wife. ''We ran off to Las Vegas for my 30th birthday,'' Terri says.

When we were there, we went to Lake Mead . . . he got on his knee and asked me to marry him. I said, ''Sure! Let's go!'' It was meant to be.

With a happy life and friends and family who loved him, Nick still felt the call to duty. WrayJean remembers what Nick said to her on the day of the worst terrorist attack in this Nation's history.

''When 9/11 happened, Nicholas and I sat side by side on the couch,'' she says.

We both sat there with tears rolling down our face. He said, ''This is what I want to do.''

Terri also remembers how her husband was eager to serve. ''He could not wait to go overseas,'' she says.

He would say, ''Can you imagine preparing for your whole life and never getting to fight for your country?'' He loved what he was doing over there . . . I know he would do it again.

Nick's Guard unit was activated and he was eventually deployed to Afghanistan with Battery A, 2nd Battalion, 138th Field Artillery, based out of Carrollton, KY. His friend, Brian Sawyer, who served alongside him, remembers Nick's dedication to his training and to his mission.

''Nick was by the rulebook,'' Brian says.

When he graded my physical training test, if it wasn't a push-up by the books, he didn't count it. . . . With everybody, he was by the book. Not mean, but fair. Fair and firm. . . . He knew pushing me to do the push-up the right way was better for me.

Nick believed he had been sent to Afghanistan to make people's lives better, and he did it even in his downtime. He asked Terri to send him toys and gifts he could distribute to the kids there.

''Everything he did was sweet,'' Terri says.

It was rare, because mainly guys typically aren't caring and understanding. He was different than all the rest.

Nick's work ethic also impressed everyone. His commanding officer, MAJ Walt Leaumont, had this to say:

When Nick came into the National Guard originally, I was his battery commander. He was this little chubby 18-year-old who had a spirit that wouldn't quit. He had a positive attitude. He was a dream to command.

Sadly, Major Leaumont was also the officer charged with the sad task of telling Nick's family he would not be coming home. ''The night I notified his family was probably the toughest time I have ever worn this uniform,'' the major recalls.

Our prayers are with the Carnes family after their terrible loss. We are thinking of his wife Terri Bernstein-Carnes; his mother WrayJean; his father Gove; his sisters, Amanda Manasra and Sarah Carnes; his brother Brian Carnes; his grandmother, Frankie Glascock; his grandfather, Gove Carnes, Jr.; his stepmother Charlotte Carnes, and many other beloved family members and friends.

Nick was predeceased by his grandfather, Earl Glascock, and his grandmother, Hazel Carnes.

Before Nick shipped out, he and his family threw a birthday party for his wife Terri. Nick's sister, Amanda, jokingly told him:

You don't have to go. I can break your legs.

But Nick would have none of it. He told his little sister:

Just always know that I did it for us and I did it for them. This was my destiny given by God and I have to fulfill it.

SSG Nicholas R. Carnes represented the very best his town, his State, and his Nation have to offer. His service and his sacrifice prove it. The Senate is proud to honor men like him who see that America needs defending and bravely step forward to defend it.

I yield the floor.

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

## ACCOMPLISHMENTS OF THE COMMITTEE ON VETERANS' AFFAIRS IN THE 110TH CONGRESS

Mr. AKAKA. Mr. President, as we prepare to return to our home States, I believe it is important to remind our colleagues about the work we have done for the veterans of this Nation. As Chairman of the Committee on Veterans' Affairs, I have had the privilege of working with almost every entity and level of Government, veterans and military service organizations across the Nation, and every branch of the military, in an ongoing effort to better serve those who have served us.

In the past 19 months, the committee has held over 50 hearings, taking testimony from over 320 witnesses. The committee staff has carried out over 140 days of investigations and visits across the country. I commend the hard-working members of our committee, on both sides of the aisle, for their work this session.

After years of underfunding veterans programs, I wish to remind everyone that this Congress appropriated the largest increase in the history of the Department of Veterans Affairs. These funds are helping to provide better health care to veterans and enabling the Veterans Benefits Administration to hire thousands of new employees. It is my profound hope this investment will produce marked improvements in care and in reduced backlog of veterans' disability claims. Last year, in connection with the disclosures about Walter Reed, America learned of the disgraceful treatment of some of our disabled servicemembers and veterans. Congress responded promptly and the Armed Services and Veterans' Affairs Committees collaborated in an unprecedented manner to address the issues at Walter Reed and elsewhere. One result of this cooperation was the wounded warrior provisions included in last year's National Defense Authorization Act.

I take special pride in one particular wounded warrior provision which more than doubled the period of automatic VA health care eligibility for returning troops. Servicemembers returning from Iraq and Afghanistan are now eligible for 5 years of VA health care upon separation from service.

I am also pleased with the work we have done in seeking an expanded outreach to veterans of the National Guard and Reserve. It is vital that the growing role they play in our all-volunteer military be recognized and that those who have been deployed in Iraq and Afghanistan be recognized and helped.

Congress also enacted the 21st Century GI bill of rights. Like others who served in World War II, I personally know how that GI bill changed our country for the better. I hope this improved benefit will provide similar help for today's and tomorrow's troops.

But for all we have done, much remains unfinished in these waning weeks. Important legislation is pending in both the House and the Senate. To name two bills, we are still waiting for action on S. 1315 and S. 2162.

S. 1315, the Veterans' Benefits Enhancement Act of 2007, would provide needed assistance to veterans young and old, including the Filipino veterans of World War II who served under U.S. command but were denied veterans status for over 60 years.

S. 2162 is the Veterans' Mental Health and Other Care Improvements Act of 2008. This bill responds to the growing need among veterans for high quality mental health care. Many veterans return from war suffering from invisible wounds. If left untreated, these wounds can infect a veteran's life and livelihood, with dire consequences. The bill represents a tribute to Justin Bailey, a young Iraq veteran who overdosed while under VA care. We must not let other veterans suffer a similar tragedy.

Both of these bills passed the Senate with unanimous or nearly unanimous support, and both count strong supporters in the House. I hope that before this session ends, we will see both become law.

I do not report today that our work for veterans is anywhere near done, but I do say it is work in progress. I thank my colleagues in both Chambers and both parties for their support and cooperation.

## TRIBUTE TO WILLIAM BREW

Mr. AKAKA. Mr. President, as chairman of the Veterans' Affairs Committee, I normally come to the Senate floor and speak on various veterans issues—I advocate for increased screening and treatment and mental health issues for our veterans; I remind my fellow Senators that veterans of their home States must file income taxes for 2008 in order to receive their tax rebates; I argue for increased funding for VA's vital mission; and I urge the Senate to approve a new GI bill. Today, however, I come to the Senate floor to speak about one particular veteran—a Vietnam veteran who has dedicated his long career, enormous talents, and tireless efforts to better the treatment and the lives of all who have served our Nation in uniform. Today, I will speak of my staff director, William Brew.

Bill has just completed 20 years of service to the Senate. His entire tenure in the Senate has been at the Committee on Veterans' Affairs. Bill started in the Senate on April 3, 1978. At that time, his desk was in what is now the committee's hearing room. The chairman was Alan Cranston of California. The major issues were Agent Orange, judicial review, and the emerging medical condition that had newly been labeled post-traumatic stress disorder. As a former naval officer, and a lawyer, Bill was thrown right into these issues, and his presence made a huge difference.

An immediate and pressing need was to provide psychological counseling to Vietnam veterans at a time when the war and, sadly, even those who fought in it, remained a divisive issue for our Nation. Men and women who had served during that conflict did not return to heroes' welcomes, yellow ribbons, and joyous neighborhood celebrations we so often see today. In 1980, in Van Nuys, CA, one of the very first vet centers opened and offered a means of providing community-based counseling and outreach services to those who were returning from Southeast Asia. Now, there are 232 scattered around the country.

Millions of veterans and their families from all wars have received counseling and support through these centers. Bill was instrumental in developing the legislation that established these facilities and was present at the creation of vet centers.

Bill was deeply involved in the debates surrounding Agent Orange and quickly became an expert on an issue whose vocabulary resolved around dioxin, defoliation, Ranch Hand, and a variety of health problems and concerns. His efforts contributed to the development of wide-ranging initiatives designed to address the needs of those who believe their exposure has adversely affected their health.

Bill was instrumental in the passage of legislation in 1996, which fundamentally changed the law with regard to eligibility for VA health care. Eligibility Reform, as this law is known, eradicated the line between inpatient and outpatient care. VA, for the first time, was authorized to provide a standard benefits package of services in the most appropriate care setting. This seemingly simple change enabled VA to open up community-based clinics all across this country. Veterans care has been dramatically improved because of the increased access to the now 700 clinics dotting the landscape.

Assisting disabled veterans to reenter civilian life has always been a high priority for the committee. Bill worked on legislation to revamp federally assisted State vocational rehabilitation programs, giving priority to the most seriously disabled.

Bill was instrumental in the establishment of the Court of Veterans Claims, which gave judicial review to veterans' benefit determinations, and the committee recently approved legislation to expand the Court.

It is little known that Bill has served on both sides of the aisle, working not only for Chairmen Cranston and Rockefeller, and now myself, but also working for Chairman Alan Simpson, my Republican colleague from Wyoming. In 1980, when the Democrats entered the minority, Bill remained a majority staff member under Chairman Simpson for 9 months before returning to Ranking Member Cranston's staff.

I congratulate Bill for his service and tell him that I am grateful for that, and to thank him for his 20 years of dedicated and faithful service to the Senate and to our Nation's veterans.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

## ENDING THE GAS PRICE CRISIS

Mr. BOND. Mr. President, I am here today to point out what I believe everybody in this body knows, certainly everybody back in the heartland, where the occupant of the chair and I live: America is suffering a gas price crisis. I regret to tell the people back home that the Senate is in a crisis of its own.

It appears that Democrats are desperate to deny real gas price relief. They are apparently united behind the misguided policy of the presumptive Democratic nominee for President who says: Don't provide any new sources of supply. They are doing anything they can to block the one real solution to this gas price.

Opening new offshore drilling will bring suffering American families 18 billion barrels of new oil supplies. News of America's commitment to new supplies will drive prices down immediately. We saw with the suggestion that we would be opening offshore when the President lifted the Executive moratorium on offshore drilling, that the prices came down immediately $10 and then came down roughly $20 because the price of oil today is influenced by the long-term judgment of what the price will be in the future.

Airlines, trucking companies, and others have to go out in the futures market to buy the oil they need in the future. Those who bought futures contracts at $90 turned out to be prescient. They saved money from the $145 a barrel oil we see today. But right now there are too many hedgers, too many investors, and, yes, even some speculators, too many investors, including the Public Employee Retirement Systems of California, and of local governments that are saying: Hey, if we don't open oil supplies, we are going to see that $145 a barrel oil go to $175 and $200 and $250.

Regrettably, if the policy of the Democrats being acted on in the Senate today holds, we will see those oil prices going above $200 a barrel and over $5 at the gas pump. The Democrats, in lockstep with their Presidential nominee, are doing anything they can to block the one real solution: News of America's commitment to new supplies and oil will drive down the prices immediately. New supplies, 10 years' worth in the case of offshore reserves, will drive prices lower for years to come.

Some may say it will take a long time to bring it on line. That is what President Clinton said in 1995 when he vetoed the authorization to open ANWR, which could have been producing a million barrels of oil a day. He said it wouldn't happen for 10 years. Well, it is now 13 years past that veto. We surely could use that additional million barrels of oil a day.

The Democratic leader, when it comes to lowering gas prices with new offshore supplies, says: ''No, we can't.'' Actually, in the case of the Senate Democrats, it is ''No, we won't,'' reflecting the views of their Presidential nominee.

Earlier this month, I tried to join with my colleagues to repeal the legislative moratorium preventing new offshore drilling off our Atlantic and Pacific coasts. With the high gas prices facing our families, it is time to end the offshore drilling ban included each year on the annual appropriations bill for the Department of the Interior.

Much to my surprise and regret, the Democratic leadership canceled the planned business meeting to consider and write the Interior appropriations bill. We thought we would succeed. We thought people would understand that bringing gas price relief to America's families by reversing the current ban on offshore drilling could meet the cry from our people back home to do something about the price of gas. But the Democratic leadership canceled the meeting to prevent the will of the people through their Senators from being heard.

Now we have confirmation. We have seen a statement from the Appropriations Committee that the Democrats thought they would lose the vote and fail in their attempt to keep new oil supplies from the American people. It came from the Appropriations Committee itself saying they did not want to see the offshore opened for drilling. That is not the way this body is supposed to work.

We disagree with a lot of things, but we at least ought to come to the floor and have a vote. Those who are for it and those who are against it, let them take their stand in public and let the people judge.

Now we are on the floor of the Senate trying to move to a bill supposedly on energy. We have asked for a debate and a vote on measures in addition to their measure on speculation, because speculation is a small part. What we need to do is get more supplies.

The plan of Republican Senators and our presumptive nominee for President, the Senator from Arizona, is to enact additional measures that will lower gas prices through additional supplies from offshore oil reserves, tap billions of barrels of oil in Rocky Mountain oil shale deposits, provide clean nuclear-powered electricity that can drive our next generation of hybrid cars and trucks, and give financial help to jump-start our U.S. manufacturing supply base for hybrid car batteries to bring their prices down and put people in America to work.

But now the Democratic leadership has gone back on this offer. They have reneged on this offer. It is like Lucy with the football. The American people, we feel like Charlie Brown and the football is lowering gas prices. They are offering to let Charlie Brown kick the football to get a vote on opening offshore oil reserves and see if he can score a goal for lower gas prices. But, wait, the leadership of the Democratic Party on this floor has yanked the oil supply football away, only to let the American people swing and miss. The Democratic leadership apparently instead wants to move the goalposts back to pay for new wind and solar incentives.

I support wind and solar incentives. The whole Senate voted for wind and solar incentives earlier this year, adopting an amendment by over 80 votes. How many times do you have to do that? But the Democrats yanked the football away as well. They added new taxes to that measure. I guess they figured something so popular would be a good opportunity to raise taxes. That seems to be the policy of their nominee for President.

I can tell you that the people of Missouri do not want higher taxes. They do not want us to make it harder to find and produce oil. More wind and solar power is not going to get gas prices down now or anytime in the future. Not a single trucker in Missouri will pay less for diesel because we pass a bill for wind power. Not a single Missouri family will suffer less pain at the pump because we pass a bill for solar power. Not a single farmer will pay less to run his tractors or less to send his produce to market.

The only real thing that will work to get gas prices down is fundamental—more oil supplies to scare away the speculators and meet the demand.

Missouri does not need more hot air from the Democrats. Energy summits where Washington politicians talk about how much they claim they care about families will not get the gas prices down. And yet, the Senator from Illinois, the Democratic presumptive nominee for President, was in Missouri, and he had a solution for the gas price crisis. He said we need to keep our tires fully inflated.

I agree with keeping our tires fully inflated. I am told by the studies of the Department of Transportation that can save 6 to 12 gallons of gasoline a year. So please keep your tires inflated. But suggestions to inflate our tires fully are not going to make a significant difference in the gas price.

America deserves more than Democratic hot air. Here it is hot air to inflate our tires. On the floor of the Senate, it is hot air to tell us everything

else but increasing supplies may have an impact.

America deserves real action with real solutions. We should not abandon the American people to this gas price crisis. We need to move back to the bill on speculation and include amendments that will bring real gas price relief.

I have an amendment, No. 5121, to open 18 million barrels of oil reserves off our Atlantic and Pacific coasts—10 years of new oil supplies for the American people.

My amendment would also authorize more than $1 billion a year to jumpstart a U.S. manufacturing supply base for hybrid car and truck batteries. Funding would go to hybrid battery research and development, battery manufacturing equipment and capabilities, and re-equipping, expanding, and establishing U.S. domestic manufacturing facilities or hybrid vehicle batteries.

Why do we need it? We need it to get the supply of batteries. I have visited factories in Missouri where they are producing battery-powered cars, hybrid cars, such as the Ford Escape, the Claycomo plant. General Motors is working on these products. These are tremendous gas savers. We need to move to more plug-in vehicles.

In my hometown of New Mexico, MO, my good friend who sells modified golf carts is selling street-ready vehicles now, and they are popular. We can have full-size vehicles if we have the batteries to power them. But most of those batteries are being made in Asia, and American car manufacturers get second call. We need to have those batteries manufactured in America to supply our automobile industry.

This amendment would force gas prices down, find more oil and use less. The amendment would provide new oil supplies and new sources of oil conservation. But the Democratic leadership doing the will of the Senator from Illinois, the presumptive Democratic nominee, is blocking consideration of this amendment and all amendments.

As I said before, this is very disappointing to me, to the people of Missouri, and to the people of America. Missouri and America deserve more than half measures that will only produce a few days or months more of oil supplies. We deserve more than the Senate attempting to abandon them in the gas price crisis by moving on to other issues.

Missouri and America deserve real action now to lower gas prices. That means new offshore supplies to get prices down. That is the position the Republican Senators and the Republican Senator from Arizona, our nominee for President, are pushing for: new offshore oil supplies for American families, new offshore supplies for our farmers, new offshore supplies for our truckers. That is the only real hope for gas price relief.

I beg the Senate leadership to let us move now. Failure to do so will assure the American people that they will go another month while we are out of session and have done nothing but talk hot air and suggest putting hot air into car tires.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that Senator MARTINEZ, the Senator from Florida, Senator GREGG, the Senator from New Hampshire, and I be allowed to engage in a colloquy.

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

Mr. CORNYN. I thank the Chair.

The ACTING PRESIDENT pro tempore. Let me interrupt the Senator from Texas for a moment. There are less than 8 minutes remaining in morning business.

Mr. CORNYN. Mr. President, I was under the impression there was a longer period of time. May I ask what the order of business is following the expiration of morning business?

The ACTING PRESIDENT pro tempore. Thirty minutes of debate controlled by the minority on the motion to proceed to the Defense bill.

Mr. CORNYN. I thank the Chair.

Mr. President, we are going to have a vote on the motion to proceed to the Defense authorization bill. The distinguished occupant of the chair, myself, and Senator MARTINEZ all sit on the Armed Services Committee. We know how important this legislation is. I have every confidence that we will ultimately—at least I sure hope—get to and pass a Defense authorization bill.

I will point out that for the last 2 weeks, we have had a series of attempts by the majority to get us off the single most important issue facing the country today, and that is high energy prices, particularly high gasoline prices. My expectation is that this attempt, which will now make this No. 7 instead of 6, will fail as well because on this side of the aisle we believe we should not leave here, we should not adjourn for the August recess without addressing this pressing issue.

It touches everybody in the country, rich or poor, regardless of circumstances in life. It is also driving up the price of food and threatening inflation which is going to threaten our economy regardless of what we do on housing and the subprime mortgage crisis.

I ask the distinguished Senator from New Hampshire if he has some thoughts about what we ought to be doing between now and the time we adjourn for the August recess.

Mr. GREGG. Mr. President, I thank the Senator from Texas. I wanted to join with him today in addressing this issue because at least in New Hampshire—and I suspect it is true in Texas, too, even though maybe in a different way—the No. 1 issue on the minds of the people is the cost of energy. They are concerned about it when they fill up their car with gasoline, but they are even more concerned about it heading into the winter.

People in New Hampshire anticipate winters. We know it is coming. There is not much we can do about it. It is coming. We also know that 60 to 70 percent of the homes in New Hampshire—maybe more—are heated by oil. The price of oil that has to be put in the tanks in order to heat homes has doubled or tripled. A lot of families in New Hampshire, low-income families, but also moderate income families, are going to be extraordinarily stressed to try to meet that energy need and the price of that energy.

There are a lot of things that you can maybe do to change your lifestyle. You can maybe drive a little less. Maybe you can take a bus; not so much in New Hampshire because there are not a lot of city areas that have bus districts, although we do have some. But you can adjust your driving. You can downsize your car so you use less gasoline. But if you have a home and you have a family, there is nothing you can do about it. You have to heat that home. You have to stay warm in the winter when the temperature is at zero or even minus degrees and the wind chill is certainly at minus degrees. To do that takes a lot of energy and takes oil. So people are scared. They are scared about how they are going to heat their homes.

I believe my No. 1 responsibility as their representative in Washington is try to do something about bringing down the price of that energy. How do we do that? In my opinion, we do it by at least voting in the Senate on the issue of expanding our supply in the United States, with American energy, while also conserving more. Yet we have been blocked now. As the Senator from Texas points out, this will be the seventh time the Democratic Party and the Democratic leadership has tried to move the Congress and the Senate off the issue of trying to bring down oil prices, bring down gasoline prices by expanding American sources and American production by allowing us to drill offshore, by allowing us to use oil shale, by allowing us to expand nuclear power, by allowing us to put an effort into the development of electric cars, by doing a whole series of things.

Seven times now the Democratic leadership here has said, no, they do not want to hear about this. They want to talk about issues that are important, but they are nowhere near the importance, at least to my constituents, of what it costs them to fill up their gasoline tanks and what it is going to cost them to fill up their oil tanks this winter.

I cannot think of a higher priority as a Congress than to take up this Energy bill and have some votes on these very important issues of whether we open more drilling offshore, whether we use more oil shale, whether we expand our efforts to try to bring online nuclear powerplants, whether we continue our efforts to try to expand electric cars.

The Senator from Texas hit the nail on the head. We need to act on these issues, and we should stop this obfuscation which is occurring on the other side of the aisle on this issue. We should get to the essence of the issue, which is produce more American energy.

Mr. CORNYN. I appreciate the Senator from New Hampshire addressing that issue. I have always been amazed that those who say we ought to do something to help poor people who need help with their heating oil are the same folks who seem to be the most resistant to opening America's reserves of natural resources which would have the effect of bringing down oil prices for everybody. It seems to me that would be one of the most commonsense things we could do.

Mr. GREGG. The Senator makes a truly excellent point. If we want to address the fear low-income people have about the cost of their energy to heat their home, bring down the cost of energy. Address the systematic problem.

LIHEAP is an important program. It is a critical program for us in New England. But it is the bandaid. It is not going to the symptom. The symptom is the price of the energy, so that is why we need to vote on it.

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If the Senator will suspend, morning business is closed.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3001, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 732, S. 3001, a bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:30 shall be divided in alternating 30-minute blocks of time, with Republicans controlling the first block.

### ENERGY

Mr. CORNYN. Mr. President, I ask if you would please notify us when 10 minutes remain in our time so the Senator from Georgia can take the floor. We would like to continue with the colloquy.

I know the Senator from Florida, Senator MARTINEZ, is here. I know offshore drilling has been somewhat controversial in his State. I would like him to address that. But I would also like him to help us understand the bigger picture, and that is why the majority leader, who controls the agenda on the floor of the Senate, a Member of the other party, refuses to allow us to vote. I know Senator OBAMA has adamantly opposed any additional offshore exploration and production. One conclusion I guess you might draw is that the majority leader, by refusing an opportunity for Senators to vote, is somehow protecting the Presidential nominee, the presumptive Presidential nominee, from perhaps an embarrassing split in his own political party.

I wonder if the Senator has any comments.

Mr. MARTINEZ. I am happy to comment on the situation in Florida and also what I think is an observation you made accurately in the larger political climate. They are related. The State of Florida has jealously guarded its offshore resources because we have a tremendous tourism economy, as does Texas in some parts of the State. However, $4 for a gallon of gas has caused a transformation in thinking. It has allowed us to see more clearly what is occurring. What is occurring to our Nation is not just that the people, the families, American families, are hurting at the pump when they go pump gas. Fortunately in Florida our winters are mild, but I understand the situation in New Hampshire and other cold States that is going to be coming up. This is hurting families. This is a problem to the American family, particularly those on fixed income, many of whom live in Florida.

The problem becomes more acute because this also merges into our national defense, into our security as a nation. When the Persian Gulf war took place, Alaska increased its production of oil, and at that time they were producing at a capacity of 2.1 million barrels a day. Today they are only producing 700,000 barrels a day because the supply of oil in Alaska is dwindling because we are not allowed to develop additional resources there.

What is occurring, essentially, is that the domestic supply of oil is ever decreasing, our percentage of dependence on foreign sources is ever increasing, while at the same time the price is going through the roof. It is a supply-and-demand problem that cries out for a solution.

What has occurred? My own transformation has been that while I was adamantly opposed to any form of drilling, my own Governor took a forward-thinking position and decided maybe the time had come for us to reconsider and think a little differently about it. We still want to protect our coastline. We still want to protect our beaches. But at the same time, we have to recognize a new reality. That new reality requires us to adapt to the current circumstances. We are transferring wealth to the extent of $700 billion a year to foreign sources. It is unsustainable over a long period of time. America will be squandering its wealth purely to satisfy our demand for oil.

Surely we have to do other things about renewables. We have to do all that. But at the end of the day, we have to do more on our own resources to produce more oil from America's soil.

What has occurred is, in fact, the presumptive nominee of the Democratic Party and the presumptive nominee of the Republican Party have taken divergent points of view. Senator MCCAIN, changing his position much as I have, has said: Times have changed. We have to drill in the offshore. Senator OBAMA remains stuck in the past. He is not for change. He is against change when it comes to taking care of America's oil resources. I believe what we are following is the dictates of higher powers. At the same time, the business of the Senate has ground to a halt. We have not been able to accomplish much because we have not been allowed to have the thorough debate we need to have on this very important issue.

When I hear from Floridians today, they want us to move the business of Government, but they most of all want us to solve this problem. They do not want us to put it aside. They know they are hurting.

They also realize, by the way, this is no panacea. We have no magic wand we can wave and lower prices tomorrow, but we can begin a trend that is going to trend in the downward direction if we begin to do something about opening America's resources to more drilling.

Mr. CORNYN. I appreciate the comments of the Senator from Florida. In the real world, when the facts change, people are free to change their mind.

Mr. MARTINEZ. That is right.

Mr. CORNYN. I think $4 gasoline and $140-plus for a barrel of oil have caused a lot of people to rethink their prior positions. Gasoline was $2.33 when the Democrats took control of Congress in early 2007 but now is hovering around $4 a gallon, and I think it is only reasonable that people will reassess their decisionmaking. Indeed, I think we have seen that happen with the American people, if you look at public opinion polls, shifting to overwhelming support for exploration and production from the Outer Continental Shelf.

I say to the Senator from New Hampshire, I know, as the Senator from Florida said, more oil is going to be a transitional step on our part because production globally is declining. Yet demand, especially from huge economies such as China and India, is going up. I know the Senator from New Hampshire is a big proponent of clean nuclear power. I wonder if he can comment on what he sees this transition looking like, in terms of starting with more American production but with conservation, with renewable energy, and developing nuclear power.

Mr. GREGG. The Senator from Texas has been one of the best advocates on the floor for balance, which is what we

need. The American people understand the basic common sense of an issue, which is we need to use all the different options we have at hand. We are a nation with great creativity, great ability to be innovative. We are also willing to push the envelope, to try to use technology to improve our situation.

Not only do we need to find more, we need to use less. We need also to use our great strength in technology to advance our cause of delivering more American energy.

Nuclear power is a classic example of that. We basically created nuclear power, the concept of it, and how to use it in a positive way. Yet for the last 27 years, because of the adamant and, in my opinion, inappropriate opposition of the most activist environmentalist groups in this country, we have not had a new nuclear powerplant application approved.

New Hampshire, ironically, was the last State to bring online a nuclear powerplant. That occurred in the late 1980s. That nuclear powerplant was resisted by the Democratic leadership in the State and by the activist environmentalists in the State at a level which was basically civil disobedience. Thousands of people were arrested at the site where the plant was being built. It was delayed for almost 15 years. The cost of it quadrupled—it went up by a factor of 10, I think.

What happened in the end was the plant came online. What has happened since the plant has been online? It has produced safe, clean, reliable energy—not only for the people of New Hampshire but for the people of all the Northeast because it is producing so much energy it actually exceeds New Hampshire's needs. As a result, we have had an energy source which has saved us from having to buy thousands and thousands—millions of barrels of oil. We should be doing that across the country.

Mr. MARTINEZ. May I ask the Senator a question. This nuclear plant, does it produce greenhouse gases? Does it, in any way, harm the quality of air or produce the kinds of problems associated with global warming?

Mr. GREGG. That is a good question and it is very important. Nuclear power is clean. It addresses the issue of global warming. It is the most effective energy we have for that. It has no emissions which basically go into the atmosphere and aggravate the issue of global warming, so it is the type of power we want. It is safe and it is ours. We do not have to buy it from some other country. It is very logical we should be aggressively pursuing nuclear power. Again, you have to appreciate the fact that the other side of the aisle and the leadership of the other side of the aisle, especially Senator OBAMA, are opposed to expanding the nuclear option for our Nation which, in my opinion, is cutting off your nose to spite your face. This is a very safe and usable form of energy which addresses the issue of global climate change in a positive way by still giving Americans American-purchased energy.

Mr. CORNYN. I would say to the Senator from New Hampshire, it does not make sense to me. The U.S. Navy, of course, as we know, has been using nuclear power for its aircraft carriers and submarines for, I think, 50 years and is able to do so safely and without incident.

France generates 80 percent of its electricity using nuclear power. In France, the environmental activists have actually cut a deal, as I understand it, with the nuclear power producers because they understand. They get the point the Senator from Florida makes, and the Senator from New Hampshire, that nuclear power is clean power. For those who are concerned about climate change, that would be one of the best things we could do to alleviate the pressure on the environment.

I wish to get back, if I can for a second, because there has been a lot of talk, particularly the Senator from Tennessee, Mr. ALEXANDER, is talking about the need to develop new technology, to develop plug-in hybrid cars, battery-operated cars. I know there is a little confusion because right now we need transportation energy, which is basically oil and gasoline—aviation fuel to fly our airplanes. People wonder how does nuclear power or using coal in a clean way to generate electricity figure into that? The point we are trying to make is we need all of the above. We need to generate the electricity cleanly so we can use the new technology that we think will bring us into a clean energy future.

I wish to ask both my colleagues to comment on a couple things. One of my constituents, T. Boone Pickens, is in town. He is a remarkable man. He has been very successful in the oil and gas business. He says we need a different way of looking at our energy future. He is advocating increased use of wind energy to generate electricity. He is advocating more use of natural gas because he says we have found ways to develop more of that here in America so we have to buy less—the point of the Senator from Florida. That is less money we have to send than the $700 billion we send overseas each year.

Mr. GREGG. He also said, did he not, that we need to use everything. He didn't say don't use drilling; he said we have to drill everywhere we can in the United States, we have to use wind, we have to use solar, we have to use nuclear, we have to use everything, because we have to stop sending $700 billion, as the Senator from Florida mentioned, to people who do not like us—Venezuela and Iran. Let's keep it here, where we can use it to build our economy.

Mr. MARTINEZ. I remember him being asked: What do you feel about drilling? He said: I want to drill everywhere.

Now, I am not there, because I don't want to drill everywhere. I want some beaches to be protected. But he was saying we need to drill, drill, drill. That is part of the answer. It is not going to get us out of the problem, but it is part of the solution.

Mr. CORNYN. I have two points, and I would like to hear from both Senators. One is we hear from folks opposed to offshore drilling say we can't drill our way out of this.

Other opponents of offshore exploration and production said: It is going to take too long.

I wonder if the Senator from Florida and the Senator from New Hampshire have some thoughts about those. I happen to believe those are pulled out of context, particularly when it comes to Boone Pickens, because, as you said, we need it all. What is the best answer to that?

Mr. MARTINEZ. I would say that, no, we cannot drill our way out of the problem, but we can improve on the problem. Today, we use about 21 million barrels of oil, and 5 million of those come from overseas. That is what turns into that $700 billion bill.

What if we could add another million barrels to that production domestically? We will have ameliorated the problem by a significant percentage. What if we did 2 million barrels? All of a sudden, the equation is different and we can be more sustainable within our own resources.

The second part of this is, it is not all about oil. It is about other things, such as oil shale. The Democrats oppose looking into that possibility. We have not been allowed to have a full discussion. Colorado, Utah, and Wyoming should be allowed to develop this resource. I understand that we have an estimated 2 trillion barrels of oil that can be produced from oil shale. So maybe we can drill our way out of this with enough creativity, enough technology, and enough resources being employed.

So it is not going to just be about nuclear, although it ought to be nuclear. Florida has three nuclear powerplants built in the 1970s and 1980s, and thank goodness for those because in Florida we cannot produce any oil, we do not have any hydro, and we depend on those nuclear powerplants to power ourselves. So thank goodness we have that.

We also need to look at more production offshore. We need to do more oil shale, and the new technologies of wind and solar and new battery technology—all of the above.

My point is, we cannot drill our way out of this, but part of the solution is drilling. So it is not about suggesting that we should forget everything else and just drill, but it is to say that drilling as a component part of a comprehensive energy policy can move this country ahead, can move us forward.

Mr. GREGG. Well, the point the Senator makes is extraordinarily valid. But there is an ancillary issue here,

which is, not only do we need the energy to try to increase supplies and reduce the price, but it seems incomprehensible that we would not want to put in place programs which would relieve us from sending Americans' hard-earned dollars, you know, folks who are working every day, sending those dollars to Venezuela and Iran and other countries which hate us and want to do us harm. It seems that common sense would want us to produce American energy if we have American energy available to us and we can produce it in an environmentally sound way rather than send the money overseas.

Mr. CORNYN. I want to ask the Senator from New Hampshire, the bill that was on the floor about 2 weeks ago was a bill to deal with speculation and the commodity futures market. Our point was, we should not just deal with part of it, part of the problem, we ought to deal with the whole problem. That is why we have insisted—in fact, we have demanded and we said we should not leave here until we have had an opportunity to vote on offshore production and those other good ideas.

But I wonder if the Senator would address why the speculation component alone would be an insufficient response—may be part of the answer but certainly not the complete answer to the problems we face today?

Mr. GREGG. The simple answer is that it does not produce any more energy. Yes, there is probably speculation in the market. Yes, we should have more transparency and more enforcement to make sure the market is not being abused. But that is not going to produce any more energy.

We know there are 2.5 billion people between India and China, and they are starting to have much more high-quality lives, and so they are starting to buy cars, they are starting to buy motor scooters, they are starting to use energy. As a result, the demand for energy is accelerating dramatically. That is 2.2 billion more people than we have in the United States. So the simple math of it shows us we have to find more energy and we have to use less energy.

That is why amendments brought to the floor which are directed at finding more energy—such as oil shale, drilling offshore, and nuclear—need to be addressed. We need to discuss them. I cannot understand why the other side of the aisle refuses to do that.

I asked my staff to put together a chart which would summarize this in the most simple and stark way. Here is the chart. It is a big zero. It is a zero. Zero amendments are being allowed here. Zero new oil is being produced as a result of that. Zero new gas, zero new nuclear plants. Until we have some amendments on this floor which allow us to address these issues, we are still going to have zero as being the answer of the other party to how you produce more oil and more energy. It is not right. We should be getting down to the issue of what the American people want, which is to get the price of energy down by producing more and using less and producing more American energy rather than buying it from other countries that do not like us.

The ACTING PRESIDENT pro tempore. There is 10 minutes remaining.

Mr. MARTINEZ. The International Energy Agency painted a grim picture about the future. The report estimated that over 3.5 million barrels a day of new production will be needed each year just to hold the total production steady. So as India, China, and these other countries are rising in their demand, we need 3.5 million barrels a day of new oil just to keep the current standards of what we have. That is not just a U.S. problem, it is a global problem.

Mr. CORNYN. I thank my colleagues.

We are going to relinquish the floor to the Senator from Georgia for the final comments.

I would say in closing that I can anticipate what the argument is going to be when the majority leader comes out, and the whip—they are going to say it is all about Republican obstruction.

But the problem is, we have insisted we are not going home, we are not going to quit, we are not going to change the topic until we get an opportunity to vote on what we believe will have the most direct impact on reducing gas prices: increasing supply and offering all of the above that we have discussed during this colloquy this morning. That is our position, and we believe that should be a bipartisan position. We invite our friends on the other side of the aisle to join us in being part of the solution instead of being part of the problem.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I associate myself with the Senators from New Hampshire, Florida, and Texas, and would like to report an interesting occurrence that took place yesterday that kind of verifies exactly what Senator CORNYN said.

After the vote on the media shield motion to proceed, I went back to my office and placed two phone calls, one to the president of the Georgia Press Association, the other one to the president of the Georgia Broadcasters Association. I told both of them: We have had conversations about the importance of media shield, and I know both of you are very interested in it. But I want to explain why a few minutes ago I cast a ''no'' vote on a motion to proceed to media shield.

I said: The reason I did it, quite simply, is that for everybody in my State—and I would submit most everybody in the United States of America—the No. 1 issue is the high cost of energy and particularly the high cost of gasoline.

Both men, both professional journalists, both presidents of their associations, said: We understand.

The broadcasters said: Our talk shows are not calling in about media shield; they are calling in about the gas.

The president of the press association said: Listen, I understand. Read our letters to the editor. I listen at the coffee shop. I know what Georgians are concerned about. It is the high price of energy and the high price of gas.

So that is why I have remained committed to staying on the Energy bill until we find some way to bring Republicans and Democrats together. Both of us can give. I said in a speech the other day: We ought to put our donkeys and elephants in the barn and sit down and talk about ways to really meaningfully change the lives of the American people, not 20 years from now but today.

The country is hungry for a Congress and for leadership that will say yes to more production, yes to more conservation, yes to a better environment, yes to a productive economy, all of which would be the result of a comprehensive, balanced approach toward energy. But a singular slingshot approach or a rifle approach, like just speculation or just drilling or just something else—we have to do it all. We have to do it comprehensively. We have it within our capabilities to do it right.

As the Senators before me have stated, we have all kinds of resources. Many of these resources are not only abundant but they are cleaner than gasoline and they are cleaner than oil—nuclear energy, for example. In America, 19 percent of our electric energy is produced with nuclear; in France, it is 87 percent. Think about the difference that makes not only in the reliability and the cost of energy but the carbon-free emissions that come from nuclear versus the heavy carbons that come from the burning of oil or gas or coal or other sources.

Ingenuity and innovation. The American people are a remarkable people. When confronted with whatever challenge, we have almost always come up with a solution. But sometimes those solutions either take inspiration or they take encouragement. When we needed to go to the Moon and win the space race, we had the inspiration of a great President, John Kennedy, to declare a goal to land a man on the Moon and bring him back again before the end of the decade. We did not know how to do it, but we did it. We need a Congress that is just as bold today to say that $4 a gallon is too much for gasoline, carbon is too bad for our atmosphere, and fossil fuels are geopolitically not in our interest.

It is time that we as America find ways through engineering and ingenuity to invent and to develop and to process those sources of energy that are clean, renewable, reliable, and less expensive. And we can do it. But you cannot do it if you stand in gridlock on the floor of the Senate and the House of Representatives, unwilling to talk about all the issues.

We all have our biases and we all have our prejudices, but all of us take

an oath of office to represent the people of our State and to uphold the Constitution of the United States of America and defend the domestic tranquility of our people. When your economy is tanking, when your debt is going up because of your addiction to foreign oil, and Congress sits here for 2 weeks and debates only one sliver of the solution without everything, then we are not living up to our responsibility.

So if the Georgia Press Association understands, if the Association of Broadcasters understands, if the 17,488 people who communicated last week with my office about one issue—and that was cost of energy—understand, why can't we in the Senate understand? We are all in this together. We are 100 coequals. We all have the same responsibility. And we ought to all have the same goal; that is, to find a way to thread the needle so we sit down and we develop a comprehensive energy program for the people of the United States of America.

I did a talk show yesterday—actually, it was a television program where I was asked about this energy question. I was asked about the Arab oil embargo of the 1970s. I said that the Arab oil embargo of the 1970s was an early warning. It gave us a second chance to address the energy question. But when prices went down in the 1980s and 1990s and the price of gasoline was not that high, we did not take that chance. Well, now prices have spiked to an all-time high.

This is not a second chance for us in America, this is a last chance for us in America. A sustained cost of gas at $4 a gallon, oil at $120 to $150 a barrel will break the U.S. economy. It will destroy the value of the U.S. dollar, and it will hurt the people of the United States of America.

So it is time for us to put these prejudices aside, put them aside and sit down and be willing to agree. I will be the first person to lay on a table—I am willing to sit down and talk to anybody, anyplace, anywhere, about any singular facet of the energy crisis if they are willing to talk about the other facets of the energy crisis.

As Boone Pickens said, drilling will not solve it, but it will help. Solar will not solve it, but it will help. Wind will not solve it, but it will help. Renewables will not solve it, but they will help. What we have to do is put together the pieces of the puzzle that are within our grasp and make sure the people of the United States have abundant energy at affordable prices. We are sitting on a ham sandwich, starving to death. We are not developing the resources we have at our disposal, and because of that, our citizens are paying a dramatic price.

Anytime, anyplace, anywhere, let's start talking about solutions rather than continuing to perpetuate the problem.

I yield back any time we have remaining, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). 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.

Mr. REID. Mr. President, I ask unanimous consent that I have the floor at 2 o'clock for the purpose of a colloquy between Senators DURBIN, MURRAY, SCHUMER, DORGAN, and Senator REID.

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

Mr. REID. I don't think it will—we will have that happen at the half hour. I don't think we will use all the time. That is the Democratic time. We will just work the Republican time at 2:30 or 3 o'clock and thereafter.

Is there an order in effect now as to what will happen after lunches as to the allocation of time?

The PRESIDING OFFICER. The current order provides allocation of time until 12:30 p.m.

Mr. REID. I ask unanimous consent—if I could have the attention of the distinguished Republican leader, the time has been allocated until 12:30 today. So 11:30 is Republican time, from 12:30 to 1:00 would be the Republican time again; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. So I ask that the time be allocated every half hour until 5 o'clock tonight, and that I be recognized at 2 o'clock for the half hour of Democratic time under the conditions I mentioned.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I would also say that if we have any conference reports that we can agree on, whoever's time it is, we will interrupt and try to do that—if, in fact, we get an agreement.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. If we are in a quorum call——

The PRESIDING OFFICER. We are not in a quorum call.

Mr. COBURN. I think I have until 11:45, I believe.

The PRESIDING OFFICER. There is no order as to time.

Mr. COBURN. I thank the Chair.

The PRESIDING OFFICER. The Republicans control the time until noon.

Mr. COBURN. Mr. President, our side of the aisle has allowed me until 11:45 to speak.

KATY FRENCH

Mr. President, I am on the Senate floor for a lot of reasons at a lot of different times, but today is extremely unusual. I wish to spend the time talking about how important staff is in Washington. We are only capable of doing and accomplishing what we accomplish because we have staff here to help us.

I have had the great fortune over the last 3½ years to have someone on my staff who has displayed character virtues like none other I have seen in my career. She will be leaving my staff. Her name is Katy French. She has a master's in public health from Harvard. She has been on the front lines of HIV/AIDS since the epidemic came about. She worked for both Senator GREGG and Senator BROWNBACK. The characteristics about her that make her great—in Oklahoma we would say her ''plow runs deep.'' She is well-rooted in the principles of liberty.

What she has done with that principle is recognize that if you are free, and you have liberty and yet you don't spend your life helping other people, the liberty is for naught. So she has been a great example to me and my staff over the last 3½ years for her tireless dedication—which all on our staff have—and for bringing with that well-rootedness, that deep-rootedness, the ability to challenge a Senator, to tell us what she thinks even though we may not like it, to bring forth ideas that aren't in the conservative realm yet are humanitarian, great ideas, the ideas to help people. The people who know Katy French know she means business, but that business has always involved taking care of people.

One of the first things she did as my staff director on the Federal Financial Management Subcommittee was set up a hearing on malaria. What we know is millions of people today in Africa are being cured of malaria because we, in fact, changed that program. The oversight hearings we held changed the direction. I know the Presiding Officer of the Senate now, the Senator from Ohio, is very much interested in that topic. Through her work, millions of Africans are alive today who would not otherwise be alive because the program was changed where we actually made a difference.

I can't think of any greater tribute to an individual who comes to work to help us in the Senate than to measure the value of what they have done in terms of the lives that have been made better, made healthier, and have forgone a serious disease and dread. She also conducted more hearings in our subcommittee than any other committee or subcommittee in the entire Senate in the 109th Congress. Most staff directors of committees know—and subcommittees know—how hard it is to put together and hold hearings.

Probably the greatest tribute to Katy is the fact that she didn't stop with that. When the Pope was here in his visit this last year, he called on America's youth to reach out and make a difference. Katy is in the middle of her career. She has made a big difference in the Senate for three separate Senators. She has made a big difference in terms of the PEPFAR legislation—the original legislation and the legislation that we just passed and the President has signed. She listened to that call to make a difference. So it is

both a sad time and a happy time for me to know that Katy is joining a religious order to further her life in giving to other people.

She is foregoing money. She is foregoing material things. In fact, she will be in an order that was established some 30 years ago associated with the Catholic Church out of Argentina that she will dedicate the rest of her life to, making a difference—a real difference—in other people's lives.

She will be focusing on troubled urban youth. Her characteristics and multilingual talents will lead her in that direction. To me, the greatest compliment you can have as a Senator is to have a staff member leave for such a higher calling. For Katy and all of those who work in our office and on behalf of the Senate, and as a reflection of the rest of the staff of the Senate, we thank you for your efforts on behalf of freedom.

I thank you, Katy, for your efforts on behalf of our office and what we are trying to do for the people of Oklahoma. Most importantly, I thank you for your grasp of faith and what it means to truly give up your life so that in the words of that man from Nazareth: ''He who is last will be first.''

Katy French has lived that example. We will miss her.

I thank the Senate for the time.

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

The PRESIDING OFFICER. The clerk will 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.

AMERICAN ENERGY FREEDOM DAY

Mr. DEMINT. Mr. President, I rise today to invite my colleagues to join me in supporting American Energy Freedom Day on October 1, 2008.

On this day, the current prohibitions on oil and gas exploration off the Outer Continental shelf and in the oil shale fields of the West will expire, giving Americans the freedom to access their own energy reserves and providing them with relief from sky-high prices at the pump.

Estimates indicate there are upwards of 18 billion barrels of recoverable crude oil in the off-limit areas of the Outer Continental Shelf, as well as more than 55 trillion cubic feet of natural gas. In addition, estimates indicate that between 800 billion and 2 trillion barrels of oil can be drawn from American oil shale.

Taking advantage of American resources will increase the worldwide supply of petroleum and bring down prices at the pump. The very access to these resources will send powerful price-reducing signals to the futures market, providing immediate relief for all Americans.

For over 25 years, Democrats have denied Americans the freedom to access their own energy, making our Nation more and more dependent on foreign oil. Each year, they have continued the ban on American energy. Now it is time for them to get out of the way and open up American energy supplies.

I strongly encourage my colleagues to support Energy Freedom Day and allow the prohibitions on American energy exploration to expire once and for all. We must actively oppose any attempt to extend these bans on American prosperity and security. Now is not the time to deny Americans access to their own energy.

October 1 is going to be a great day for all Americans. I invite my colleagues to join me in supporting American Energy Freedom Day.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

RENEWABLE ENERGY

Mr. ENSIGN. Mr. President, I rise today to speak about the importance of renewable energy and addressing our current energy crisis in the United States. We need a comprehensive approach to our energy problems in the United States. Renewable energy is one of the answers.

Senator MARIA CANTWELL, a Democrat from the State of Washington, and I have been working tirelessly together, in a bipartisan way, to get a renewable energy bill passed through the Senate, passed through the House, and onto the President's desk for a signature. I applaud her for her efforts in this battle.

We passed our renewable energy bill—a bipartisan bill—back in April. We attached it to the housing bill that was done then. It passed this body with a vote of 88 to 8. Not too often around here do you see Republicans and Democrats joining together in such a bipartisan way. But it shows you the kind of support this body has shown toward renewable energy. Unfortunately, the Democrats in the House of Representatives blocked our renewable energy bill from being considered as part of the housing bill.

Once again, we attempted, in July, to get our amendment added to the housing bill that would expand renewable energy, such as solar, wind, geothermal, and other types of green energy to the United States. We would have been able to attach that to the housing bill if the majority party had allowed us to have that kind of a vote. Unfortunately, they used the excuse it wasn't paid for and that the House of Representatives—the Democrats in the House—would block our piece of legislation from being considered in the final package.

So we offered a compromise and we said, OK, we will pay for it, except that instead of raising taxes to ''pay for it,'' we will offer spending cuts. The Federal Government is too big anyway. We said let's have a very small ''haircut'' from nonveteran spending programs across the board. We will do across-the-board spending cuts—a tiny percentage.

Once again, the Democratic majority said no. It was very disappointing. We need to come together in a bipartisan way to address the energy needs of this country. Republicans have been saying: Let's do a comprehensive approach; let's include renewable energy and more conservation, but let's also pass a comprehensive bill that allows us to drill in places such as our Outer Continental Shelf. Deep sea exploration is a great way for us to bring more oil and natural gas to the United States, to make us less dependent on Middle Eastern oil.

My colleague from South Carolina talked about oil shale. Up to 2 trillion barrels of oil—which is three times more oil than Saudi Arabia has—is potentially available between Wyoming, Colorado, and Utah. Right now, we have a moratorium put on that. Why? Because the Democratic majority put that into law last year.

We need to repeal that moratorium so that progress can go forward to make us less dependent on countries that—frankly, a lot of them don't like us. Whether it is Hugo Chavez in Venezuela, or some of the other more volatile regions of the world where we get a lot of our oil today, those are not exactly the places where we should be sending our money.

Currently, the United States sends about $700 billion a year overseas, funding a lot of governments that are not our friends. We, as Republicans and Democrats, need to lay our party labels aside and become Americans. Let's do something that is right for the country. Let's bring more American energy production to America, so we are less dependent on other governments around the world.

I strongly believe we need to tap more of our coal reserves. That is one of our cheapest forms of power we have in the United States. There is exciting new technology for coal, called carbon recapture technology. Senator KERRY and I have a subcommittee—he is chairman and I am the ranking member—and we have done several hearings over the last couple of years on this carbon recapture technology to make coal even cleaner than it is today. That carbon recapture technology is exciting. We are talking about capturing 95 percent of all of the carbon produced by coal. It can produce more and more electricity for the United States.

When we are talking about battery technologies for cars, or hybrids, you can also produce more electricity so that we can take natural gas away from some of these powerplants and convert some of our cars to natural gas. All of this will lower the price of gasoline, because we will need less.

Today, the price of oil and gas is up so high because there is more demand than there is supply. The world is demanding more energy, including oil, than it is currently supplying. That is the reason the price has been going up. That is the reason prices will continue on their upward trend over the next

several years, unless we bring more supplies. I would like more of those supplies to be right here in America. I think that is the right thing to do. It is good from a national security standpoint, from an economic security standpoint, and it is good for the pocketbooks of ordinary Americans across our country.

I call on my colleagues to look at a comprehensive approach that would include renewables, more conservation, and looking for more American energy in the form of oil and natural gas. It is the right thing to do for the American people.

It is time for us to act and to quit playing more politics. The motto on the Republican side has been to ''find more and use less.'' Well, the only way we are going to be able to do that, frankly, is for the Democrats to talk less and start voting more. We need to have amendments that are fully debatable on the Senate floor, because there are answers out there. There are no silver bullets, but in a comprehensive approach, we can have answers to bring down the cost of gasoline in the United States.

Let's join together as Republicans and Democrats and act for the good of the American people.

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.

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

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

ONE-YEAR ANNIVERSARY OF THE I–35W BRIDGE COLLAPSE

Ms. KLOBUCHAR. Madam President, tomorrow at 6:05 p.m. Minnesota time, it will be exactly 1 year since the horrific collapse of the I–35W bridge. It is a day and a moment when all Minnesotans will always remember where they were. They will remember what they were doing, they will remember what they heard, and they will remember the pictures. Minnesotans will even remember the weather and what it was like that day because as if to symbolize what was to come, that warm summer day started with clear skies, but by late afternoon, dark and ominous storm clouds had begun forming on the horizon, with thunder rumbling in the distance. Then after the bridge collapsed, as if to provide relief for the rescuers, the storms retreated.

I know many people across America will also remember that day, and they will think about those who died and those who survived, miraculously, on that bridge.

I know my colleagues in the Senate will also remember. I thank each and every one of them for their tremendous sympathy and concern for the people of my State following the bridge collapse. On behalf of all Minnesotans, I wish to say how grateful we are for the bipartisan support in the days after that bridge collapse, the immediate funding for emergency relief, and then the funding for the bridge so that bridge could be built again.

This support from the Senate and the Congress helped lay the groundwork for the fast and efficient reconstruction of the bridge. In fact, a new bridge already spans the river. It is expected that by the end of the year, possibly within the next month or two, cars and trucks will again be crossing over the Mississippi River on the newly constructed 35W bridge. My home is only 6 blocks away. So my family and I look forward to, once again, driving across the 35W bridge.

Not only in Congress but across the Nation, the catastrophic failure of this bridge provoked deep concern that it might not be an isolated incident, that there might be a broader problem with bridges across the country. That is because a bridge should not fall down in the middle of America on the 1st day of August in 2007, especially not an eight-lane interstate highway, especially not one of the most heavily traveled bridges in the State, especially not during rush hour, in the heart of a major metropolitan area.

But on August 1 of last year, the 35W bridge in Minneapolis fell down. So tomorrow, 1 year later, we remember the 13 people who lost their lives on that bridge, and we remember the 145 people who were injured, many of them now living with serious and permanent injuries.

Tomorrow we also remember the many people—the police officers, the firefighters, the paramedics, the citizen bystanders who risked their lives by running toward that catastrophe and not away from it.

When I watched what unfolded that night, I was shocked and horrified. But as the evening wore on and the days went by, the entire world watched our State come together, and I was proud to be a Minnesotan.

We saw the heroes. We saw them in the face of unimaginable circumstances. We saw the off-duty Minnesota firefighter, Shanna Hanson, who grabbed her lifejacket. She was off duty, but she was among the first on the scene. She was tethered to a yellow life rope and she was in the midst of broken concrete and shards as she swam from car to car, in and out, in and out of that river searching for survivors.

We saw a school bus perched precariously on the falling bridge deck. I like to call it the ''Miracle Bus,'' perched on that falling bridge deck, on the side, ready to fall in. Inside were dozens of kids from a Minneapolis neighborhood who had been on a swimming field trip. Their bus was crossing the bridge when it collapsed. Thanks to the quick action of responsible adults and the kids themselves, they all survived.

Now, with the perspective of a year, what can we learn from this catastrophe? Well, first, the emergency response to the bridge collapse demonstrated an impressive level of preparedness that should be a model for the Nation. You can never feel good about a tragedy such as this, but I do feel good about our police officers, our firefighters, our paramedics, and our first responders. Look at the scene they came upon, this enormous eight-lane highway in the middle of the water, a storm above them, and they dove into that water and literally saved hundreds of people.

This week, the Hennepin County Medical Center, located only blocks from the bridge, was honored with a national award for extraordinary response to this crisis. As the Hennepin County attorney for 8 years, I remember meeting with the sheriff, the police chief, and other officials as we planned and practiced for disaster relief drills after 9/11. Even though no one imagined a major bridge would collapse, the result of all that planning and the preparation was evident on the night of August 1 when our survivors were quickly rushed to the hospital.

Second, we saw how important it was to move forward and build a new, safe bridge, and I will show you the bridge as it stands 1 year later. Again, it is 6 blocks from my house, so I have been able to watch its progress. You can see this bridge now. The last piece actually was just added, and it is spanning this huge river, the Mississippi River. It is an eight-lane highway.

So what happened in Washington? In 3 days, the Senate voted to provide $250 million in emergency bridge construction funding. Representative JIM OBERSTAR led the way in the House, and it was a bipartisan effort in the Senate as Senator COLEMAN and I worked together on the relief.

I personally thank Senator DURBIN and Senator PATTY MURRAY for assisting me with this. I still remember the day the Senate voted for a billion dollars for bridge reconstruction across the country, but it didn't include the funding for our bridge. I came in early, and I sat at my desk, and I said I wasn't going to leave until we got our amendment to fund the construction on our bridge. The pages and the chaplain came in, and the Senate was starting, and Senator DURBIN came and sat next to me and he said: Somehow I think you are here to do more than pray. He helped me, and we got that amendment through and we got it passed.

Approval of this funding came with remarkable speed and bipartisanship. Capitol Hill veterans tell us it was a rare feat to get it done so quickly.

What else can we learn from this bridge? Third, we must still get to the bottom of why this enormous bridge fell into the middle of the Mississippi River. It didn't happen because of a barge or some kind of electrical storm or tornado. It just fell down. Evidence is accumulating that the bridge's condition had been deteriorating for years

and that it had been the subject of growing concern within the Minnesota Department of Transportation. This wasn't a bridge over troubled waters, this was a troubled bridge over waters. Still, as a former prosecutor, I know we must wait until all the facts and evidence are in before we reach a verdict. We will need to be patient as the investigation continues.

Mark Rosenker, the Chairman of the NTSB, the National Transportation Safety Board, said the other day that the NTSB investigation is nearing completion and that a final report should be ready for public release within 100 days. Already, the NTSB has publicly released a number of documents, photographs, diagrams, and other evidence that are part of their investigation. We know this bridge had problems, and we look forward to the NTSB report to give us definitive answers.

Finally, the bridge collapse in Minnesota has shown us that America needs to come to grips with the broader questions about our deteriorating infrastructure. The Minnesota bridge disaster shocked Americans into a realization of how important it is to invest in safe, strong, and sound infrastructure.

As if we didn't know already, Minnesotans got a reminder a few months after the 35W bridge collapsed, because we learned another bridge of a similar design was inspected and found to be in serious trouble. That bridge is in St. Cloud, MN, a major regional city in central Minnesota, which is now closed with plans to replace it.

Unfortunately, it took a disaster to put this issue of infrastructure squarely on the agenda of this Congress. According to the Federal Highway Administration, more than 25 percent of the Nation's 600,000 bridges are either structurally deficient or functionally obsolete. That is more than 150,000 bridges. When 25 percent of all American bridges are in need of serious repair or replacement, it is time to act.

When we don't have enough money to build new bridges or repair the ones we already have, there is clearly a problem with our priorities. And when the American people question the integrity of the bridges they cross every day, we must act. Putting it all together with the bridge collapse in Minnesota, this should be a national call to action on infrastructure.

Senator DURBIN and I recently introduced the National Bridge Reconstruction and Inspection Act. This legislation has already passed the House and we hope it will move quickly in the Senate. This is only a start, but it is a good start, if the Senate will pass it and the President will sign it. I am hopeful it will get us headed in the right direction.

In closing, I note one final lesson. What happened a year ago in Minnesota reminds us that disasters can bring out the worst or the best in people. They can divide us or they can unite us. I believe the catastrophe, the collapse of the I–35W bridge, brought out the very best in Minnesotans and it united us. We joined together for the rescue, we joined together for the recovery, and we joined together for the rebuilding. I hope that going forward the ultimate legacy of the 35W bridge collapse can be something positive for our Nation. I hope it can bring out the best in all Americans and unite us as we address the pressing infrastructure issues facing our country.

Tomorrow, as we remember and as we grieve for the bridge victims and their families, let us also look ahead and move forward and take the action necessary to make sure that no bridge ever again falls down in the middle of America.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, how much time remains in this half-hour allocation?

The PRESIDING OFFICER. Nine minutes remain on the Democratic time.

Mr. DORGAN. Madam President, I came expecting to be recognized at 12:10, so I think what I will do, I believe my colleague from Minnesota apparently is seeking time as well. I assume my colleague from Minnesota is seeking time in the second half-hour allotted; is that correct?

Mr. COLEMAN. Madam President, I am seeking time to follow on the remarks of my colleague from Minnesota reflecting on the collapse of the bridge, but I will defer to my colleague from North Dakota.

Madam President, how much time is left in the majority's time?

The PRESIDING OFFICER. There is 8 minutes for the majority.

Mr. DORGAN. Madam President, let me, in the spirit of allowing the two Senators from Minnesota to be able to complete their discussion of the bridge collapse, which is truly a tragedy, let me ask unanimous consent that the Senator from Minnesota be recognized for that 8-minute period, and that the majority side be allowed to claim 8 minutes in the next half-hour, if that is what the Senator is suggesting.

The next half-hour belongs to the minority. If the Senator wishes to agree to a unanimous consent request that our side use 8 minutes in the next half-hour, I would be happy to have him go now.

Mr. COLEMAN. No objection, Madam President.

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

The Senator from Minnesota is recognized.

Mr. COLEMAN. Madam President, I first thank and applaud my colleague for the leadership she has shown in dealing with the challenges this Nation faces on infrastructure. We need to do something about it. She moved forward aggressively after the bridge collapse, and I joined her and applaud her for those efforts.

Like everyone who suffers loss, the people of Minnesota have come to a tragic anniversary, a hole in the calendar where we confront the pain of our past. Friday, at 6:05 p.m., we commemorate the moment when the I–35W bridge collapsed, taking the lives of 13, injuring hundreds, and disrupting the lives of untold thousands.

I have a few words to share as we observe this first memorial.

So much of what Minnesota was, is, and will become is tied to our rivers and bridges. Before the roads and the railroads, rivers were Minnesota's fluid highways through difficult terrain. European settlement followed the rivers. Because of Minnesota's unique geography, our rivers flow out toward all the points of the compass, which is why we call ourselves ''The Headwaters State.''

But rivers can be barriers as well as thoroughfares, so towns and cities grew up around bridges which allowed people to move perpendicular to the river flows. More than a century later, we are a State of river towns and bridge towns.

That is why the I–35W bridge collapse was so significant humanly and spiritually to Minnesotans. It fell not far from the Falls of St. Anthony, the head of navigation of one of the world's great rivers. It fell where Father Louis Hennepin became the first European to look on the area which comprises Minneapolis today. It fell where huge early 19th century flour mills, textile mills, lumber processors, and railroad terminals met to create an economic boom which put Minnesota on the map. It fell at the heart of our heartland.

It has been said that adversity doesn't create character, but it surely does reveal it. We witnessed that in the days following August 1, and it continues to this hour. Preparation is a virtue, and our Twin Cities learned the valuable lesson of 9/11, that we have to get ready for the unthinkable. When it happened to us, there was an extraordinarily well-coordinated response from law enforcement, medical institutions, and other first responders. The speed and professionalism of their actions are a textbook case of emergency response.

We also experienced amazing spontaneous acts of heroism. It is our natural instinct to run from pain and danger, and on this occasion, hundreds of regular Minnesotans ran toward the pain and toward the danger and saved many lives. In the days following the disaster, the 364 days preceding today, we have seen an unprecedented unity of effort among all branches of government and levels of government, without regard to party or position. Our single goal has been to raise a new bridge over our old river that we can be proud of and that we can trust, as the pictures shown by my colleague from Minnesota reflect. Our goal has also been to care for those who have been injured, and we have done that.

But this is a day to remember those who have been lost: Greg Joldstad of

far northern Kanabec County, a construction worker on the bridge; Sadiya Sahal, her daughter Hana, and her unborn child; Paul Eickstadt of Mounds View, 10 miles north of the bridge; Vera Peck and her son Richard Chit, who had an inseparable bond; Scott Sathers, a young husband of Minneapolis; Peter Hausman, a computer security specialist; Christina Sacorafas, of White Bear Lake; Julia Blackhawk of Savage, MN, 10 miles south of the bridge; Patrick Holms, also from Mounds View; Sherry Engebretsen, a wife, mom, and businesswoman from Shoreview; and Artemio Trinidad-Mena of Minneapolis.

I ask my colleagues to join me in a moment of silence and reflection in their honor.

(Moment of silence observed.)

Madam President, sometimes a meaningful silence is the only answer.

I conclude with the ancient words I have prayed many times this last year, the Hebrew Kaddish, prayed by Jewish mourners for centuries. It ends as follows:

May there be abundant peace from Heaven and life upon us all and upon all Israel, now say amen. He who makes peace in his heights, may he make peace upon us all and upon his Nation, Israel. Now say amen.

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 legislative clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Madam President, we may be hours or a day away from adjourning for the August recess. At the same time, many of us have said there is no more important issue for this Senate to be dealing with than the issue of energy and the price of gas at the pump. For the last year, the American consumer has gone through increasing price shocks as they have seen more and more of their family budget left at the service station or gas station every time they fill the family car. First it was $15, then $20, then $25, then $30, $40, $50, and in some instances now and in certain locations $60 to fill the family car. If that family car is also the vehicle in which they commute to their workplace and they have to fill it several times a week, it has become a dramatic hit on the American family in a way that has now clearly registered in polling across our country and in what we are hearing every day in our phone calls coming in from those distressed Americans out there who are paying more for energy than they ever have before.

That is just one side of the energy equation. Our whole world, our whole economy runs on energy. The cost of that energy in that economy has to be felt—whether it is in the heating of the home or the processing, manufacturing, or growing of food. All segments of our economy feed on energy and feed, basically, on gas or hydrocarbons that are reduced into gas and diesel and oil and plastics and the refining of energy. All of them have also become factors for which the average American—and certainly the average Idahoan—is paying now at a higher price than they have ever paid.

In my great open Western State of Idaho, we travel long distances. The majority of our people do not live downtown, don't live in the suburbs. They live out in the countryside. Going to town is a trip that is not unusual to rack up 50, 60, 70, 80 miles. I grew up on a ranch that was 30 miles from the nearest community. It was not unrealistic, when my mother went to town to acquire groceries or do the family shopping, to travel 60 or 70 or 80 miles in one round trip. That still goes on today in many of our Western States. So the cost for that family has gone up dramatically, also, simply by the character of where we live.

Yet, for the last 2 weeks, in an effort to try to deal with this issue on the floor of the Senate by allowing the offering of amendments that would in many ways cause production to begin once again in this country in locations where we know oil exists today but they have been taken off limits for political reasons—in that debate over the last 2 weeks, the leadership, the Democratic Party, the majority leader has stopped us from doing so on at least six different occasions.

Why, I am not sure—why any leadership of the great Senate would stop this Senate from doing what the American consumer and the American voter are asking for is largely beyond me. I could speculate—and I have, on numerous occasions, in speeches on the floor over the last several weeks, as have my colleagues. But one thing is clear: On six occasions, the majority leader, the Democratic leader, has said: No, we will not proceed to offer amendments to allow or to cause this country to become once again a producing nation.

Now we are about ready to try a seventh time. I am told that on the Defense Authorization Act, cloture has been filed. That is a procedure we use here in the Senate ultimately to force a vote on whether we will proceed to go to Defense authorization. We could vote on that today if we all agreed or we could vote on it tomorrow, as the cloture motion ripens—the term we use here in the Senate when all time has run out. I know what our vote is going to be. As important as Defense authorization is, we are going to say no. There is something even more important today to every American than that Defense authorization; that is, the price of energy at the pump which is literally sucking the family budget dry.

What do we do? My guess is we are going to adjourn for the August recess having done nothing. Every Senator here is going to go home. I hope they go home to explain to their voters and to their State why they would not vote for increased production; why they will not allow this great country of ours to get in the business of producing energy once again.

The President has responded. He removed the moratoria he had placed on Outer Continental Shelf drilling. Prices dropped a little as a result of that. Yesterday, the Interior Department initiated a 5-year oil and gas leasing program for the OCS. They are preparing, if we act, to expedite and allow these areas in which we believe production can go on to go on there sooner. We have heard the argument here on the floor that it is 5 or 6 or 7 years away. No, it is not. In many areas, it could be as short as 2 or 3 years. And the anticipation of coming into the market in 2 or 3 years, in nearly everyone's opinion who understands oil markets—they would tell you it would bring the price of that product down now in the market.

The price already is coming down—not because of our actions but because of a beleaguered consumer out there who simply cannot afford the price anymore. That consumer and his or her family are already making decisions to shrink their travel and shrink their gas budgets. They are doing so.

In the last 4 months comparable to the 4 months of a year ago, the American family has driven 40 billion fewer miles. They didn't want to, they didn't want to alter their lifestyle, but they did. The reason they did is they just simply did not have the money to go forward. The price began to drop. Across America today, the gas price in many States has now dropped below $4 a gallon.

You see the marketplace is out there, and what we have said about supply and demand is true in the market even though here in the Senate the action to deny production is to deny that the marketplace exists. What is going on today across America is living proof that market exists.

What can we do? If we were able to act as we have asked our majority leader here in the Senate to allow us to do, we could gain access to what we believe is about 30 billion barrels of known oil reserves in the Outer Continental Shelf. We think there is an additional 85 billion barrels of undiscovered resources out there, simply, if we are allowed to explore and develop the resources we know are there that are off limits today—if.

If I were allowed to offer an amendment, here is the amendment I would offer. I would go to what we call the eastern gulf that is now off limits and I would say: 50 miles out from the shoreline along Florida in the eastern gulf, this would be open for leases. We believe there are over 2 billion barrels of oil out there and trillions of cubic feet of gas. Right across here are the pipelines and the infrastructure we could connect to, which would go into

the refining areas in Louisiana and Texas.

Doesn't that make sense? Even Floridians who once said: No, we do not want any drilling, are now by their latest polling saying: Yes, we do, because we, too, are going broke at the pump. We want an opportunity to do so.

Of course, what Floridians know is that if oil is discovered here, they will share in the money that comes from it, and that can go into their educational programs and their State budgets and potentially reduce the tax burden on the average Floridian, along with bringing the price of gas down at the pumps in Florida.

I have offered that amendment. I filed that amendment at the desk. Yet the majority leader of the Senate has said no, that amendment will not be offered.

Ultimately, it will be offered. Ultimately, someday the voter is going to say: We have had enough of this. We are not going to stand by and let the Senate of the United States block us from the resources that are ours as a nation, that need to be developed, that can bring the price of energy down.

It is a pretty simple equation and, as many of us have said, this is an interim solution. Many of us have called it a bridge to the future. The Energy Policy Act we passed in 2005, and the new Energy Policy Act we passed in 2007, already the Senate of the United States was recognizing that the day of a nation living exclusively on oil as a form of transportation energy was a day that would ultimately end and that we would invest in hybrids and electric-powered cars and new technologies.

I am very proud, in my State of Idaho, that, in part, we have led those kinds of technologies in our national energy laboratory in Idaho Falls. Hydrogen cars and hydrogen initial combustion vehicles and full-sized electric cars have been experimented with and are being developed at that laboratory and in other facilities across the Nation.

But that is not going to be available tomorrow. It takes billions of dollars and 10 or 15 years for a lot of this new technology to come online and be available to the American consumer. So do we sit idly by and allow the family budget to be drained away? Do we sit idly by and buy from foreign nations the billions of barrels of oil we currently buy from them and pay $1.2 billion a day to a foreign nation and drain not only our family budgets dry but our national treasure?

It is a phenomenal dilemma we have put ourselves in. As you note, I used the word ''we'' put ourselves in because it is folks on the floor of the Senate and the House of Representatives across the Rotunda from us who have put these properties off-limits, who have put Alaska's oil off-limits, all in the name of the environment.

We caused this crisis, and American families now know it. Eighty percent of American families and consumers out there are saying: Congress, fix it. For 3 weeks we have been on the floor trying to do that, and every time we try it, we are denied that opportunity in the raw name of politics.

Well, we are about to go home. I hope in the raw name of politics, America's voters rise and say to their politicians: Go back to Washington and do your work and do it in a way that allows this great Nation of ours to once again become a producing Nation, not just a consuming Nation.

We know the resources are there. Our national geologic survey says they are there. We know they are there because they have been put off-limits in the name of the environment years ago when gas was cheap. But many of us who have worked in this area for a long while said the day would come when there would be a break point and no longer would America be sitting with cheap energy available in an unlimited way. That day is here.

Yet, politically, we are bound up. We cannot move. I guess we will now not move to do what we ought to be doing for the American consumer, acting and allowing these resources to become available so we can develop them in a safe and clean environmental way for the American consumers to use.

This is a challenge for all of us, but it is a challenge we are capable of meeting if we simply surpass the politics of the moment and get on with the business of this great country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, are we in morning business at this point?

The PRESIDING OFFICER. We are on the motion to proceed to S. 3001, and the minority side has the 10 minutes until 1 o'clock.

Mr. WARNER. I ask unanimous consent that I might use a portion of that 10 minutes to proceed as in morning business.

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

## HONORING KOREAN WAR VETERANS

Mr. WARNER. Madam President, this week our Nation, and indeed nations throughout the world, paid our reverence to the men and women of a past generation who fought so valiantly to provide freedom for the Southern portion of the Korean Peninsula. They fought under the Commander In Chief at that time, President Harry Truman, a courageous man.

It has been 55 years since that conflict. Today, the Senate Armed Services Committee held an extensive hearing on the current status of the Korean Peninsula, most specifically the progress we are making, in my judgment, with respect to North Korea.

I played a very modest role in that war as a young Marine Lieutenant, for a period, 1951–1952, but my contribution and participation is of little consequence when you look at the extensive casualties our Nation took in that conflict.

The total deaths were 36,574, the total wounded over 100,000, and 1.7 million-plus men and women in the Armed Forces were in and out of that theater to preserve freedom.

Today, South Korea is a flourishing nation, one with a very strong economy. It ranks, I think, 11th worldwide. It is a partner in world affairs in terms of its strategic importance and, clearly, a participant in trying to secure freedom for others on that historic peninsula.

I do hope, as the Senate begins to finish its work prior to the August recess, the Chamber will consider the nomination, which I understand is pending, of Kathy Stevens, a career diplomat of many years who has been nominated to become the new Ambassador to South Korea.

I had the privilege of visiting with her, and I certainly felt that, in every respect, she is eminently qualified to take this important post.

I wish to thank Ambassador Hill this morning, because he addressed a number of issues, most notably the question of the deprivation of basic human rights by North Korea to so many of its citizens. I support Ambassador Hill in his endeavor, and colleagues on both sides who, in the course of the hearing this morning, expressed our concerns about the human rights of individuals in North Korea and the environs. Senator BROWNBACK, an internationally recognized spokesman on behalf of human rights, took an active role in today's hearing.

I wish to note that Senator MIKULSKI and Senator CARDIN from Maryland, Congressman STENY HOYER, and I met with a group of Korean war veterans who came to the Hill to talk, to memorialize the sacrifices of so many of their fellow service persons of that generation.

I am so humbled and privileged to have had that very modest, brief, tour of service with that generation. My service was inconsequential compared to the extensive loss of life and limb by others during this conflict.

But I do urge America not to forget those who served in Korea. The war is often referred to as the ''forgotten war.'' But they laid the foundation for the current freedoms in South Korea. Indeed, Harry Truman's decision to stop the spread of communism on that peninsula saved other small nations in the region. Today, those countries might not have the freedoms, they now have, had it not been for the sacrifices of the men and women of the U.S. Armed Forces, and other nations fighting under the ''banner'' of the United Nations Organization.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HONORING REVEREND FRED SHUTTLESWORTH

Mr. BROWN. Madam President, a few days ago the Birmingham, AL, airport announced plans to rename the Birmingham International Airport after Reverend Fred Shuttlesworth.

I rise to honor the work of activist, legendary civil rights leader, the Reverend Fred Shuttlesworth. For more than 60 years, Reverend Shuttlesworth has fought passionately for racial equality and social justice in our great country.

Born in Birmingham, AL, Reverend Shuttlesworth became involved in the civil rights movement as a young pastor. He organized sit-ins and boycotts. He challenged the injustice for decades of Birmingham's Jim Crow laws, despite attempts on his life, and there were many by the Ku Klux Klan.

In spite of repeated arrests, attacks by police dogs and firehoses, Reverend Shuttlesworth simply refused to back down. In 1957, Reverend Shuttlesworth joined the efforts with Dr. Martin Luther King, Jr., and Ralph Abernathy to form the Southern Christian Leadership Conference. Members of the SCLC fought side by side to increase educational opportunities, to promote voter registration, and to promoting equality of opportunity for African Americans throughout the country.

In 1961, Reverend Shuttlesworth took up the pastorate of Revelation Baptist Church in Cincinnati, OH, and continued his campaign for racial justice.

Bringing the same fearless opposition to segregation he had displayed in Birmingham, he joined forces with other Black ministers to make William Lovelace the city's first African-American judge.

For greater than a half century, Reverend Shuttlesworth spoke out against injustice. He has worked to increase minority representation in city government, he has expanded minority hiring by the local police department, and worked to improve access to housing in Over-the-Rhine, an area of Cincinnati, for needy families and throughout Hamilton County.

Reverend Shuttlesworth has made great personal sacrifice, risking his life, risking his own health and the health of his family, so every American, without regard to race, would have access to equal opportunity to succeed.

I announced my campaign for the Senate in 2005 at the church of Reverend Shuttlesworth in Cincinnati. I consider him a friend. I have met him many times over the last 15 or so years. He took me one day to a small room in his church, a room he called a museum. It was a room dedicated to the civil rights movement. It had so many wonderful examples of his courage, his bravery, his accomplishments, and the accomplishments of so many people he worked with to promote social justice, to promote economic justice, to promote civil and human rights.

For that, I am especially proud of Reverend Shuttlesworth. I am especially proud of the role he plays in Cincinnati, always battling for racial justice. I am proud the Birmingham, AL, airport has named their international airport after the Reverend Fred Shuttlesworth.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ENERGY

Mrs. MCCASKILL. Mr. President, I have been presiding in the chair listening to some of our friends across the aisle talk about oil and gas prices and lamenting that we may go home without taking action. I was blessed to be home yesterday and had the chance to be in rural Missouri. I talked to a lot of people who represent the heart of our country.

I will tell my colleagues what they have figured out. They have learned to look beyond everybody talking about this stuff and to figure out who wants what. This is simple for the American people. All they need to do is ask about the solutions and who wants them.

The Republican Party says there is only one solution. Even with the 68 million acres they are not touching, they only need to have another 10 or 20 million acres and our problems are over. Who wants that? Big oil.

What this town has done for decades is give big oil everything it wants. This administration has given big oil everything it wants. For 25 years, big oil has had its way with the Congress. The solution they are proposing is, once again, giving big oil its way.

I don't know how one can look at today's financial news and not shake their head. ExxonMobil with $12 billion in profits, announced today, in the last 3 months; $11 billion the quarter before. They want to give ExxonMobil another tax break, and they want to give ExxonMobil what they want moving forward.

It is very simple. We got in this mess because the Republican Party continues to do the bidding of big oil. We will only get out of this mess if we turn our back on big oil and start doing what makes sense for the future. If only we had been willing to say no to big oil in 2000, 2001, 2002, 2003, 2004, and 2005, when the Vice President had 40 meetings with big oil executives and one meeting with alternative fuels people.

It is time we say no to big oil. America is sick and tired of being handcuffed by the demands of big oil.

Democrats say no to big oil. We say yes to getting out from underneath big oil. We do that by extending tax credits for solar and wind, to which Republicans keep saying no. Of course, they keep saying no to that; big oil doesn't want that. They called big oil. Big oil said no; they say no.

We say: Let's do more alternatives and invest in technologies that will rid us of our dependence on foreign oil. America has 2 or 3 percent of the world's oil and she consumes 25 percent. We will never drill our way out of this. The only way we will find relief for the American public is to say no to big oil.

It is time. They to have muster the courage. The sky will not fall if they will only stand and say, for the first time on that side of the aisle, no to big oil.

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

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

NATIONAL INFRASTRUCTURE

Mr. DODD. Madam President, I come to the floor today to remember the terrible tragedy that occurred 1 year ago tomorrow in Minneapolis, MN, when the bridge carrying Interstate 35W over the Mississippi River near downtown Minneapolis abruptly collapsed during the evening rush hour. At least 50 vehicles plunged some 60 feet into the Mississippi River, killing 13 people and injuring dozens more.

As we approach the anniversary of this devastating event, my thoughts and prayers and those, I know, of all our colleagues are with the victims and their families, with Senator KLOBUCHAR, our colleague, Senator COLEMAN, Representative ELLISON, whose district the bridge is in, and all those affected by this terrible tragedy.

The people of my own State of Connecticut can sympathize in a direct way with the people of Minnesota, as they prepare to remember: 25 years ago, a bridge carrying Interstate 95—the main thoroughfare along the east coast of the United States—over the Mianus River in Greenwich, CT, abruptly collapsed in the early afternoon. Four vehicles plunged into the Mianus River, three people lost their lives, and others sustained serious injuries. It remains one of the worst transportation disasters in my small State's history.

The tragedy in Minnesota is the most recent example of our national infrastructure crumbling before our very eyes. Indeed, this is not a problem that only affects Minneapolis or Connecticut or—in the case of last year's steampipe eruption—New York City. These are problems affecting every single State, every single county, every single community in our Nation from San Diego, CA, to Bangor, ME.

For far too long, we have taken all our infrastructure systems—our roads, bridges, mass transit systems, drinking water systems, wastewater systems, public housing properties—for granted. For far too long, we have failed to invest adequately in their long-term sustainability. Today, we find ourselves in a precarious position concerning their future viability—a precarious position that is costing lives and jeopardizing the high quality of life we have come to enjoy and expect as American citizens.

The Federal Highway Administration estimates that 152,000 of the Nation's bridges are either structurally deficient or functionally obsolete. Put another way, one out of every four bridges in our Nation is in a state of serious disrepair. The American Association of State Highway and Transportation Officials estimates it would cost some $140 billion just to repair the 152,000 bridges that are in that condition.

The life-threatening problems are not confined to bridges. The National Highway Traffic Safety Administration reports that approximately 14,000 Americans die each year, at least in part, because our roads and bridges are no longer up to the task.

Congestion on our highways causes tons of carbon dioxide and other pollutants to be pumped into the atmosphere every day. These emissions compromise the health of children and adults and contribute to global warming, which poses immense risks to the future of all of us. This congestion on our highways stems from the absence of mass transit systems or other adequate means to move people.

Tens of millions of Americans receive drinking water in their homes every day from pipes that are, on average, over 100 years old. In our Nation's capital city, in the area of Georgetown—one of the city's most affluent neighborhoods—wastewater is still conveyed through wooden sewage pipes constructed in the 19th century.

In the city of Milwaukee, over 400,000 people were sickened several years ago with flu-like symptoms caused by a strain of bacteria in the municipal drinking water system of that community. The bacteria strain was eventually linked to inadequate treatment of the drinking water.

It is not just our health and safety that is affected by our crumbling infrastructure; in fact, our national prosperity is at stake. From the days of the Roman aqueducts to the present, a nation's ability to grow and prosper has always relied upon its ability to effectively move people, goods, and information.

Ask any American today how we are doing in achieving this objective, and chances are the response would be the same: We are not doing very well, and we could be doing substantially better.

When the average American spends 51.5 hours a year—more than 2 full days of one's life, per year—stuck in traffic congestion, then I think we can do better. When one out of three of our roads is in poor, mediocre, or fair condition, then I think all of us would agree we can do better. When the United States invests less than 2 percent of its gross domestic product on infrastructure, while nations such as China and India—the major competitors of this country in the 21st century—invest between 7 and 12 percent, then I think all of us recognize we need to do better or we are going to find our country in a very weakened position very quickly. Infrastructure is not something you can correct overnight. The investments need to be made. It takes time to do it right. We are almost to the second decade of this century, and we remain way behind in this area.

Tomorrow is also the 1-year anniversary of the introduction of the National Infrastructure Bank Act that I have offered along with Senator CHUCK HAGEL of Nebraska. It is a bipartisan bill that has gained a number of cosponsors over the last year, and we would like more.

The Infrastructure Bank would establish a unique and powerful public-private partnership to restore our Nation's infrastructure. Using limited Federal resources, it would leverage the significant resources, both at home and abroad, of the private sector. If we don't talk about how we are going to finance this, it is not going to happen.

Madam President, I ask unanimous consent to proceed for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. We need to come up with a financing mechanism. We all understand the need for doing this. I think all of us recognize as well that we are not going to talk about doing this out of the appropriations process alone. There are not enough resources there to meet the $1.6 trillion currently needed to repair decaying infrastructure. We need a better mechanism to finance this. Senator HAGEL of Nebraska and I have worked with the Center for Strategic and International Studies over the last 2½ years, along with Senator Bob Kerrey, the former Senator of Nebraska; Warren Rudman, the former Senator of New Hampshire; Felix Rohatyn, a well-known business individual from New York who is almost certainly responsible for getting New York City back on its feet years ago; and John Hamre, a former official at the Defense Department, and we have constructed a means by which a limited amount of Federal dollars could attract massive amounts of private capital to allow us to really begin this work.

Absent some idea like this—and we think this is a good one—then year after year we can give speeches about our infrastructure, but nothing much will happen. This bill is designed to deal with regional and national needs, not local ones. We leave those up to the local municipalities.

We need to once again recognize that to grow as a people, to have our economy grow and provide the jobs and fulfill the aspirations and hopes of many Americans, we have to grow as well in our capacity to handle that kind of growth. The infrastructure needs of our Nation are daunting.

So on this tragic anniversary of the events in Minneapolis and the reminder of what occurred in my own State, as well as the recognition of what is occurring every single day all across our Nation, my hope would be that in the coming Congress, whether we are talking about a McCain administration or an Obama administration, that infrastructure would be a high priority for our country, that we get on that track together, as Democrats and Republicans, and come up with some creative ideas on how we can invest in this needed aspect of our economy.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. SALAZAR). The Senator from Louisiana is recognized.

ENERGY

Mr. VITTER. Mr. President, I rise to urge action on what is clearly the single top priority, the single top challenge for American families; that is, sky-high gasoline prices and energy prices.

In the real world, in every State of the Union, families are struggling with this enormous additional burden. Gasoline prices, the prices at the pump—all energy prices have obviously gone through the roof in the last several months. Yet, even faced with this true crisis, even faced with this outpouring of hurt on the part of the American people and call for action, we are not yet acting. We are not yet acting as grownups. We are not yet coming together. We are not yet acting on the issue. I urge us to do just that and to simply act in a full, bipartisan, and balanced way on what is clearly the single biggest challenge facing Louisiana and all American families.

The good news is that at least there has been an energy-related bill on the floor of the Senate which has been the pending business that I think goes back to Tuesday, July 22—almost 2 full legislative weeks ago. The bad news is the distinguished majority leader has blocked all attempts to have an open debate and an open amendment process about energy.

That bill—his bill—about the limited issue of speculation—and I urge us to act on speculation, but we clearly must act on other things as well—that speculation-only bill has been the business at hand on the floor of the Senate for almost 2 legislative weeks, and yet we haven't had a single amendment considered, certainly not a single vote on an amendment. What an enormous lost opportunity. What an enormous example of pure obstructionism in Washington and the sort of gridlock people are sick and tired of when the country truly faces a crisis. American families face enormous challenges based on energy prices. We need that real debate.

We need that open amendment process. We need to act as grownups. We need to come together and act on energy.

It is in that vein that I suggest two very specific things. First of all, in less than 24 hours, I assume there is going to be some move for us to go home for August. I don't think we should until and unless we take some reasonable action on energy. I believe it is a derogation of our responsibility to go home for any length of time when this crisis is hanging out there and this institution is failing to act. I think we should stay here and work. We should stay here and act in a fair and in a balanced way.

We should consider a host of issues—yes, including speculation, but also fundamental issues that go to supply and demand on both sides of that equation: conservation, yes; greater fuel efficiency, yes; new technology, yes; renewable sources of energy and alternative sources of energy, yes. Also, we should be doing something on the supply side: finding more here at home and using our resources we do have right here at home. So I am against going home, going off on vacation, going on the August recess—however you want to put it—when we are not acting on the top priority and concern of the American people.

Secondly, I certainly oppose moving off this topic, which has been what the distinguished majority has tried to get us to do over and over again. We will have an upcoming vote—his latest attempt to get us off this topic. He has filed a motion to invoke cloture to proceed to the Defense authorization bill. Defense is an extremely important issue, particularly in this time of war and terrorist threat. However, I can tell my colleagues the reaction the American people have to this choice of energy versus Defense authorization. They have the same reaction I have: Staying on energy, acting on energy in a meaningful, bold, positive, balanced way, is the single most important thing we can do to improve our security, to improve our defenses. Quite frankly, that is far more important for national security and for defense than any Defense authorization bill. So surely we should reject that attempt to move off the subject to take this vote and move to the Defense authorization bill when the single biggest issue that not only faces American families and hits their pocketbooks but also the single biggest national security issue is energy.

So, again, I urge us to reject that attempt once again to move off the subject. We need to stay on energy but, more importantly, we need to act on energy. We need to reject that cloture vote. I urge us to stay here and work and act rather than go off on any August recess. We must address this crucial energy issue.

As so many of my colleagues, I have important amendments on the topic. I specifically filed seven amendments. Those amendments address a number of key issues and a number of key questions, but they are balanced. They are not just about drilling because we can't just drill our way out of the problem. They have us use less and find more at the same time. That is exactly the sort of balanced approach we need, as I said a few minutes ago. Yes, use less. Yes to conservation. Yes to greater efficiency standards. Yes to new technology. Yes to renewables. Yes to biofuels. Yes to alternative fuels. Also, at the same time, yes to accessing greater supply right here at home, to accessing that energy we have here offshore, in Western States in shale deposits and elsewhere, to help ourselves rather than have to go beg, hat in hand, to Middle Eastern countries to cut us a break. We need to do all of the above. We need to act on the demand side and the supply side to stabilize, bring down prices, and help American families with this, their top challenge and their top concern.

I have seven amendments. Unfortunately, under the rules of the game that the distinguished majority leader has laid out, I haven't come near any opportunity to call any of those amendments up, and certainly I have not been able to have a vote on those amendments. The majority leader at one point offered four votes on the entire issue; none of them would have been on my amendments. He then rescinded that offer, so we are back to an offer of zero amendments and zero amendment votes.

Let's get serious about a serious challenge facing American families. Let's not only be on the topic on the Senate floor—so what. Let's act on it in a grownup way, in a bipartisan way, in a balanced way, addressing supply and demand, using less and finding more right here at home. Let's take up not just my amendments but any good ideas for debate and consideration and votes, and let's act on the single greatest challenge facing Louisiana families whom I represent and American families across the Nation. Surely we shouldn't vote to move to any other topic when we still have this tremendous challenge not acted upon.

I think we shouldn't run home for the August recess to vacation or even to talk with our constituents when this enormously important pending business is not acted upon. Let's stay here. Let's work. Let's come together. Let's act for the American people. It is perfectly obvious to them that this is our greatest national challenge. This is their greatest personal and family challenge as they try to live their real lives in the real world. We have to get that message and act on it here in Congress.

Mr. President, with that, 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.

Mrs. DOLE. 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. DOLE. Mr. President, the Federal Government has more acronyms for more Federal agencies that produce more economic statistics than anyone can reasonably be expected to comprehend in a single sitting. We have the Office of Management and Budget, the Congressional Budget Office, the Bureau of Labor Statistics, the Bureau of Economic Analysis—just to name a few.

These agencies produce a wealth of information that we use to inform our policy decisions with facts and expert analysis; but I often find that the best advice I get on matters of public policy comes not from these experts and their reports, but from the wisdom and sincerity of North Carolinians who write to me.

I received a letter recently that I think gets to the heart of our energy debate here in the Senate. It comes from a retiree who is living on a fixed income from his life savings, who resides in Lake Junaluska, North Carolina, a picturesque mountain town of 3,000 situated on a pristine mountain lake. I used to go to church camp there almost every summer when I was growing up.

''Too much energy,'' the letter reads, ''has gone into rhetoric and not enough into actually doing something about it. We have so many brilliant leaders and the ability to make major transformations, so let's concentrate on action and do whatever it takes to reduce our dependence on foreign oil.''

My friend from Lake Junaluska is right. Indeed, too much energy in this energy debate has been spent on partisan rhetoric, and not enough on delivering real solutions to provide Americans with relief from these record high gas prices.

Both sides bring important and worthwhile ideas to this debate. On one side, we see a focus on conservation and cracking down on alleged bad behavior in the energy market. On the other side, we hear more about energy exploration.

There is no ''silver bullet'' that can solve our energy woes. We need every option on the table. We need to throw everything and the kitchen sink at our energy crisis. Conservation. Alternative energy. Energy exploration. Market fairness.

There is no reason we can't develop a comprehensive strategy that includes the best ideas from both sides of this debate.

The bottom line is that high gas prices are driven by too much demand and too little supply. Last year, global demand exceeded global supply by roughly one million barrels per day. Because of that, families in my home State of North Carolina are having to pay 30 percent more to fill their tanks than they did just 1 year ago.

To truly solve this problem, we have to tackle both the demand side and the supply side. We need to find more and use less.

On the demand side, we need to make major investments in alternative energy research and take a crash course in conservation.

That is why I introduced legislation last week to repeal roughly $17 billion in tax breaks to oil companies, and pour that funding into alternative energy research. With the price per barrel of oil at record highs, the market is providing petroleum producers all the incentive they should need to produce more oil. So, that funding would be better spent by investing in alternative sources of energy that are the key to our energy future.

In the near term, we could also help decrease demand by incentivizing the purchase of hybrid and other clean fuel vehicles with point of sale rebates and by investing in better transit systems.

While decreasing demand and investing in alternative and renewable forms of energy is certainly a necessary part of any comprehensive energy solution, it is by no means sufficient. We cannot simply conserve our way to energy independence.

We must also increase supply by making better use of America's vast energy resources. We should open up 2,000 out of 19.6 million acres in ANWR to energy exploration. We should capitalize on our immense oil shale reserves, which could produce three times as much oil as Saudi Arabia's proven reserves. And we should also allow the States decide whether or not to permit offshore energy exploration at least 50 miles off their shores on the Outer Continental Shelf, where we could gain access to billions of barrels of oil.

Of course, some will argue that bringing these energy resources online will take years to complete, and won't help provide the immediate relief that folks need. But, if anything, that means we cannot afford to let another day pass without pursuing them.

After all, if President Clinton hadn't vetoed legislation in 1995 to allow energy exploration in ANWR, our current energy shortfall would already be reduced by roughly 1 million barrels per day.

To provide immediate relief, we can release one-third of the strategic petroleum reserve to inject some much-needed supply into the markets, which will drive down prices in the near term and send a signal to market speculators that the American Government is dead serious about lowering gas prices.

Because of enormous and unprecedented economic growth in developing countries like India and China, it is imperative that in this debate we keep our eyes fixed firmly on the ultimate goal of ending our dependence on foreign oil altogether. Facing an ever-dwindling global supply of oil and ever-increasing global demand for energy, this is not a goal or a debate that we can take lightly. When it comes to securing America's energy future, partisan politics need not apply.

To lower gas prices and reach our ultimate goal of energy independence, we need every option on the table—everything and the kitchen sink.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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.

UNANIMOUS CONSENT REQUEST—S. 3044

Mr. REID. Mr. President, 92 times this session, which is now in its 19th month, Senate Republicans have filibustered critical legislation, everything and anything to maintain the status quo. Of course, it is an all-time record, 92 filibusters. It is more than 100 percent of what has been done in a full Congress—that is 2 years—and this has been done in a year and a half.

For those unfamiliar with the language of the Senate, a filibuster is a stall tactic to give a Senator more time, but it prevents the Senate from debating legislation. A filibuster is not a ''no'' vote in the true sense of the word. It is an objection to even having a vote. A filibuster cuts off debate before there can even be a vote. Most importantly, it cuts off negotiation and compromise.

Ninety-two times and more than 100 percent than has ever been done before, Republicans have filibustered America's priorities. Republicans have shown no favoritism on whom their filibusters harm the most. They have filibustered our troops, veterans, children, working families, small businesses, elderly, disabled, and recently stroke victims, those suffering from paralysis, those suffering from Lou Gehrig's disease. The list is endless. Not a single American has escaped the harm of a Republican filibuster in this, the 110th Congress.

Perhaps our country has been most damaged by Republicans blocking us from addressing the energy crisis. CNN issued the results of a poll they took over a couple days very recently. Here is how the American people feel about major causes of high gas prices:

No. 1, U.S. oil companies. Is that any surprise with the record profits being reported today by Exxon?

No. 2, foreign oil producers, OPEC mainly.

And, of course, speculators.

One, oil companies; two, oil producers; three, speculators, and new demand from other countries, and the American people are very perceptive. We know there is a tremendous demand from India and China.

No. 5, a major cause of higher gas prices, the Bush administration.

No. 6, the war in Iraq.

So if you only heard the faint outrage of our Republican colleagues, you might think it is the Democrats who spent the past 2 years blocking every effort to lower gas prices and reduce our dependence on oil. But the exact opposite is true. Republicans may talk about high gas prices and oil prices today, but they are late to the party and they have shown up empty-handed.

The one idea they have come up with lately is more coastline drilling. But we all know it won't have any significant impact on prices, and some say in more than 20 years. That is according to the Bush-Cheney administration, which says the change in price will be in the year 2027.

Yesterday, in the New York Times and in newspapers all over America, the most syndicated columnist in America, Tom Friedman, wrote as follows:

> Republicans have become so obsessed with the notion that we can drill our way out of the current energy crisis that reopening our coastal waters to offshore drilling has become their answer for every energy question.
>
> Anyone who looks at the growth of middle classes around the world and their rising demands for natural resources, plus the dangers of the climate change driven by our addiction to fossil fuels, can see clean renewable energy—wind, solar, nuclear, and stuff we haven't yet invented—is going to be the next great global industry. It has to be if we are going to grow in a stable way.

Friedman went on to say:

> Therefore, the country that most owns the clean power industry is going to most own the next great technological breakthrough—the ET revolution, the energy technology revolution—and create millions of jobs and thousands of new businesses, just like the IT revolution did.
>
> Republicans, by mindlessly repeating their offshore-drilling mantra, focusing on a 19th-century fuel, remind me of someone back in 1980 arguing we should be putting all our money into making more and cheaper IBM Selectric typewriters—and forget about these things called the ''PC'' and ''the Internet.'' It is a strategy for making America a second-rate power and economy.

He is not only the most well-read and the most well-spread columnist in America today but a man who is a prize winner for his best selling books, and his books are so tremendous because they see the world as it is going to be, not as it now is.

Their one idea, more coastline drilling, is not the answer. It is no wonder Senator MCCAIN said the plan was purely psychological, the Republican plan for more coastal drilling is psychological.

This morning we came to the Senate floor. We were going to offer some consent agreements, but the time was inconvenient. I did not want to use leader time and throw off the sequence of time we had. So we are here this afternoon to offer Republicans yet another chance to end their obstruction and do the right thing. We will offer unanimous consent requests on seven Energy bills, each one of which is extremely important, a package of bills that would lower the price we pay at the pump while applying for the long-time transition away from oil and toward clean renewable fuels of the future Tom Friedman talked about.

If past is prolog, Republicans will object to each of these proposals. If they do, and they probably will, it will be clear again for all Americans to see which party wants to only talk about our energy crisis and which party wants to solve it.

The first I would like to offer is S. 3044, the Consumer-First Energy Act. This is a very thoughtful piece of legislation which ends billions of dollars of tax breaks for big oil companies, and if there is ever an opportunity to recognize why they are unnecessary, look at those profits today and what they do with those profits. Do they do new energy exploration? No. Do they invest in renewables? No. They buy back their stock.

It was announced today they made last quarter, Exxon alone, about $12 billion. S. 3044 would force oil companies to invest some of their massive profits in clean, alternative affordable fuels rather than buying back their stock. S. 3044 would protect the American people from price gouging and profiteering. It would also stand up to OPEC countries that are colluding to keep prices high.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 743, S. 3044, the Consumer-First Energy Act; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this bill be printed in the RECORD, as if given.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona.

Mr. KYL. Reserving the right to object, this bill does not produce any new American energy and would increase the price of gas at the pump. Further, I agree with Chairman BINGAMAN that a windfall profits tax is ''very arbitrary'' and ''bad policy.'' For these reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New York.

UNANIMOUS CONSENT REQUEST—ENERGY PRICE REDUCTION AND SECURITY ACT OF 2008

Mr. SCHUMER. Mr. President, I am going to speak about a proposal that has been at the desk for a period of time and was put together by Senator BINGAMAN which deals in a very real way with the issues about which so many of our colleagues on the other side of the floor have talked.

First, it does increase domestic production by giving the Secretary of the Interior the authority to shorten lease terms and raise rental rates, requiring oil companies to comply with benchmarks. It would require the oil companies to drill rather than just hold property for decade after decade and not produce.

It would also bring down prices immediately by selling about 70 million barrels of high-quality light crude in the SPR, replacing it later with low-quality heavier crude.

Mr. President, 90 percent of sales would be invested in LIHEAP. Even more importantly, it reduces demand. First, building codes, 40 percent of our energy is used by cooling and heating buildings. Certain States have put in building codes for decades and dramatically reduced demand. We also have research for batteries, so we might have electric cars and many other provisions.

I cannot go into all of them because time is narrow. Why do my colleagues oppose something so rational? The bottom line is because they want to do what the oil companies want: give them record profits.

What do the oil companies do with those profits? Do they promote alternative energy? Absolutely not. Do they drill domestically? We are hearing all this talk about drill. Look what the oil companies do with their profits. They buy back stock. That is very good if you are a big shareholder in ExxonMobil. It is very bad if you are a homeowner heating your home or a commuter driving your car.

It does no one any good except a handful of people, mostly very well off, to raise ExxonMobil stock, raise Chevron stock, raise BP stock, and not put that money into production.

Our proposal doesn't do what the oil companies want, but it increases production, domestic production, and reduces demand, exactly the slogan that my colleagues are talking about on the other side of the aisle. But it does it in a way not that the oil companies want but that America wants.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a bill authored by Senator BINGAMAN, the Energy Price Reduction and Security Act of 2008, which is at the desk; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD, as if read.

The PRESIDING OFFICER. Is there objection?

The Republican whip.

Mr. KYL. Mr. President, reserving the right to object, this bill does not open a single new acre for the production of American energy and, in fact, would place new regulations and fees on American energy production, which would raise the price of gas at the pump. For these reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The assistant majority leader.

UNANIMOUS CONSENT REQUEST—S. 3335

Mr. DURBIN. Mr. President, 68 million acres are currently open to the oil and gas companies, Federal land leased to them for oil and gas exploration. You would think, from the position and the statements on the Republican side of the aisle, that there was no land available and that we have to find new opportunities for oil and gas companies. They have 68 million opportunities they are not using today.

Time and time again, over the last several weeks, the position of the Republicans on the energy question has come down to two or three very basic things: First, the Republicans in the Senate and Senator JOHN MCCAIN are stuck on old ideas. Secondly, they can't wait to go hat in hand to big oil—the oil companies—and ask them: What would you like us to do next? Well, the oil companies have a pretty good agenda. Before President Bush and Vice President CHENEY leave town, can you try to find some way to provide even more Federal acreage we can drill on maybe in the future? We want to stock it in our portfolios and get to it another day. Can you make sure you do that before President Bush leaves town?

That is the Republican agenda: More acreage beyond the 68 million they currently have and no vision for the future. It is an old agenda, an old idea. The Grand Old Party is stuck in an old way of thinking when it comes to energy.

The bill I am about to talk about looks to the future. It is a vision for tomorrow. Of course, there is responsible exploration and production—there has to be and there should be—but it realizes that the energy future of America and the world has to be different. We have to get ahead of the curve. As Senator REID said in quoting Thomas Friedman, it is time for us to think of the energy revolution we are about to engage in, one that is going to make a profound difference in our lives.

Twice this week we have given the Republicans a chance to vote for a real energy package. Is it a bipartisan plan? Read this quote from 48 Governors, Democrats and Republicans, across the United States.

> Securing our energy future must be a priority at both the State and Federal levels. We strongly urge you—

They are speaking to the Congress—

> to partner with States by passing legislation on a bipartisan basis to extend expiring renewable energy and energy efficiency tax credits that can be enacted this year.

The Governors understand it. The American people understand it. The Democrats in the Senate understand it. It is only the Republican Senators who continue to object.

Now, what are these incentives? They are incentives for renewable energy that will chart a course for America to find clean energy sources and the creation of new businesses and new jobs so America can again lead the world. The Republicans look in the rearview mirror at drilling for oil because that is where the big oil companies are—their friends, their allies, their inspiration when it comes to energy.

This bill that came before us yesterday brought in five Republican votes. Only 5 out of 49 crossed the aisle and joined us to try to pass it. Not enough. They know it. Coincidentally, four out of five are in tough reelection contests. They understand when they go home that they can't sell this ''drill forever'' and the mentality the Republicans in the Senate have been peddling.

The bill talks about incentives for biomass and hydropower, solar energy, biodiesel, advanced coal, electricity, demonstration plug-in electric cars, battery performance standards, idle reduction units for trucks, and so many other things that move us forward using those nonpolluting renewable sources of energy that are truly our future.

Time and time and time again, the Republicans in the Senate have said no, no to these incentives for renewable energy and no to our future. I will give them a chance this time.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 767, H.R. 6049, the Renewable Energy, Job Creation Act of 2008; that the amendment at the desk, the text of which is S. 3335, be considered and agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The minority whip.

Mr. KYL. Mr. President, reserving the right to object, I ask that the unanimous consent request be modified; that instead of adopting S. 3335 as an amendment, the Senate adopt the McConnell-Grassley substitute which is filed at the desk. This substitute provides the AMT patch, extends all of the traditional tax extenders, some of them with modifications, it extends the many energy tax incentives, provides for Midwest disaster relief, and includes no tax increases.

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. DURBIN. Reserving the right to object, the Republicans, the Grand Old Party that used to be the party of fiscal conservatism, refuses to pay for these tax breaks. We have come up with an approach that is reasonable and accepted by the business community and that puts the tax burden on companies that are shifting jobs overseas. The Republicans can't stand the thought of imposing taxes on companies that are sending American jobs overseas and that is why they object to our bill and that is why I object to their alternative.

The PRESIDING OFFICER. Is there objection to the original request?

Mr. KYL. Mr. President, further reserving the right to object, yesterday, the majority leader said that legislating is the art of compromise, and indeed it is. There has been discussion here about the Grand Old Party—my party, of which I am proud—comparing it to the idea that oil is in the past, that oil is an old idea, we were told, and Republicans are stuck in the past. The Democrats are for renewables.

If you can find me a renewable that runs on wind or on solar, I would be happy to think about the idea. But I do think that since legislating is the art of compromise, we ought to listen to each other's ideas, and that means each side moving off its hard-and-fast position, meeting somewhere in the middle.

Republicans are ready and willing to negotiate a true compromise, and I hope we can instruct our respective staffs to work on compromise during August.

I object to the original request.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

UNANIMOUS CONSENT REQUEST—S. 3268

Mr. DORGAN. Mr. President, the pending business of the Senate is S. 3268, the Stop Excessive Energy Speculation Act. That is currently the pending business. That has been objected to. I would like to try, once again, to see if perhaps we can do what every one of us as kids has been told by our parents to do—first things first. We need to do a lot of things and a lot of things well—produce more energy, produce different energy, and conserve more energy. I understand that. I think almost all of us agree with that. But first things first.

We have a broken oil futures market, and let me describe it. Seventy-one percent of those who are trading in the oil futures market are speculators. They don't know about oil. They do not want any oil. They do not want to carry a 5-gallon can of oil. They want to trade paper and make a lot of money.

A couple months ago, the vice president of ExxonMobil says the price of oil should be about $50 or $55 per barrel. The CEO of Marathon Oil has said the same thing. Finally, in testimony before the Congress, Fidel Gheit, 30 years in this business at Oppenheimer and Company—the top energy person at Oppenheimer and Company—said:

> There is no shortage of oil. I am absolutely convinced that the price of oil shouldn't be a dime above $55 a barrel.

In speaking of the futures market, he said:

> I call it the world's largest gambling hall, open 24/7 and totally unregulated. It's like a highway with no cops and no speed limits and everybody going 120 miles per hour.

The result. The price of gas has doubled in a year. There is nothing in the supply-and-demand relationship of oil that justifies doubling the price in a year. It is because the market is broken and infested now with oil speculators.

We say first things first. We have crafted a bill to try to wring the speculation out of that market and preserve it for ordinary hedging, for which it was originally created.

Mr. President, I ask unanimous consent that the Stop Excessive Energy Speculation Act, that we are recognizing as the pending business, we proceed to the immediate consideration of Calendar No. 882, S. 3268; that the bill be read three times, passed, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Republican whip.

Mr. KYL. Reserving the right to object, this bill does not provide any new American energy, is flawed, and, in fact, the New York Times recently called it a ''misbegotten plan.''

Senate Republicans believe we should continue to work on the bill so it would provide meaningful relief from high gas prices for American families. For this reason, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 3186

Mrs. MURRAY. Mr. President, no one in this country should have to choose between heating their homes and putting food on the table. But with oil prices rising through the roof, more and more of our low-income families and our seniors today need extra help to stay warm and healthy. The cost of heating oil has risen 162 percent over the last 8 years, and by this winter it will have risen another 41 percent in the last year alone.

As these oil prices have skyrocketed, some regions of the country, including some counties in my home State of Washington, have had to cut back on the amount of heating assistance they can provide to the people who live there. The Seattle Times, our hometown paper in Seattle, is today reporting almost 100,000 people in Washington State alone will pay hundreds of dollars more to heat their homes this winter. Many people are already planning on how they are going to get by without heat because they can't afford it.

Last week, we had a chance in the Senate to double the funding available to help our low-income families and seniors to afford to heat their homes this winter. The Warm in Winter and Cool in Summer Act, which is S. 3186, would have ensured our local governments were able to cover these additional costs and help those who need it most. We were all extremely disappointed that despite the fact that 13 Republican Senators were cosponsors of this legislation, they chose last week to say no, once again, on behalf of big oil.

As we debate the refinements of how we are going to solve the short-term crisis, it seems logical to me that we not leave behind the people who are hurting the most. For seniors, low-income Americans, people who are truly worried, can't we come together on this one issue and solve it as we try to take care of the large energy crisis before us?

Mr. President, I come to the floor today to ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 835, S. 3186, the Warm in Winter and Cool in Summer Act; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The minority whip.

Mr. KYL. Mr. President, reserving the right to object, I ask unanimous consent that the bill be modified to add to the text of Senate amendment No. 5137, the Coleman offshore oil exploration and conservation amendment, so we can address the root cause of high energy prices that are hurting all Americans, particularly low-income Americans.

The PRESIDING OFFICER. Does the Senator wish to so modify her request?

Mrs. MURRAY. Mr. President, I object to that, and I say to our colleagues that, as we continue to debate in this country, in a very clear manner, the different root causes and what we can do, it seems to me, without encumbering this in the larger debate, we ought to be able to at least deal with an oil heating crisis that is going to affect many Americans, and therefore I renew my unanimous consent request as I read it.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, is there objection to my request?

Mrs. MURRAY. Mr. President, I did object, and I renew my original request.

The PRESIDING OFFICER. The Senator from Washington objects.

Mr. KYL. I thank the Chair and I object as well.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Mr. President, we have a few minutes left until 2:30. I would, rather than take leader time, ask unanimous consent to take another few minutes past 2:30. I would say to my two Republican colleagues on the floor, what we would do is run over, and the next 30 minutes in the next block of Democratic time would be cut by whatever time I use at this time. It will only be a few minutes; otherwise, I will use leader time.

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

Mr. REID. Mr. President, Senator KOHL and Senator SPECTER have been talking quite a bit. They both have visited with me on more than one occasion because they believe they have one of the answers to the problems we have with oil, and that is let's do something about OPEC. It is a cartel, it is a monopoly, and they have no concern for the American people, and they are obviously in violation of antitrust laws. But it is a question of whether American law can take them into consideration.

The legislation introduced by Senator KOHL and Senator SPECTER in the form of S. 879, the No Oil Producing Exporting Cartels Act of 2007, would make OPEC subject to the Sherman Antitrust Act. Why shouldn't they? At the present time, we only have two entities that are exempt from the Sherman Antitrust Act: baseball and insurance companies.

We know how we all feel about insurance companies, and how the American people feel about them, because they violate what would be antitrust laws all the time, but they are not subject to it.

Mr. President, what this legislation is all about is let's have OPEC be subject to the antitrust laws. I agree with Senator SPECTER. I agree with Senator KOHL. This should be something the Senate does.

UNANIMOUS CONSENT REQUEST—H.R. 2264

Therefore, I ask unanimous consent that the Senate proceed to Calendar No. 169, H.R. 2264, that the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Mr. KYL. Mr. President, reserving the right to object, this bill does nothing to increase American energy independence but would increase our reliance on the Middle East. Further, authorizing our Government to sue OPEC could, as Chairman BINGAMAN said, ''get us into all kinds of trouble internationally'' and ''is not practical.''

For these reasons, I object.

Mr. DORGAN. Mr. President, I say to the majority leader, I yielded 8 minutes to the Senator from Minnesota today in order that his statement could be coterminous with Senator KLOBUCHAR. If you don't mind, this is the last unanimous consent request—and let me do that by saying I think all of us in this Chamber understand the way you produce energy, and we support virtually every mechanism and approach to produce energy. Drilling for oil is one of them. But drilling a hole in the ground is not the only way you produce energy. You can use turbine and blades to produce energy from the wind and produce electricity. You can take energy from the Sun and produce electricity. There is biomass and biofuels. There are many ways to produce.

The problem is we do not aspire to set any national goal or national standard to require or to push that production of alternative energy.

I think we need something around here that is game changing. Every 10 or 15 years people are content to shuffle on the floor and talk about what do we do about the next box canyon we have ridden in. Then they say let's drill some more. I am all for drilling, but what about other ways of producing energy, wind and solar and the alternatives?

I am going to offer a unanimous consent request on an issue that has been kicking around for a long time. I know some people oppose it strongly. I respect their views but respectfully they are wrong. We ought to have a national standard—many States now have it—to provide a renewable energy standard, saying when you are producing electricity, a certain percentage of that should come from renewable sources.

This proposal at the desk requires a 15-percent renewable energy standard. If we are ever going to change the game, we have to do this by deciding that America is going to produce energy and produce different energy. So this would be a 15-percent renewable energy standard. Many States have taken the lead. I regret they have had to take the lead, but we ought to have a national set of goals and a national standard to say there are a lot of ways to produce. This is about producing energy for this country.

UNANIMOUS CONSENT REQUEST—H.R. 6049

I ask unanimous consent the Senate proceed to the immediate consideration of a bill to establish the renewable electricity standard which is at the desk, that the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, reserving the right to object, we need more energy production to reduce costs. Republicans support it, Democrats do not. Tom Friedman, quoted by the Democratic leaders, is right about one thing, Republicans want more offshore drilling. Democrats do not.

Second, and I respectfully correct the majority leader in this, Senator MCCAIN did not say offshore drilling is only psychological. He advocates more offshore drilling both because of the energy it would produce and also because, he said, it would have a positive psychological impact on energy markets.

This would increase heating and cooling costs for American homes. For that reason, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. REID. Mr. President, the last half hour or so has been a microcosm of the 18 months of this Congress. Time and time again, Democrats have offered solutions to our energy crisis. Each time Republicans have objected. They have not come up with answers to specific objections to try to reach any sort of compromise. Basically, they said no. After 18 months of ignoring our energy crisis, and rejecting every Democratic effort—and we have talked about some of them today—they now claim to have seen the light. After a year and a half, all they want to talk about is gas prices. But as we have seen, all they want to do is, as I refer to part of what Thomas Friedman said:

> Republicans, by mindlessly repeating their offshore-drilling mantra, focusing on a 19th century fuel, remind me of someone back in 1980 arguing that we should be putting all of our money into making more and cheaper IBM Selectric typewriters—and forget about these things called the ''PC'' and ''the Internet.'' It is a strategy for making America a second-rate power and economy.

I did not hear JOHN MCCAIN say drilling was psychological. All I did was

read it in the press. It has been repeated time and time again.

I would finally say, we believe in domestic production. We Democrats, all 51 of us, believe there should be more American production. There are ways of accomplishing that. We know we cannot drill our way out of the problems we have, but there are things we can do and we want to work to have that accomplished. We have seen that set forth in legislation that Senator BINGAMAN has offered. Of course we talk about the 68 million acres—that was, of course, talked about here during this half hour—but we also are aware of the ability the President has today to offer leases to oil-rich areas in Alaska, onshore and offshore.

We believe in more domestic production. We call it American production. Hopefully the August recess will bring some ability of our friends on the other side of the aisle to start working with us. I hope we are going to see, a bit later today or tomorrow, a vote on a motion to proceed to the Defense authorization bill. That would be too bad, to have Republicans vote against that. That is the way we pay our troops and we refine what we do for our troops. It is a very important bill, led by two of the Senate's fine Senators, Senator LEVIN and Senator WARNER, chairman and ranking member of the committee.

We are 5 minutes over. I express my appreciation to my friends for being patient. If you care to, you can go over 5 minutes and we will take 25 minutes in our half hour. OK?

Mr. DOMENICI. Yes. I thank the leader.

Mr. MCCONNELL. Mr. President, are we in a quorum call?

The PRESIDING OFFICER. We are not. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, we had hoped to make significant progress over the last week or two to begin to address the most important issue in the country, and that is the price of gas at the pump. Regretfully, it seems we are bogged down here in trying to move ahead. So in order to try to facilitate progress, I have notified my friends on the other side that we intend to propound a number of consent agreements that virtually every Member of my conference believes would move us in the right direction and begin to address the No. 1 issue in the country.

UNANIMOUS CONSENT REQUEST—AMENDMENT NO. 5137

In that regard, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill to address drilling in the Outer Continental Shelf, the text of which is identical to the amendment No. 5137, filed by Senator COLEMAN to the Energy bill.

I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, reserving the right to object, the reality is the Democrats have been in favor of drilling in the Outer Continental Shelf in places such as the gulf coast, including votes we took here on a bipartisan basis 2 years ago. The reality is the Republican proposal here will not do anything in terms of addressing the gas price issue which we are facing here today because it will not be effective in bringing down the price of gas. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, I know the Senator from Minnesota is on the floor. The amendment I propounded in the form of a consent agreement was essentially the Coleman proposal to open the Outer Continental Shelf. It was not geared to any particular price of gasoline at the pump. But I renew consent for the very same proposed consent agreement with one modification—that the enactment date is triggered when the price of gasoline reaches $4.50 a gallon.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, reserving the right to object for the same reasons we stated earlier, this again is creating a phantom solution to the reality of the energy crisis and the energy crisis we face as a Nation, and therefore I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, our good friends on the other side of the aisle apparently do not believe $4.50 a gallon gasoline is sufficient emergency to open the Outer Continental Shelf, those portions of it that are currently off limits which—by the way, 85 percent of the Outer Continental Shelf is currently off limits. I renew my consent agreement with the following modification, that the enactment date is triggered when the price of gasoline reaches $5 a gallon.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, reserving the right to object, and I will object again, it is a phantom solution, and therefore I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, if $5 a gallon gasoline is not an emergency, I am compelled to ask what is the definition of an emergency? Maybe it is $7.50 a gallon gasoline. Therefore, I renew my consent request with the following modification: that the enactment date which triggered the implementation of the amendment would occur when the price of gasoline reaches $7.50 a gallon.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, reserving the right to object, it is clear the Republican leader wants to move forward with the opening of places in the Outer Continental Shelf. I would say, on the Democratic side, there are a number of us who supported opening places in the Outer Continent Shelf, including additional significant acreage in the Gulf of Mexico, the 8 million acres that were part of the lease sale 181. We also know there are hundreds of millions of acres in Alaska that are not in a moratoria area, on which we support exploration and inventory of those places. What we are doing here with those triggers being proposed by the Republican leader again is not getting to real solutions that deal with the energy crisis we have and not coming together in a bipartisan way to move forward to have a package of energy legislation that would work for America. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, I am going to propound my consent agreement with a modification one more time and then I am going to engage in a colloquy with Senator COLEMAN. It is his amendment that he had hoped to offer, which I initially offered consent that we take up. Then these additional amendments were a different trigger, these additional consents were with a different trigger. I say to my friend from Minnesota, I will give our friends on the other side one more opportunity to maybe get their attention. Then we will discuss the amendment of the Senator from Minnesota.

Mr. President, I renew my request with the modification that the trigger be $10 a gallon at the pump.

The PRESIDING OFFICER. Is there objection?

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, if we were moving forward with a package of energy legislation that would address the fundamental national security, economic security, and environmental security issues we are facing, and this were part of that kind of package, this might be very well worthy of consideration, including some of the triggers that have been mentioned. But it is clear to me this is another one of the tactics that essentially is wanting to get this Senate and this Congress to the point where we simply are not going to be able to get to a bipartisan energy package, and so I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. We know why we cannot get to a bipartisan energy package. The American people are saying—some 70 percent of them—that we ought to open the Outer Continental Shelf, those portions that are currently off limits, and it is my understanding that 85 percent of the Outer Continental Shelf is currently off limits. I

have been proposing a series of consents, basically drafted consistent with the Coleman amendment that would have been offered had we had a chance to offer it.

I would ask my friend from Minnesota if he would describe his proposal?

Mr. COLEMAN. Mr. President, I would say to the Republican Leader, first, I want to make it clear that if I understand the objection, the Republican leader has offered an amendment that if gas reaches $10 a gallon, more than double the record levels, the other side is objecting to opening areas of the Outer Continental Shelf, areas that would yield at least 14.3 billion barrels of oil and 55.3 trillion cubic feet of natural gas at a minimum—at a minimum; there are other estimates that say if we opened all of these areas, up to 80 billion gallons of gas.

So I understand the objection and that as a result of that objection, we cannot move forward on increasing the supply of oil, that we cannot then move forward and open these areas on the Outer Continental Shelf that could yield at a minimum over 14 billion barrels of oil. Is that the result of the objection placed by the majority?

Mr. MCCONNELL. I say to my friend from Minnesota, I think he has it entirely correct. I have offered a series of consent agreements here to give us an opportunity to take up and pass the Coleman proposal with differing triggers, starting at $4.50 a gallon and going up to $10 a gallon. Our friends on the other side have objected to passing legislation even with those ascending triggers, leading me to believe there is opposition on the other side to opening the Outer Continental Shelf, 85 percent of which is currently off limits—and over 70 percent of the American people support that—even if gasoline reaches $10 a gallon.

Mr. COLEMAN. Mr. President, I would note to the leader that, by the way, the Coleman-Domenici amendment also has conservation pieces in it. I believe we will discuss that later.

But as I listen to the objection from my friend from Colorado, talking about phantom solutions as we look at the issue of the rising price of oil, I think there is bipartisan understanding that part of the problem is the basic law of supply and demand; that demand is increasing, and if you want to somehow affect demand, I would take it that the supply piece is the other piece. And as I understand the Coleman amendment, this is an opportunity to increase supply.

I would also note that part of the discussion has been about the issue of speculation, that there is money going into believing that oil is going to be scarce in the future, and that is somehow driving up the price of oil today. I would ask, then, if, in fact, we would open the Outer Continental Shelf, that we would increase supply, finding more oil of at least 14 to 15 billion barrels, would that not indicate that in the future there will be less scarcity because we are increasing supply, and would it make common sense that if there is going to be less scarcity, more supply, we are going to tap into America's resources, that would have an impact on the price of gas today?

Mr. MCCONNELL. I say to my friend from Minnesota, it makes sense that if you were betting on the future, so to speak, which I guess is what the futures market does, if there were signs of optimism, an indication that the United States of America was going to do something within its boundaries to deal with this problem, it is reasonable to expect that the markets would respond favorably.

I might add—it was not alluded to specifically by my friend from Minnesota, but I might add that the underlying bill which we have been seeking to amend is actually opposed by the New York Times, the most liberal newspaper in America, as being ineffectual and actually making the matter worse. So clearly doing that alone runs the risk, according to the New York Times, of destroying or at least adversely impacting one of America's great markets. But also refusing to amend it to allow such reasonable proposals as the Coleman amendment means we would be making an ineffectual response to the issue that is the most important issue in the country.

Mr. COLEMAN. Mr. President, I have one more observation. First, I do wish to make it clear that when the Republican leader talks about the underlying bill, he is talking about the majority proposal on speculation, a proposal that does not do anything to increase production?

Mr. MCCONNELL. Yes.

Mr. COLEMAN. A proposal that does nothing to deal with more conservation? A proposal that suggests it is going to focus on speculation only, and that is what the New York Times says would actually do more harm than good?

Mr. MCCONNELL. The Senator from Minnesota is entirely correct.

Mr. COLEMAN. Mr. President, I would note that this issue of speculation is something that has come before the Permanent Subcommittee on Investigations on which I am now ranking member and I was, in the past Congress, the chair. We looked at this issue. It has come before Homeland Security, a committee that works on a very bipartisan basis. I would tell the Republican leader that at least one of the witnesses has come forward and said: If we do all we can do, if we do conservation, if we let the world know we are serious about ending our addiction to foreign oil, that we are serious about not being held hostage to what Saudi sheiks or Chavez or Ahmadinejad does, the suggestion is that prices could drop like a rock.

I am not going to suggest that I know. I would not suggest to the Republican leader that in fact they will drop like a rock. But common sense says that if we increase production, if we do those things, tell the world that we are not going to be stuck with scarcity, that we are going to use the great power of America to tap into our resources, that, in fact, would have an impact.

I would also note, for those who say it is only going to have an impact in the future, would that be such a bad thing, for this Congress to be looking forward to the future? We are going to have this debate 10 years from now if we do not do anything. In 10 years, we will be saying: If only 10 years ago we had opened the Outer Continental Shelf, we might today not be 80 or 90 percent dependent on foreign oil. I would suggest that we have the debate now.

One final comment. We have not talked much about the issue of natural gas. I represent a State which is cold. The Presiding Officer represents a State that gets very cold in the winter. I would suggest that we are going to come back here in September, and the cost of heating our homes is going to start to go up as the leaves turn color and the temperature starts to drop. By October, the snows may hit. By November, they actually may be here. In December and January, it is going to be below zero. And the price of natural gas is going through the roof.

My farmers in Minnesota have trouble today buying fertilizer and will next year because folks will not speculate on what the price of natural gas will be.

I would then ask the Republican leader, that in objecting to the Coleman-Domenici proposal, the majority is not only stopping the possibility of tapping into billions of gallons of oil but also trillions of cubic feet of natural gas, a market that is much more susceptible in the short term to increases of supply.

Is that the result of the Democratic objection, that we are not going to be able to tap into this and tell the world that there are trillions of cubic feet of natural gas available, and I cannot tell my folks in Minnesota, when it is cold in November and December and prices shoot through the roof, that we were not able to act because the Democrats objected to the unanimous consent offered by the Republican leader.

Mr. MCCONNELL. Well, my friend from Minnesota is entirely correct. I learned from the distinguished Senator from New Mexico, who has been our leader on energy issues for a number of years, that we can be entirely independent and sufficient in natural gas. We have enough here in the United States, if we would simply go get it, to take care of our natural gas needs.

So, yes, we are walling off natural gas as well as oil, exacerbating all of these problems, driving up the price of fertilizer and every other product in which natural gas is used, refusing to exploit our own resources. It strikes the American people, and we know that by looking at all of the public opinion polls. It is not making any sense at all.

I thank my friend from Minnesota for his observations.

Mr. President, it is not only offshore that we have enormous potential to increase our production. It has been estimated that we have three times the reserves of Saudi Arabia right here in our country onshore in oil shale.

Last year, this new Democratic Congress passed a moratorium on going forward with oil shale research and development. I think that moratorium was a foolish thing to do. It should be lifted.

UNANIMOUS-CONSENT REQUEST—AMENDMENT NO. 5253

I ask unanimous consent that the Senate proceed to the immediate consideration of the Senate bill to address oil shale leasing, the text of which is identical to amendment No. 5253 filed by Senator ALLARD to the Energy bill.

I would further ask unanimous consent that the bill be read a third time, passed, the motion to reconsider be laid on the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. SALAZAR. Mr. President, reserving the right to object, I would remind the Republican leader that even the oil companies—Chevron Oil—have said we do not even know whether the technology is out there to be able to develop oil shale. At the earliest, it is 2015, 2016 when we will know that. We had the Assistant Secretary of the Department of Interior, and in his testimony before the Energy Committee, he said the same thing.

So the consequences of moving forward with the legislative proposals propounded here by the Republican leader essentially would do nothing more than to lock up millions of acres of land and millions of barrels of reserves to oil companies that already are getting the highest record profits of any company in the history of the world. That includes companies such as Shell, which reported a 33-percent increase in its second-quarter profit on Thursday, Exxon, and all the rest of the oil companies.

So if this is about giving the national public resources away to the oil companies, then I would say we should support the Republican leader's unanimous consent. But it is not about that, it is about creating a new energy frontier for America. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, I see the Senator from New Hampshire is on his feet with some observations about this objection.

Mr. GREGG. I guess I am a little surprised at the objection. The first objection to your first amendment was that we did not have a comprehensive approach. Now you suggested another approach; we would add to a comprehensive approach that appears to be objected to.

The gravamen of the objection appears to be that we do not know if we can produce oil shale, oil from oil shale; that the technology and the location of the oil shale is not necessarily far enough along to be able to produce, and therefore we should not even look at it.

As I understand the leader's amendment, it says simply remove the regulation which was put in place last year which barred the Interior Department from putting out regulations which allow us to find out whether the oil is there and whether we can remove it.

So there seems to be an inconsistency here on the reasons why people would object to taking off that regulation which was put in place last year by the Democratic leadership.

Secondly, the known reserves from oil shale are projected to be two to three times the known reserves of Saudi Arabia. That is a huge amount of oil, potentially. I do not think we want to not look there and say we are going to throw a sheet over our head and not look at this potential reserve which would give us as a nation more potential oil reserves than Saudi Arabia, that we are not going to allow the Department of Interior to begin the process of developing regulations that will, if the oil is there and if it can be used, expedite the production of that oil. That makes no sense at all.

As I understand, the proposal that came earlier from the Democratic Party was to open the Strategic Petroleum Reserve. That is 3 days' worth of oil. If there is 2 trillion barrels of oil in oil shale, that is 40,000 days of oil. Well, I do not know. I would think the American people would like to have the opportunity to find 40,000 days of oil in the United States rather than have to buy it from Iran or from Venezuela, places that do not like us very much, even from Saudi Arabia. I think they would like to have the money kept here in the United States.

Yes, the oil companies are making some big profits. They are spending it to look for oil also. But when they are not spending it to look for oil, they are actually paying some dividends. Who gets those dividends? Well, if they are American companies, I suspect that many Americans are, Americans who invested in pension funds, Americans who have 401(k)s.

Are we to say they shouldn't get those profits and we should, rather, send them to Saudi Arabia or to Iran or to Venezuela so Hugo Chavez gets the profits? How absurd. On its face it is absurd. We have 2 trillion barrels of oil sitting there, and all the leader has asked for is to lift the regulation which will let us find out whether we can look for it and whether it is there.

Mr. SALAZAR. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. GREGG. I was propounding a question to the leader.

Mr. MCCONNELL. I would say to our good friend, the other side had plenty of time to discuss their proposal.

I say to my friend from New Hampshire, he is entirely correct. Why would we not want to look. Maybe we don't want to look because we might find something. If the potential is as vast as the Senator from New Hampshire portrays and as other experts have indicated, it seems to me we would be foolish in the extreme not to pursue this further. The American people simply would not understand.

Mr. SALAZAR. Will the Republican leader yield for a question?

Mr. MCCONNELL. Not at this time.

I think the American people would not understand our reluctance to continue to explore this alternative given the vast potential it seems to possess.

Mr. GREGG. If I may ask the Republican leader a further question: Have we not been on the floor now for 2 weeks, asking for the right to offer a series of amendments to address these issues that could be voted up or down, that would be fairly presented, where the minority would have the right to present its amendments so we could present to the American people the case for Outer Continental Shelf oil, oil shale, nuclear power, electric cars, for a variety of other options that might get us out from underneath this severe issue which is the price of oil? Have we not been asking for the opportunity to present those amendments in a fair and open manner in the tradition of the Senate and been denied that right? Are we not being denied that right one more time here today?

Mr. MCCONNELL. The Senator is entirely correct. All we are asking for is the way the Energy bill was handled last year, the way the Energy bill was handled in 2005, in which we had an open amendment process, in which Members from both sides of the aisle were given an opportunity to offer their amendments. Forty or fifty amendments were adopted on each bill. It ultimately led to a law. What we have been engaged in in the last 2 weeks is not designed to lead to anything other than a check-the-box exercise and move on. That is why Republicans in great numbers have insisted that we stay on this subject, the No. 1 issue, that we continue our effort to both find more and use less. The only way to achieve that is with a balanced approach, not a sort of single-issue approach which is in the underlying bill.

In addition to addressing gas prices directly, there are also a great many Members of the Senate on both sides of the of the aisle who understand we need to move in the direction of more nuclear power. A lot of us think the French have not done a whole lot right in recent years, but one thing they have done rather well is develop a nuclear power industry that supplies the vast percentage of their electricity. Had we been given the opportunity, we would have been offering a nuclear power amendment.

Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill to promote nuclear power generation, the text of which is identical to amendment No. 5179 filed by Senator LINDSEY

GRAHAM to the Energy bill. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Is there objection?

Mr. DURBIN. Madam President, reserving the right to object, I was personally on the floor two or three times when Senator REID offered to Senator MCCONNELL to allow them to bring this amendment to the floor. They said: No, we want to talk it over. We have so many more amendments. Of course, time ran out. Now they are back again. We have given them ample opportunity to talk about nuclear power, to offer their amendments, offer their energy package. Each time they couldn't get it together. This is the gang that can't drill straight.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Madam President, I will use leader time to allow us to get up to the same 30 minutes that was used by the other side of the aisle.

Mr. GREGG. Madam President, I was wondering if the leader could explain to me how the Democratic assistant leader could object to something the Senator didn't object to?

Mr. MCCONNELL. I know Senator DOMENICI and Senator ALEXANDER both are knowledgeable about the nuclear industry. I see Senator DOMENICI, our energy expert in the Senate, on his feet.

Mr. DOMENICI. Madam President, might I say to the Republican leader, I am here sitting down because you and the Senators on my side are doing such an excellent job of letting the American people know what has been going on. It has been a thrill to listen, because I would hate to be on the other side. It looks as if they are very anxious to make sure you don't finish your statements. They would like to take a little bit of your time. If I were in their shoes, I would too. Because the truth is, their leader changed the course for debate on energy, meaningful energy amendments, when he decided he would put all the amendments that the process would hold, he put them on so there could be none offered. That is why we are here today, because no amendments could be offered and voted on. Anybody who stands up and says we had a chance, what chance? If we would have offered something, the objection would have been: The tree is full. It is out of order. I already asked the Parliamentarian if an amendment would be in order, if I tendered an amendment to such-and-such amendment, and the Parliamentarian said: You couldn't offer it. So that is why none of the amendments you refer to could have been offered.

There has been one area in which we can all stand up and say we legislated in the normal way and got something good, and that is the current set of rules regarding nuclear power. We now have 16 nuclear powerplant applications filed and waiting their turn to start construction. We had zero when we started this process. We need some additions to that which are in the amendment you propose to make sure it works, to make sure this wonderful start of nuclear power for America hits the few things it still needs to be competitive. You have been denied the opportunity to discuss it. We are not talking about that, but to offer a full-fledged amendment that will require a little bit of debate and then vote. That is what we have been denied. That is why I am here saying the public is going to understand this. We should have voted on the Outer Continental Shelf, opening it, with amendment and full debate. We can't do it because they won't let us. It is that simple.

Mr. MCCONNELL. I thank the Senator from New Mexico.

Madam President, what time remains on this side to achieve the 30 minutes?

The PRESIDING OFFICER. The 30 minutes has been consumed.

Mr. MCCONNELL. I will use a few more minutes of leader time. If the other side wants to expand their time, it would be perfectly permissible with me.

There is one other area that is important to me and to other Members on both sides and that is coal. We have vast reserves of coal in this country. There is a promising technology we know works to turn coal into liquid. We have a customer, the U.S. military. We have an interested potential customer in American commercial airlines. One of the amendments that would have been offered was related to coal to liquid.

Therefore, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill to promote coal-to-liquid energy, the text of which is identical to amendment No. 5131 filed by Senator BUNNING to the Energy bill. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. SALAZAR. Madam President, reserving the right to object, the purpose of the amendment is laudable. For those of us who work on the Energy Committee, including the Senators from Montana, we recognize that coal is to the United States what oil is to Saudi Arabia. There are ways in which we can advance the usage of coal, including coal gasification and carbon sequestration which we all support. But the proposal put on the table is not something that would get that kind of bipartisan support.

I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Madam President, I know the Senator from Texas is on his feet. I know he has strong feelings about this issue.

Mr. CORNYN. Madam President, I say to the distinguished Republican leader, it sounded as though we were almost going to get to vote. The Senator from Colorado spoke so passionately about the importance of using coal. Of course, the big concern we have is coal can pollute. But the Senator is no doubt aware of a remarkable technology that has actually been around a long time that can take coal and convert it to synthetic fuel that the Air Force is now using to fly airplanes. Isn't it a fact that in terms of transportation fuels, talking about gasoline and diesel and aviation fuel, that represents one of the biggest challenges from an energy standpoint to this country and that actually coal-to-liquid technology, such as the leader described, represents one of the great opportunities for becoming less dependent on imported oil from the Middle East?

Mr. MCCONNELL. Absolutely. Of course, I come from a big coal-producing State. The amendment I sought to call up is actually authored by Senator BUNNING, my colleague from Kentucky. We are, not surprisingly, enthusiastic about this option. But putting aside the Kentucky-specific interest, the military is looking for a reliable, secure source of fuel for our planes. They don't want to be dependent on the Middle East.

Mr. CORNYN. I say to the Republican leader, this is not just an energy issue, this is a national security issue. Let me ask the leader, since he comes from a State that produces significant amounts of coal, whether these figures given to me by my staff are accurate. It has been reported to me that the Air Force uses about 2.6 billion gallons of jet fuel a year at a total cost of about $8 billion. That is $8 billion the United States appropriates and goes to the Department of Defense and the Air Force to buy jet fuel. It is estimated that for every $10 increase in the price of a barrel of oil, the Air Force—and we can see in parentheses the U.S. taxpayer—spends an additional $600 million in fuel costs. Do those figures I have cited sound approximately correct?

Mr. MCCONNELL. I am not an expert on the figures, but it sounds correct to me. I know the military has great desire for the kind of reliable, secure energy source this would provide.

Mr. CORNYN. Are you aware or would you have any reason to disagree with the experts who say that synthetic fuels such as coal to liquids are competitive with $70 to $80-a-barrel oil, plus an additional 10 percent that would be needed to figure out how to capture and divert the carbon dioxide that would be produced by the process? Do you have any reason to disagree with the experts on that?

Mr. MCCONNELL. Those are statistics I have heard in the past. It certainly underscores what a promising

alternative this would be, were we willing to pursue it. I thank my friend from Texas for his thoughts.

Madam President, I see the Senator from Tennessee is on his feet as well.

Mr. ALEXANDER. I had a brief question for the Republican leader.

Nearly 2 weeks ago, when the Democratic leader brought the speculation Energy bill to the floor, isn't it true that we met and said we look forward to a balanced debate where we can get a result, and we believe in the law of supply, as well as demand, and, therefore, we think we should come up with a proposal for finding more and using less?

On the finding more side, which we talked a lot about today, we had offshore drilling and oil shale, which would produce over time about 3 million barrels a day. We talked about nuclear power for more American energy.

But we have even more on the demand side, on the using less side. In our case, the idea was, was it not, to create an environment in the United States where, as rapidly as possible, we could encourage the use of plug-in electric cars. Is there not much support on the other side of the aisle for that?

So my question to the leader is: Why is it that when Republicans, nearly 2 weeks ago, suggested a proposal for finding more that would produce 3 million more barrels a day, eventually—that is a third more production—and using less that would save 4 million barrels a day, which together would have cut in half, over time, our imported oil—why is it we have been unable, for the last 2 weeks nearly, to actually begin to debate and adopt such amendments and produce a bill that would send a signal to the world that the United States of America is taking an action to find more oil and to use less oil, which would bring down the price of gasoline? Why have we not been able to do that?

Mr. MCCONNELL. Madam President, I say to the Senator from Tennessee, I am perplexed. The American people do not understand taking a time out until next year. The senior Senator from New York, for example, was recently quoted as saying we are not going to do anything about this until next year. Well, the American people are paying these high prices now, and I do not think they sent us here to engage in a 2-week partisan battle and achieve nothing.

The Senator from Tennessee is entirely correct when he says our goal from the beginning, on this side of the aisle, was, as he reminds us frequently—and as the sign points out—to both find more and use less. Virtually every member of our conference is in favor of almost every conservation measure you can think of.

Our fundamental problem in here is it seems as if the other side does not want to do any finding of more. They may share our view about using less, but they do not want to find any more, as if somehow we could simply conserve our way out of this problem. I know of not a single expert in America who thinks we can, by conservation alone, solve this problem and get the price of gas at the pump down.

Mr. ALEXANDER. Madam President, I thank the leader.

Mr. MCCONNELL. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, before the Republican leader leaves the floor, I would like to reconcile the remaining time allotment.

I understood he said we could have extra time in the next segment for Democrats, to make up for the additional time used by the Republican side; is that correct?

Mr. MCCONNELL. Yes, that is fine.

Mr. DURBIN. Madam President, could the Chair indicate how much additional time was used by the Republican side?

The PRESIDING OFFICER. Ten minutes ten seconds.

Mr. DURBIN. Madam President, if I could ask unanimous consent, then, that the next segment be 40 minutes on the Democratic side and then we return to 30-minute segments on each side.

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

Mr. DURBIN. Thank you very much.

Madam President, for those who are following this debate, it is interesting because a friend of mine I used to work for in politics as a young man used to say: When politicians speak, there is a good reason and a real reason for the things they are saying.

The good reason for the position taken by the Republicans is they believe more oil put on the market is going to mean more supply and lower prices. It is intuitive to us, in a supply-and-demand economy, that makes sense on its face. So the pillar of their argument on energy policy is we have to find more places to drill. We do not have enough places to drill for oil now. If we could find more oil, there would be more gasoline, and gasoline prices would come down. The logic is good. But it fails to tell the whole story. It fails to account for 68 million acres of Federal lands currently leased by oil and gas companies that they have not touched. They have paid the Federal Government for this land to go drill for oil and have done nothing. The Republicans never mention the 68 million acres out there that the oil companies are not using.

There is a second matter they never mention. If we decided today to start drilling for oil on the Mall—and sometimes I think in the speeches on the floor a few people might be for that—but if we decided to drill, they think it takes 8 to 14 years before you put the oil well into production—8 to 14 years.

As you are paying for your gasoline each week and somebody says: Hey, hang on, in 14 years we are going to get this under control, you have a right to be a little impatient. But that is the Republican approach.

So who would buy this approach? Well, the people who are buying this approach—the real reason behind the position on the Republican side—this is the oil companies' agenda. This is the oil companies' answer: Keep drilling, give us more land, give us more options, let us put these in our portfolio—the same oil companies that are reporting not just recordbreaking profits for oil companies but recordbreaking profits for American businesses. No businesses in our history have ever reported the profits they have reported.

Shell reports a profit jump. Despite reducing production of oil, their profits have gone up. Shell went up 33 percent this quarter; Exxon, 14 percent—recordbreaking profits for these oil companies, and the position they hold, coincidentally, is the same position as the Republican Party in the Senate.

But an honest energy picture, one that looks forward, says we need responsible exploration and production. That means we do not go into environmentally sensitive areas; we do not pollute our beaches and our shore communities; we do the safe and the right thing but we produce oil and gas as we can in this country, realizing the entire inventory of oil in America represents 3 percent of the global supply of oil—3 percent—and we consume 25 percent of the oil.

We cannot drill our way out of this. We have to look beyond that. We have tried to do that. Twice this week we brought an energy policy bill to the floor. Twice this week the Republicans defeated it. They refused to vote for an energy policy that is comprehensive, that has just not exploration and production in it but looks to things that are our future: more fuel-efficient cars and trucks.

We cannot keep driving these gas hogs. We have to drive cars and trucks that are sensible, that meet the needs of our families and our economy and do not consume so much gas. I think my kids and my grandkids will be using plug-in hybrid cars. They will wonder why their old man used to use so darn much gasoline when he was growing up because they will have found ways to do it without gasoline, without diesel fuel, using these batteries and using plug-in hybrids.

That is the future. That is what we asked the Republicans to join us on and vote for, and they refused. We asked them to join us in creating tax incentives for solar power and wind power and geothermal sources, all of which can serve our economy, serve our businesses, serve our families, and not create global warming. They refused. Time and again, the only thing they will vote for is the oil company agenda.

The oil companies are pretty powerful. You may see some of their folks walking the halls out here, wearing pretty nice suits and shoes. You can't

miss them. But that is not the future. That is the past. They have done their part. They will continue to play a role—a major role—but the future is a future of vision, looking for clean energy and good-paying jobs right here in America, creating the kind of industry where we can have growth in manufacturing jobs so families across our country have an opportunity.

The Republican view and the Democratic view are quite different. When we offered them a chance to come together, they refused. They would not do it. The last bill they defeated not only had the energy provisions I mentioned, it had a lot of other important provisions. There was disaster assistance for the poor people in Iowa. There was $8 billion to put in the highway trust fund so we can reduce congestion on our highways and create construction jobs across America.

It even included the Wellstone Mental Health Parity Act. Paul Wellstone of Minnesota passed away about 6 years ago. This was his passion, and we have never passed this bill. We have to pass it now so your health insurance covers mental illness, as it covers physical illness. They voted against that too. It was all part of the same bill.

It is unfortunate we have reached this point, but that is the point we find ourselves.

The final word in this debate is going to be on November 4, and the voters will have it. If the voters believe we need to look backward to the oil company agenda, they can agree with our Republican friends. But if they believe we need to look forward, with responsible exploration and production but also incentives for renewable energy that brings us into the 21st century in leadership, I hope they will consider voting for those who have brought that to the floor.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Madam President, I wish to make a few comments to clarify some of the colloquy that went on and what I consider to be some of the distortions that were spread.

First, there is a misconception that the minority side is trying to spread: that Democrats are against drilling. If you go to my State of Colorado, you will find tens of thousands of natural gas wells and oil wells that are producing. If you look at the votes we have taken in this Chamber, there are many of us who have said we need to go and drill, and we need to explore, whether it is off the gulf coast or whether it is in other areas. So for them to try to use the brand that we are against the use of our conventional fuels and resources is simply wrong.

I wish to comment on two or three specific matters. First, on the opening of the Outer Continental Shelf, it is true the President has said he wants to lift the moratoria. It is true Senator MCCAIN has said it would have some kind of a psychological effect, perhaps, on the market. The fact is, there are some of us who say we ought to at least have an inventory of what is out there on the OCS.

But no matter how you cut it, the Department of Energy and the Energy Information Administration has said we are not going to be producing anything out there for 7 to 10 years. So it is not going to have an impact on gasoline now. That raises the question: What is the real motivation of these amendments and these agendas on the Republican side? It is a stalling tactic to keep gas on the minds of people through the month of August so they play it for their own political advantage.

I think the American people expect better of us. I think the American people expect us to come up with real solutions and not phantom solutions. Solutions that have been proposed here are, by and large, phantom solutions. There can be no greater phantom solution, frankly, than what we have seen countless times over the last 2 weeks: the assertion by my wonderful friends on the other side who have said that somehow out of this shale rock—which is shale; it is not tar; it is not sand; it is shale; it is rock—that somehow we are going to be able to develop 2 trillion barrels of oil out of that rock.

Well, it has been tried for about 100 years. Nobody has figured it out. Even the oil companies are saying they cannot figure it out right now. We, contrary to the assertions made by my good friend from New Hampshire, opened the opportunity for oil and gas companies to go in and see whether the technology could be developed. So we have a robust research and development program that is taking a look at whether oil shale can be commercially developed in my State of Colorado, where 80 percent of the reserves are located.

So I would hope, as we move forward in what is one of the most important issues in the crucible of our times, that we look to the future to find real solutions that are so important for us on energy because, at the end of the day, what will drive us to that new energy world is the importance of national security, economic opportunity here at home, and the environmental security of our planet.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Madam President, a little earlier this afternoon, our leader came to the floor with colleagues and offered six different opportunities for the Senate to bring before it bills that include responsible drilling, investments in alternatives, investments in areas that will create jobs right away, which relate to my great State of Michigan, which is investing immediately in advanced battery technology research and development and retooling our plants for the new vehicles, which will create, within 2 years—not 15 years—changes that will allow us to move aggressively to hybrids and plug-in automobiles. We saw legislation put forward to deal with energy speculation and what is going on in the marketplaces.

Each of those times, there was an objection to even moving ahead to consider those bills. Twice this week, we have tried to move forward on tax incentives for production, for alternative energy, and other options that will get us off foreign oil and bring down gas prices for good. Each time there were objections. In the month of June, two other times—we can go back a year—objection, objection, objection.

Frankly, people watching the Senate get sick of this because they want action. They want something to be done. The question is: Who benefits by this blocking continually, by this stopping of us moving forward to alternatives to compete with oil companies or to tackle oil speculation or windfall profits tax proposals that would require you to pay an extra tax if you don't reinvest in alternatives or in drilling in America to create more supply? Who would benefit by these things?

I think it is very clear from the announcement in the paper today. Today ExxonMobil reported second quarter profits of $11.68 billion, the highest ever for an American company. It did that last month—the last quarter: highest profits ever—ever—ever for an American company. All together, since President George Bush and Vice President DICK CHENEY, two oilmen, have been in the White House over the last 8 years, all together ExxonMobil has reached $212 billion in profits. That is a lot of zeroes: $212 billion in profits.

I wonder who benefits from the inability of the Senate to get agreement to move to bills that would create competition with this company or deal with oil speculation or deal with other policies that would hold them accountable? It is right here. It is right here. This is very clear. As my kids say, it is as clear as the nose on your face of what this is all about. This is about an oil company agenda that has run wild for 8 years, and the American people are paying a huge price. Our economy is paying a huge price.

Along with ExxonMobil, Shell has also reported profits of $11.56 billion, bringing their grand total since this administration took office to over $157 billion. The total combined net profits of the big five oil companies since President Bush and DICK CHENEY took office are upwards of $641 billion.

What have they done with those profits? Well, oil companies have spent $188 billion in stock buy-backs and other spending, rather than investing it in supply here at home and abroad. We have heard so many times on this floor that there are 68 million acres available right now for exploration that are not being used. I have supported responsible drilling as part of the solution. We know there is no silver bullet, but we also know we have to be aggressively moving to the future and not

stuck in what is an oil company agenda for this country.

We also know we are in a global marketplace. Nobody knows that more than the people in my great State of Michigan. We are competing in a global economy. So that as there is supply created, as there is drilling, it goes into the global marketplace. If they drill in Alaska, it goes to China. To add insult to injury, we don't even know where the oil will be going.

However, here is what we do know: In February of this year, according to the Department of Energy, shipments outside this country were 1.8 million barrels a day—1.8 million barrels a day. Overall, in the first 4 months of this year, the shipments of American oil outside this country—drilling here, going somewhere else in the world—were up 33 percent.

So clearly, the great oilman who has been all over our television sets, T. Boone Pickens, is right. We are not going to drill our way out of this in a global economy where you can drill here and it can go anywhere to the highest bidder.

Here is also what we know: We know we have to get extremely serious—and quickly—about those things that will make a difference, such as bringing accountability to the energy markets and addressing speculation, and focusing aggressively on those areas that will give us real alternatives and competition for these guys who have been doing so well.

To add insult to injury, we take a look at the other ways in which this industry has received so many benefits from this administration. Eighteen months ago, we heard in the New York Times that the Bush administration was allowing oil and gas companies to forgo royalty payments. They didn't have to pay their royalty payments on leases in Federal waters in the Gulf of Mexico. This decision by the Department of the Interior can cost up to $60 billion. They were supposed to make payments. Those payments were waived, for whatever reason, costing us up to $60 billion. Sixty billion dollars is the equivalent of 38 days of free gas for every American. Right now, I know a lot of folks who would take that gladly.

The reality is we have seen at every turn efforts to support this industry for the last 8 years, and where has it gotten us? Where has it gotten us?

I wish to share with my colleagues some stories of folks from Michigan in terms of where it has gotten us—not only $4 a gallon at the pump, but when we look at what has happened to real people, it is an outrage, where this 8 years of a policy that has put oil companies first has gotten us. We know that everybody is affected. The folks going to work are affected. Yesterday I read a letter from a young woman who works after school and was concerned because she takes the bus to school and now the buses are being cut because they can't afford to put gas into the schoolbuses. What an outrage in the United States of America.

Let me share today an article that was in the New York Times. Older poor people and those who are homebound are doubly squeezed by rising gas prices and food prices because they rely not just on social service agencies but also on volunteers. We have heard from our home health care agencies that do such a wonderful job in this country helping people to be able to remain at home and allowing them to receive services. In a survey of home health agencies, more than 70 percent said it was more difficult to recruit and to keep volunteers. We have heard that from Meals on Wheels. We have heard that from other kinds of volunteer programs that go into homes to help seniors, to help the disabled, to help those who need some assistance.

Let me share with my colleagues one letter. Mrs. Fair, who has limited mobility because of diabetes, lives on $642 a month of Social Security widow's benefits, and relies on care from her son who often works odd hours, especially during blueberry season. We grow a lot of blueberries, and they are terrific, they are the best, in Michigan. It says: ''You belong in a nursing home.'' This is what her son said. ''I can't take care of you.'' The delivered meals she has been receiving have allowed her to eat at normal hours which helped her control her blood sugar levels. Last year, she lost her balance during a change in blood sugar and spent a month in a nursing home. With no meal delivery in her area now, she is going to have to find someone to pick up the frozen meals from the center in the next town. She says: ''If my aide can't get the meals''—a person who has been helping her—''maybe I can get my pastor to pick them up. I can't travel even to the drop-off center.''

In Union, MI, a town among flat corn and soybean farms near the Indiana border, Bill Harman, who is 77, relies on a home health aide to take care of his wife Evelyn, who is 85 years old and she has Alzheimer's disease. Mr. Harman has had to use a wheelchair since 2000 because of hip problems. Unfortunately, the person who has been coming to their house, Katie Clark, who is 26, may have to give up her job. She lives 25 miles away and drives 700 miles a week to provide twice daily visits, helping Mrs. Harman dress in the morning, get to bed at night, feeding her, doing chores around the house, and then she laughs, saying ''putting up with a grumpy old man.'' I am sure he is not that grumpy. Her weekly income of $250 is being eaten up by gas expenses, which come to $100 a week. ''Some weeks I have to borrow money to get here,'' says Ms. Clark, a single mom of two, ''but they are just like family to me.''

For her work she receives $9 an hour and if she leaves, Mr. Harman has said he will not be able to care for his wife. He said when they married, she raised his five children as if they were her own. Mrs. Harman started to develop Alzheimer's 8 to 10 years ago. He said, ''I promised her, don't worry, I will take care of you as long as I can.'' But without a home health aide, he said, he was going to have to put his wife in a nursing home and he probably would need to live there himself.

In the greatest country in the world, we have folks who are not able to get their Meals on Wheels. They are not able to get their home health aide now. Why? Because they can't afford gas. We have school buses that can't run because they can't afford gas.

Let me share with my colleagues one other story. Sandra Prediger, who is 70 years old and who still drives a car, said higher gas prices hit her every time she needs to go to the doctor. From her senior apartment in South Haven, MI, she was barely able to pay her bills because gas prices rose. She said: ''I try to help some of the ladies around here, driving them to the doctor or to the store.'' But a round trip to her doctor or the beauty shop now costs $26 in gas. She has had to ask her friends to pay half. She said, ''I hate to ask because they have less than I do.''

Her Social Security check arrives on the 3rd of the month. For the first few days before, her local gas station lets her write a postdated check to fill up. On July 2 she had no money and owed money to the gas station and she knew that in a few minutes her friend would be calling saying, could you please take me to the store to get the meals for my diabetes. What am I going to do?

There is something wrong when we are in a situation where we have seen an agenda benefiting a special interest in this country, and in the world right now, where we have seen the highest profits in the history of the country that are creating numbers such as $641 billion in profits and we have seniors who have to write a postdated check at a gas station so they can pay for gas to get themselves and their friends to the doctor.

The reality is that to be able to change that, we have to do more than drill more so the oil companies can make more of a profit in a global economy. We have to be able to create a situation where there is competition with other kinds of alternative energies so we have more than a choice of whatever price they put up at the pump. That is what this is about. That is what the crux of this is about, because if it weren't about this, we would have a compromise. We would have a solution. If it weren't about this, there wouldn't be objections going on day after day after day to be able to take up legislation on this floor, because under normal circumstances, if there weren't this huge amount of money at stake, people would come together. If they weren't backing up these huge interests, people would be willing to come together to be able to solve this problem.

There are things we can do. I am very proud to be part of a group of people in

the Democratic majority who have been working very hard to create an alternative vision for the future. Yesterday the Senate leadership, including Senator BYRD, the chairman of the Appropriations Committee, laid out a jobs stimulus that we intend to bring forward for a vote in September. In there is a major investment of $300 million in advanced battery technology research and development. We are so close to having the electric vehicle on the road and mass produced. We are so close. There is work that needs to be done, but we are so close. Within 18 months to 2 years, we can have a real alternative to oil on the road.

Part of this package also includes a commitment to Americans and American jobs by helping to retool and make capital available, make credit available to companies to retool our plants for these new vehicles, so that we keep those jobs here.

Our companies are competing with countries right now. Come to China, we will build a plant for you. Come to Korea, we will build a plant for you. We want those jobs here.

I am very proud that the stimulus that has been put forward shows a commitment to American jobs and American manufacturing. I am very proud that is part of the stimulus package we will be working on and voting on in September.

Around the world, everybody else gets it that it is not just about oil and drilling. Everybody else understands. Every other country is racing to alternatives. Germany announced the great advanced battery alliance that will invest over $650 million in advanced batteries to help German automobile makers. South Korea spent over $700 million in advanced batteries and developing hybrid vehicles. We are in a race with them to get to the future, not the past. China has invested over $100 million in advanced battery research and development.

In the next 5 years, Japan will have spent $230 million on this research, as well as $278 million on hydrogen research for zero-emission fuel-cell vehicles. That is the future. That is the real competition, so when you go to the pump and look up and see that price for traditional gas, you have another choice. That is the future. We are working very hard to get us to that future. We need a White House that will help us get to that future. We need support from the other side of the aisle, not just to talk about it.

In conclusion, part of what is talked about on the other side of the aisle in terms of supporting advanced battery research is a prize. If you go out and spend all this money—and Germany spends $650 million—but if you, an individual or a business in America, figure out a way to get the capital to do this, we will give you a prize at the end. It is insulting that the presumptive Republican nominee and his colleagues on the other side of the aisle have decided to run our economy like a game show.

We have said we have to invest upfront in America, in American jobs. That is the future. That is the only way to create the opportunity for schoolbuses to be able to run, for seniors to be able to get to the doctor, for folks to be able to get home health, for folks to be able to get to a job, and to create the jobs we need in the future in advanced manufacturing.

I hope before this week is out, our colleagues will come to the floor, stop objecting, and work with us. What we know is right in front of us—what we know can be done to bring down gas prices and create jobs in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

STATE OF PARALYSIS

Mr. WEBB. Madam President, I want to take a few minutes today to speak about the state of paralysis we seem to have found ourselves in on the Senate floor, and then also to make a brief comment about two nominations the Senate will be considering.

First, we are paralyzed, obviously. The other side of the aisle has voted against a windfall profits measure for oil companies at a time when we have seen record profits for any company in American history, which has only increased. How did they get these profits? Certainly not by working any harder. In fact, as people have mentioned on the floor today, it seems a lot of production actually has gone down. I don't know how else you define a windfall than what has happened in the price of oil and the profits that have gone to the oil companies over the past 6 or 7 years. They will not give us a vote on the rampant speculation that has now taken place in the oil market.

I have to say at the outset that I don't have a fundamental disagreement with a lot of the things that are being said on the Republican side about what we need to do. I think we very much need a comprehensive energy strategy in this country. I am not opposed, personally, to the idea of expanding exploration for oil and gas in those cases where it is appropriate, and to get down and find the assets that are available to us as a nation and increase our national security. This may not be, as some people say, the answer in the distant future, but it is certainly an essential transition for us as we reach toward that future.

I personally support nuclear power and expanding nuclear power programs. We have not built a new nuclear power plant in more than 30 years. There has been ample comment about that on the floor. I think nuclear power is safe. We are the best in the world at it. The experiences of the U.S. Navy at sea for at least a half century demonstrate that. It is environmentally clean, and we have gotten better technology, advanced technology, in terms of taking care of nuclear waste.

I believe we can reach a point where we have cleaner coal. This requires new technology. We are the Saudi Arabia of coal. We are looking to improve national security, and we are looking for independence from countries where we have seen an enormous transfer of wealth from the United States. This transfer of wealth is going to result in better infrastructure for these other countries, and it is going to harm us in the long-term.

I believe we need to support conservation and alternative energy programs of every sort. I went to high school in Nebraska. If you draw a line from Canada to northern Texas, where the winds come down from the Arctic Circle, you will see there is not a mountain in the way. There are actually trees in Oklahoma that bend toward the south because of the power of those winds. I believe we must invest, in terms of alternative energy technologies, whether it is wind, solar, or other areas.

At the same time, when do we debate this? How do we develop a strategy? What should we be doing now, today, looking into the immediate future? The bill our leadership brought to the Senate floor is the best short-term fix, when we are talking about the incredible increase in the price of oil. If you go back 6 years to when this Congress voted in favor of the invasion of Iraq, oil was $24 a barrel. The price of oil went all the way up to $147 a barrel. It has tamped down a little since then, but that is a sixfold increase in 6 years.

I can guarantee this is not simply a supply-and-demand issue. The demand didn't go up six times in the last 6 years. There are other interests, including the speculation market, that have driven the price of oil up that high. We have had testimony from oil companies' executives saying that, in a pure supply-and-demand environment, oil would probably be at $60 a barrel. That is an issue we can affect. We can affect it in the short term by regulating a market that has dramatically changed because of the participants in that market since late 2000. I hope we can have some sort of agreement on this. We should have a vote on the speculation issue. I compliment our leadership for having attempted to bring that issue before the Senate.

PENDING NOMINATIONS

Madam President, I want to speak for a couple of minutes about two nominations that are pending before the Senate.

First, I express my appreciation to the senior Senator from Virginia, Senator WARNER, today for the comments he made about Kathy Stephens, who has been nominated to be Ambassador to South Korea, has cleared the Senate Foreign Relations Committee, and has been waiting for a vote on this floor. I know of very few people who have better qualifications to serve in that part of the world. I have spent a good part of my life in and out of Asia. She began as a Peace Corps worker in South Korea. She is fluent in Korean. I believe she is the best qualified person to

address all of the issues that people on both sides have expressed their concerns about, in terms of politics, the culture, human rights issues, et cetera. I was very gratified to see Senator WARNER mention his support for her nomination today. I hope we can find a way to get her out there doing her job in the very near future.

The second nomination I want to mention is that, regrettably, I am unable to support the nomination for the Chief of Staff of the Air Force. This is an individual who, in an earlier billet, at a key time after the invasion of Iraq, was asked repeatedly to give answers to a question for which I personally believe there were answers. I was writing about it at the time. I have very strong feelings about this. Regrettably, I am going to be unable to support that nomination.

I go back to what General Matthew Ridgway said some 50 years ago, when he was describing the role of a military adviser. He said:

He should give his competent professional advice on the military aspects of the problems referred to him, based on his fearless, honest, objective estimate of the national interest, and regardless of administration policy at any particular time. He should confine his advice to the essentially military aspects.

I believe if we do not insist on this standard in the relationships between the U.S. military and the Congress, then we are going to continue to have the same difficulties that we saw with attempting to get straight comment out of the U.S. military as we went into Iraq.

There was a very wise Marine general who said, at the time I was entering the Marine Corps, ''It is very important in the United States to get the politics out of the military and to keep the military out of politics.'' I believe that, if we believe in that, we need to insist that those military officers who testify before the Congress abide by it.

With that, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

CONDOLENCES TO SIMON FAMILY

Mr. REID. Madam President, I have had the good fortune of working with Senator BINGAMAN now for 26 years. He is such a wonderful man. His academic record is as good as anyone's in the Senate. His ability to do legislation is as good as anyone's in the Senate. Everybody knows what an easy man he is to deal with. He is now chairman of the Energy and Natural Resources Committee, which is so important to what goes on in our country. New Mexico is so fortunate to have his service in the Senate. He does so much for New Mexico and, of course, for our country.

The reason I mention his name is that one reason Senator BINGAMAN does such a good job is he has a wonderful staff. I have worked very closely with them. At least 70 percent of Nevada is public lands—land owned by the Federal Government. Only 13 percent isn't private lands. Over 40 percent of the State of Nevada is restricted air space. You cannot fly an airplane over most of the State of Nevada. It is restricted to the military. So we have lots of dependence on the Federal Government. We are the most public land State in the country.

As a result of that, I have worked closely with the Energy Committee all these many years. One of the people I have worked closely with over these years, for more than a decade, is the chief of staff of that committee, Bob Simon. He is a wonderful guy—quiet, intellectually very sound, a graduate of a small college in Pennsylvania called Ursinus College. He has a PhD from MIT in chemistry.

I have followed very closely the travails of Bob Simon these last few weeks because he has a son by the name of Gregory, 16 years old, who was struck with a very bad bleed on the brain and died today. He was in the hospital in a coma. We thought he would pull through, but he did not. He died. It is devastating to Bob Simon, his wife Karen, and, of course, Anne-Marie, his daughter, and Catherine. Catherine is not here today, of course. Her brother passed away. She is in charge of the Democratic pages. She works very hard in that capacity.

It is times such as these when you really understand that when we talk about a Senate family, we really mean it. Bob Simon is part of the family. He works with Democrats and Republicans. He is great for working on a bipartisan basis. When Senator DOMENICI was chairman of the committee, Bob Simon was the Democratic chief of staff. The committee with the two New Mexicans as the ranking member and chairman of that committee, one time as chairman, one time as ranking member—one reason that committee functions so well is because of Bob Simon.

There is nothing I can do other than to recognize what a good man Bob Simon is. There is nothing I can do to ease the pain of the Simon family, their friends, and loved ones.

On behalf of the Senate, I extend my deepest condolences to Bob Simon and his wife Karen for their heartbreaking loss. Being the father of five children, I can only think how devastating this must be.

Mr. DOMENICI. Will the leader yield a moment?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I heard the leader's comments about Gregory. I just want to say I am aware of the situation. I feel the same way the majority leader feels. I thank him so much for his graciousness toward Bob and his wife. I know how tough it is on them. We don't know it until something like that happens, but that is a very young, wonderful boy who died. Bob is a wonderful man. Everybody who knows him knows he is a dedicated, devoted father. It is just pathetic that this happened.

I join the majority leader in every way in extending my most sincere regrets and hope and pray that the best will come of this. I know that sounds impossible, but at least we can ask for the best and that the Lord consider them and be merciful to them.

Mr. REID. Madam President, I did not know my friend from New Mexico was on the floor, but as he knows, I did mention his name and the great relationship Bob Simon has had with the committee. As I mentioned, not knowing the Senator from New Mexico was on the floor, I will repeat what I said, that the committee has functioned very well. Two New Mexicans run that committee, either as chairman or ranking member, back and forth, and they work so well together. One reason they do is because of Bob Simon. He is a very quiet, brilliant man, and it is very nice that Senator DOMENICI would say what is in his heart because we join in his wishes that, as he has indicated, the Lord will look down on his family with understanding and compassion, and hopefully, as time goes by, there will be some good that comes from this tragedy.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as I understand it, time now inures to the Senate Republicans for—is it a half hour?

The PRESIDING OFFICER. The Senator is correct.

ENERGY

Mr. DOMENICI. Madam President, I am here to lead off for the Republicans. There are two others. Senator BROWNBACK is here, and there may be another Senator, Senator ALLARD. I say to them, I am only going to make a 2-minute or 3-minute statement and then yield to whoever wishes to go first. I would like them to hear what I say.

Yesterday, the chairman of the Appropriations Committee, Senator BYRD, issued what I believe to be a very telling and extraordinary statement. He said:

It became clear that an attempt to add language to the supplemental——

That is the supplemental appropriations——

repealing the two-decade-old ban on offshore oil and gas drilling would be successful, resulting in the necessity of having to produce 60 votes on the Senate floor to strip the repeal.

And so for that reason, the markup in the Senate Appropriations Committee on two important bills that fund the government was canceled.

I will say that not only does this statement contradict claims of the majority about why the markup was canceled, it also crystallizes exactly why the last 9 days in the Senate have resulted in absolutely nothing. The majority is afraid of allowing the Senate to vote on increasing American production. They are afraid to let that happen because a vote just might yield results.

We have spent 9 days debating this bill. During this time, we could have

considered dozens of amendments, just as we did on the energy legislation in 2005 and 2007, and without a doubt, because the majority leader has taken sole control over the process, we have been held to zero votes. So zero votes, I say to my fellow Americans, cannot yield results. When you have no votes, you cannot accomplish anything. That means you cannot add to the offshore reserve that can be made available for oil and gas production. It remains as is, no matter how much is there, no matter how much we could end up drilling for so the American people could look out and say: By producing our own, we don't have to waste all our money sending it overseas, and the price might come down.

My last observation before I yield to my good friends is that I continue to hear comments from the other side that say we should not be drilling because all we say is drill, drill, drill, and that is the only thing, and we don't need to do that; we need alternatives.

We can have all the alternatives we would like—and I am surely in favor—but we are going to be using crude oil or something much like crude oil for at least a generation—that means 20 years minimum—because we cannot get off crude oil any faster. The oil products we use for our cars, our trucks, and our airplanes we cannot change over fast enough, so we have to use oil. And if we don't produce more of our own, we all know what we are going to do is buy from others and continue to send the money overseas.

It is not just drilling because we want to drill, drill, drill; it is drilling because we don't have enough oil. And if we find more, we import less. That should be good, and the American people sense it is good. That is why so many of them have said let's open the offshore for drilling.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, I would like to first thank my colleague from New Mexico and ask him a question, because this will be the last year he is serving in this body. He has served in it for many years, very distinguished. It has been my pleasure to get to know him. Senator DOMENICI can be irascible sometimes, but he is always fair. I find he will get on both sides, depending on which way he makes the call.

I just saw this, too, that we are not having this Appropriations Committee markup. I am on that committee. I am a relatively new member. Senator ALLARD is on it, and Senator DOMENICI has served on it in a distinguished capacity for many years.

This is really striking. I have not seen this take place. I have not been in the Senate that long, but I wonder if my colleague has seen that sort of move taking place to stop a major issue that is confronting the American public?

Mr. DOMENICI. Madam President, I have not seen such a thing. In fact, I have said—not as direct as this, but I have said that in 36 years being a Senator, through thick and thin and bills I have managed, bills I have amended, whatever kinds, I have never seen anything where such a simple proposition—can we open lands that we own so they can be drilled, yes or no—I have never seen where it takes 10 days and they waste 10 days of time and still say no. I have never heard of that. Yet the majority, the leader of the Appropriations Committee says in the Appropriations Committee there are enough votes to end the offshore hindrance that has been there, it says, for two decades or three decades. If the amendments do that, they are awfully scared, right? Maybe that is why we didn't get the vote.

I think it is other things. I don't think Members on that side wanted to vote, win or lose. They didn't want to vote. Now the American people can judge. That is how I see it. They can judge what happened and why.

Mr. ALLARD. Madam President, I wonder if I might ask the Senator from Kansas to yield because I would like to add additional remarks.

Mr. BROWNBACK. Yes.

Mr. ALLARD. I think the Senator from New Mexico, Mr. DOMENICI, has done a fabulous job with the energy issue, not just this year when it is fashionable—and this is the big issue—but he has devoted his whole legislative career to energy, making it available, how we can use research and technology to meet the energy needs of this country. He is recognized not only by me but nearly all Members of this Senate for his hard work on energy. We all should appreciate that work.

I join in the chorus of those who have congratulated Senator DOMENICI on a distinguished career. His dedication to energy—I cannot think of another subject one could pick up that would have more of a long-term impact on this country, whether we are talking about economic security, whether we are talking about military security, or whether we are just talking about a secure home where one can rely on utilities and everything to have a comfortable lifestyle in this country. The Senator needs to be recognized for that. It is a pleasure for me to do so, as I have served on several committees now with him. He is very articulate on this subject, and he does a great job.

Mr. DOMENICI. Madam President, I thank the Senator from Colorado, and I will add one supplement to it because he knows this and maybe we will just say it together here. I did devote 10 years, with three or four experts, to seeing if we could bring nuclear power back to life in America, instead of leaving it dead, for others to use it as we sit around having invented it and wondering what is happening. I did work on it for 10 years, and then when we did our big bill, we put in provisions that brought it back to life. That does make you feel good. You don't do that alone.

We never had a single vote, I say to my friend from Colorado, not one vote was taken on any of the bills to try to negate the provisions we put in for nuclear power. One would have thought 5 years ago it would be the most contentious issue we could have brought to the floor. In that big Energy bill, there was a whole chapter on nuclear power. Nobody sought to amend it, change it, anything. That was really a credit to the Senators who worked so hard on nuclear power, and the Senator was one of them. Senator ALLARD has always said he has been proud of it. I don't know about the Senator from Kansas, but I assume so. He has a good brain, and if you have a good brain and you are a reasonable legislator, you couldn't be against nuclear. You just had to be one of these fringe people against everything, scared because we had an accident once.

If you are scared because you had an accident once, you would not get up in the morning. That is what the doctor told my mother. She didn't want me to get out of bed because I had a bad knee. The doctor said: The best thing to do if you don't want him to get hurt is you be his maid. He can stay in bed, and you can serve him food for 25 years. Of course, he won't amount to anything. And that is true.

I am talking on. It is getting close to the end of the day.

I yield the floor.

Mr. BROWNBACK. Madam President, I thank my colleague from New Mexico. I note that when the nuclear industry comes back, I hope one of the first powerplants has ''Pete Domenici'' written over the archway going into it.

We have an excellent nuclear powerplant in Kansas called Wolf Creek. My colleague recognizes this. It has been in operation for 25 years. It had huge protests before it got built. People were protesting the train that carried some of the main core elements into this spot. It has been operating efficiently, cleanly. It doesn't put off $CO_2$. It was a huge investment that has been fantastic for our whole State. And it was a capital expense. It was expensive on the capital side of it, substantially so, but, boy, does it run well. It has been good to see. And if we need to bring that back, we need to bring it back on a cost-efficient basis, but that was one of our key elements on moving this forward and moving our car fleet with more electricity. But we are going to need that base power generation, and we want it clean, and here is a good spot to do it.

Mr. DOMENICI. There are 16 applications to the Nuclear Regulatory Commission as of the day before yesterday—16—for new nuclear powerplants; in some cases, two plants at one site, both construction and design applications. We had zero the day we adopted the new Energy bill. For once it seems as if we did something right; doesn't it?

Mr. BROWNBACK. I agree.

Madam President, I join my colleagues from New Mexico and Colorado

in talking about the energy issue, and I particularly want to associate myself with the comments of the Senator from New Mexico, who responded that we are not just focusing on drill, drill, drill. The point of the matter is two numbers. Those two numbers are 25 and 3. Twenty-five percent of the world's oil is consumed by the United States, and we produce 3 percent.

Now, how long can we operate that way?

You can say, as my colleague from New Mexico has pointed out: Well, OK, we are going to get off oil. We want some alternative. Lord knows, I want an alternative. I want more ethanol, which is produced in my State. I want it produced out of cellulose. The problem is, if we turned off oil tomorrow, we are not in a position to produce enough of that or virtually anything else. We are going to need to use oil for some period of time, and that 25 and 3 ratio doesn't work—our consuming 25 percent and producing 3 percent—when we could produce probably a good 50 percent more. Who knows what the actual number is. We know it is much higher than what it currently is.

For every dollar we are not spending on oil here, we are spending it somewhere else. They are building these huge indoor sea complexes in Dubai in the Middle East and lavish buildings. They are building islands, whole islands, beautifully designed like a palm tree. That takes huge amounts of money.

You sit there for just 2 minutes, and you think: Where is all that money coming from, I wonder? It is coming from our consumers' pocketbooks when people are pulling up at the gas station and paying 100 bucks or more for gas to fill up. Hopefully, there are people who have vehicles that are using substantially less than that, but the point is, it is a huge transfer of wealth from here to there, and it doesn't have to take place when we can produce it here.

I would rather that money be going to Kansas or Colorado to work on their oil shale or to Alaska or to offshore areas but certainly working here. We have a Federal deficit that is taking place. What if instead of us shipping $500 billion overseas for oil, we were spending that money here. Then 20 percent comes into our Federal coffers. That is the general figure. I think that is a bit high, but it is about that right now. So you have $100 billion coming here in tax revenues. It is just common sense.

My dad farms, and I have been talking with him about this issue. He is paying a lot for diesel fuel because he runs the tractors on diesel, and he is paying more than he used to. He is saying: Why aren't we doing this here? And I have a hard time explaining to him why we are not doing it here, when we could do it here, when we have the capacity, the ability, and the technology in the market.

I say: Well, some people don't want us to.

Well, why?

Well, they are scared of what is going to take place in the environment, even though we can do it environmentally sound. Someone is going to be doing it somewhere else. Are they going to do it more environmentally sound than us? I don't think so. I know they are not going to in some of the places I have seen around the world. The U.S. standards are the highest in the world.

So I would plead with my colleagues that drilling is part of the answer. It is clearly part of the answer when our numbers are 25 and 3; when we use 25 percent of the world's oil and produce 3 percent of it. We have to get our numbers up. It helps to balance the trade, it helps our deficit, it helps our people, and it spends it here at home.

That is why I continue to join my colleagues in voting that we stay on energy instead of going to other issues. I would like to solve some of these other issues as well, as would my colleagues on the Senate floor. I want to deal with them. I want to deal with all these issues. But when you pass up the biggest issue that is confronting most Americans, and you don't deal with it, and for 9 days you don't deal with it when you could be, we are just simply saying: Let's deal with the biggest one here, and then we will be happy to deal with these other issues. We need to deal with these other things, but not until you deal with the biggest one. If we don't deal with it now, are we going to deal with it this year? I don't think so. I don't think that will happen. We are not going to get more time, nor will we have more political will the closer it gets to the election.

So now is the time, now is the place, now is when the American people want us to deal with this matter. So I join my colleagues in continuing to vote this way; that we take up these amendments to increase production in the United States.

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

Mr. BROWNBACK. I will be happy to yield to the Senator from New Mexico.

Mr. DOMENICI. Before I leave, I want to say to the Senator from Colorado, who is standing here patiently, that he might recall that the Senator from New Mexico went up and visited Colorado and Utah to see the oil shale before we had the big bill, where we put everything together.

Mr. ALLARD. I do remember.

Mr. DOMENICI. I was prompted to do that by you, to find out why we weren't doing anything with that shale. We found out that we didn't have any leasing laws that permitted it. I recall it was at your instigation that we put the first laws in the energy impact bill, the big bill, allowing leases for research and development. That is what has brought the development they are all worried about. It is a research and development lease.

Now they don't want to have any, as you put it, rules or regulations, so they can stop it dead after we got a good start. We understood that Shell Oil was ready to try a new process. They were going to spend more than a few billion dollars on it, and we found that out and said: Well, we ought to at least give them a chance. And we did, thanks to you. But now they won't let us vote on getting rid of the moratorium, so that is dead in the water too—that great big resource.

So I thank you.

Mr. ALLARD. Well, I thank the Senator from New Mexico for his gracious remarks and, again, it is a statement of his statesmanship to actually go and visit the site and find out what is going on. That is why he makes such a great legislator in the Senate.

I am with my colleagues. I am sick and tired of delays. It is time for us to move ahead. I have a chart: There have been six attempts by the Democrats to change the subject from $4-a-gallon gas, all while people are suffering at the gas pump and we are having dramatic adverse effects on our economy. We are getting ready for the school year, and school districts are struggling with how they are going to get fuel for the school buses. We have farmers and ranchers starting to put up their crops, and they are wondering how they are going to get money to pay for fuel, which is a major cost. It just doesn't balance out for us.

So I am very concerned that we have had these six attempts to move off of $4-a-gallon gas when it is such a vital issue. I can't think of another issue since I have been here that has had this profound an impact on people's lives. We shouldn't be delaying or stopping this matter.

There have been other subtle attempts on the other side, even if we move forward, to delay the development of energy, and let me cite a couple of examples.

One is the offshore drilling provisions, which we have in our Gas Price Reduction Act on the Republican side, where we look at the offshore drilling—the deep ocean drilling. We have had Members stand here on the Senate floor and say: Well, I am all in favor of that, but we haven't gone ahead and done the seismographic studies to figure out where our deposits are.

Well, we have been trying for years, mostly through Senator DOMENICI's efforts, to try to get the money to do the seismographic studies so we know how much and where those deposits are. But there is delay before we actually get to it.

So Members will stand up and say: Well, I am all for offshore drilling, but we need to do the studies. Well, they won't support the studies and the money to get it done. Let's take oil shale, for example. What we need to do is to put the regulations in place so that when the technology is developed and we are ready to move forward with development, we can do that in a phased process. But, no, we are not going to let the regulations go forward, which ends up being an additional

delay when the technology is ready to go.

So I am hoping—and I want to thank the Senator from New Hampshire, who had proposed the amendment I had made in the Appropriations Committee a little earlier this afternoon—it was objected to on the floor—where we said, let's move ahead with rules and regulations. Then in the amendment it says that we will delay development until 2011 because the technology for development won't be in place any sooner than that. So that was acceptable. The Department of the Interior has got the rules and regulations. They are out there for public comment, but that is all the further they can go.

If we continue what we have been doing year after year, we have stopped the development of oil shale dead in its tracks. Even worse than that, when it is ready for development, we will have delayed it that much more because we haven't done the things up front that will allow the oil companies to begin to look at what their lease agreements might be, as the Senator mentioned from his visit, or what the royalty payments might be or what the remediation issues may be when they move in with oil shale.

I happen to think the technology we are developing in Colorado is environmentally friendly, and it is not a mining operation. You freeze out an area of the ground, you heat out the middle of it, and you get a high-quality fuel out of there which will help us meet our energy needs. The hydrocarbons we get out of the ground, I think all of us realize these are nonrenewable resources. At some point in time, we are going to have to do something else other than just rely on those. But right now they are the bridge. They are our bridge to renewable energies.

I have heard comments on the Senate floor against the Republicans; that all we are interested in is drill, drill, drill. Republicans, to a person, believe that we need to use our hydrocarbons to bridge, and they understand we need the new technology. We are not saying exclude anything. On the other side they are saying: We will just go with renewables. We will let $4 a gallon stand. Who cares. Let it go to $5. Let it keep going to $7.50, even to $10 a gallon. We don't care because the high cost of gasoline will encourage conservation.

I think there are other ways we can encourage conservation, and I think a lot of it is happening today. But that is certainly not the way to do it because it has such a dramatic adverse impact on our economy, and it has an adverse impact on the security of this country.

Both my colleague from Kansas and New Mexico talked about how all of our dollars are going overseas, more than $700 billion a year going overseas to support the economies of our adversaries. They are the ones who don't support what we are trying to do: to spread democracy around the world. They would like to see us go away.

So I think we need to take a serious look at our alternative energies, and we need to act now to do something to increase hydrocarbons and do something to reduce the price of gas at the gas pump.

There is one area of the economy that I don't think we have talked much about, and that is the trucking industry. Talk about renewables. What is going to provide the energy for trucks? What renewables do we have for trucks? I know some trucking companies are looking forward to going to propane to help a little bit, but there is not much substitute out there on renewables for the diesel engine right now. The diesel engine is what we use in trains, in trucking, in farming, and it is not going to be an easy solution for us to come up with an alternative fuel for diesel. We need to do what we can to hold down the cost of those kinds of fuels because that new technology is going to take a while to develop. We can't just shut it off today and expect our economy to function when it is such a vital part of what is happening in this country.

Mr. DOMENICI. Will the Senator yield?

Mr. ALLARD. I will be glad to yield.

Mr. DOMENICI. I note that you just used a word a minute ago—''bridge.'' I think you have heard me speak of the bridge. You see, the bridge is how you are going to get from where you are now, with an economy that is using hydrocarbons to move itself, to do all kinds of things; how we are going to get from there to an economy that has no more of that. That is a bridge.

Most interesting, the bridge is going to be crude oil because the only way you can get there is to stay alive, to have an economy, to produce, to get things done. And to get across that bridge you have to have crude oil because there is nothing else to get you there. You cannot put everything in parking lots and in abeyance until you find what is on the other side of the bridge.

The truth is, we have to produce crude oil for perhaps a decade. You said 10, 15, 20 years. That is my guess. Even if all these things work, the automobile where you can turn it on with a switch, everything that we can do, we are still going to be, what I say, stuck in the mud—the oil mud.

Whether people like it or not, Americans have it right. They are saying drill some more, they are not saying drill less. Six months ago, everybody was afraid of the word. Now they are not afraid of it because people understand if you have more of that stuff called oil you might pay less. Costs might come down.

I thank the Senator for his understanding, and I am pleased to be with him.

Mr. BROWNBACK. If my colleague from Colorado will yield as well?

Mr. ALLARD. I yield to the Senator from Kansas.

Mr. BROWNBACK. There is another bridge I would like to talk about, and that is the continuing resolution. I wish to point out to my colleagues these are annual limitations on drilling offshore, in the oil shale. These are annual things put in, these limitations. There is a building coalition and consensus of people saying I don't want those limitations put on this year's appropriations. We do a continuing resolution as a bridge. I am warning my colleagues if this doesn't get voted on and dealt with, I think you are going to see people starting to say: I am not willing to put that into that bridge funding into next year.

I hope we can work this out on something on offshore drilling, on oil shale development of rules, before we get to that continuing resolution piece where this would normally, or often, be put in. People are saying I do not want that in this financing bill for the Government, the continuing resolution.

Mr. ALLARD. I thank the Senator from Kansas for his support. I couldn't agree more with him. It is time we stop these tactics that are causing the price of gas to get so high. Obviously, before the summer break, it doesn't look like we are going to have an opportunity to deal with the issue of bringing down the price of gas. Come September, we are going to have to do something more dramatic than what we have at this point. If it means we have to stop the continuing resolution with moratorium language in it, I think at that point in time we may have to make a strong stand—at that particular point in time. I predict we are not going to see that much of a decrease in the cost of gasoline and diesel fuel at the gas pump.

I thank the Senator from Kansas for his comments and for his support. We talked about how various aspects of the economy are being impacted by the high price of gas. I was at a press conference earlier. We had representatives speak on how the poor are getting adversely impacted, more than any other part of the population in the United States, because of the high cost of fuel. We had a member from the Congress of Racial Equality. We had Bishop Harry Jackson, who talked about the High Impact Leadership Coalition. We heard from the All Nations Pentecostal Church of God in Christ talk about how the poor they were dealing with were being so impacted by the high cost of fuel. We had a number of people from all aspects of life, including veterans. We had also consumer groups. We had the Farm Bureau and we had Americans for American Energy, all there at that press conference, talking about how letting the price of fuel get so high was actually a war on the poor. I thought that was a rather dramatic way of putting it.

We need to think a little bit about the fact, if we allow the price of gas to get high like this, there is a lower income section of our society that is going to be dramatically impacted because they do not have the reserve capacity to pick up the costs of fuel that is impacting their lives.

We need to act now. We should not be putting it off. I have been disappointed that we have not been able, as Republicans, to put our amendments forward on the floor. The majority leader has changed his view—we will go up to four, we will let in some amendments—and then all of a sudden we are at none. We are back to the none right now.

We need to move forward. I see my time is expiring.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Madam President, I ask unanimous consent I be recognized for 5 minutes at this time, that Senator LEAHY be recognized immediately following me for 10 minutes, and the remainder of the time be given to Senator DORGAN.

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

HIGHER EDUCATION OPPORTUNITY ACT

Mr. MENENDEZ. Madam President, I rise to speak in support of the Higher Education Opportunity Act.

There is no doubt in my mind that I would not be speaking here today if it were not for the kind of assistance we will be voting on today.

I would not have been able to go from the small tenement apartment I grew up in to the halls of the United States Senate if it were not for our Federal Government's commitment to educating our young people, no matter what neighborhood they grow up in, no matter how much money their parents make, no matter what their ethnicity or the color of their skin.

I was the first person in my family to attend college, and then law school, thanks to Pell Grants and Perkins loans. The fact that I could get a quality education and was willing to work hard-work meant that the American promise was real for me. And I believe that providing every child with the same opportunities I had—so they can achieve their God-given potential—should be the unalienable birthright of every American.

Supporting our children's future isn't just a social responsibility, it is an economic necessity. Just a few decades ago, workers could find a good paying job and comfortably raise a family on the strength of their high school diploma. But times have changed.

If we are going to stay on the apex of the curve of innovation, if we are going to be the economic power we were in the 20th century going forward into the 21st century—a century that increasingly belongs to those who innovate—we have to do all we can to educate our children and prepare them to compete.

Unfortunately, we are in danger of falling behind. At the same time we are seeing higher education become increasingly more important, we are seeing it become increasingly less affordable.

We are seeing students pass up the opportunity to go on for a higher degree, because they are so pressured to pay their bills today that they can't focus on what is best for them tomorrow. We are seeing so many students who do go to college leave with two pieces of paper that they will carry for the rest of their lives—their diploma in one hand, and the bill for their tuition loans in the other. What we need now is a brainpower stimulus package: a brainpower stimulus package that will make college more accessible and more affordable so that higher education is not reserved only for the wealthy; a brainpower stimulus package that will improve and modernize our Nation's colleges and universities so they will remain the greatest and most distinguished in the world; a brainpower stimulus package that will protect students from unscrupulous lenders and ensure they are getting the best deals possible when they invest in their education with private loans; and a brainpower stimulus package that will close the achievement gap, because in this great Nation, the darkness of your skin should not diminish the brightness of your future.

The package we pass must honor and respect our soldiers and their families and provide them with the same opportunity and promise that they have given so much to defend.

Today we have the opportunity, and the responsibility, to make education a national priority and commit ourselves to accepting nothing less than greatness from our educational system. The Higher Education Opportunity Act would take enormous strides to accomplish many of these goals by increasing Government assistance for students, families, and institutions of higher learning. Allow me to take a moment to point out some crucial aspects of this bill.

Recognizing the dramatic increases in tuition over the years, this bill would increase Pell Grants and Perkins Loans would also permit low-income students to receive Pell Grants all year round, so they can afford to stay in school and earn their diplomas quicker. As tuition costs continue to skyrocket, we need to do everything we can to ensure that every child has the ability to soar to the highest heights of achievement.

In the wake of the recent student lending scandal, we must protect our students from deceptive loans that often leave them mired in debt even before they receive their diploma. This bill would establish strong standards to prevent schools from playing favorites with lenders due to expensive gifts they were given and ensure students are given the best rates possible.

This bill would work to narrow the achievement gap between Caucasians and minorities by investing in Minority Serving Institutions, Hispanic Serving Institutions, and enhancing vital programs such as TRIO and GEAR–UP.

It would reauthorize funding for Historically Black Colleges and Universities and Predominantly Black Institutions and expand their masters programs, by providing $500,000 per year in mandatory funding to each of these institutions for 6 years.

This bill would also honor the dedication and commitment of our armed forces and their families by helping servicemembers, veterans, and their families attend and pay for college by providing interest-free deferral on student loans while servicemembers are on active duty and in-State tuition rates if they are not stationed in their home State.

Finally, it would establish new college scholarships of up to $5,000 for children and family members of servicemembers who have died since 9/11.

When one of our brave servicemembers gives their life in defense of our country, they are not the only ones sacrificing—rather their sons and daughters; husband and wife; and often mother and father have also given the most precious thing in their lives for our country. Like their cherished loved one, they deserve more than anybody the opportunity and promise that makes this country so great and worth defending and sacrificing for.

Our Nation faces great challenges to meet the demands of global innovation and competition, but as i true with all great challenges, we also have a great opportunity—an opportunity to invest in our most important resource: our children; an opportunity to spur our economy and develop new, innovative industries that create high paying jobs that cannot be outsourced; and an opportunity to prepare our students and strengthen our economy so America remains a leader in the world—not just during the onset of the 20 century, but throughout it.

A nation that is united in its purpose can answer that challenge, as we have so many times throughout our history. Just as an entire generation before us was once inspired to dream new dreams of reaching space and landing a man on the moon, so must we set our sights to the heavens and be the next great generation of leaders and innovators.

The time has come to make a robust, national commitment to the education of our youth at all levels, from kindergarten through graduate school, from technological institutes in our inner cities to centers of agricultural research in the heartland.

New generations of doctors and lawyers, artists and engineers, captains of industry and commanders of our Armed Forces, are depending on what we do here today.

This legislation has been in the works for a long time. We are a little late on the assignment, but we can still get an ''A'' for finally taking the time to turn it in.

I certainly hope our colleagues on the other side of the aisle will allow us to make this happen today.

I yield the floor and yield the remainder of any time I may have to Senator LEAHY.

Mr. LEAHY. Madam President, I thank the distinguished Senator from New Jersey. I wish to discuss two matters that involve the Senate Judiciary Committee.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

IMMUNITY

Mr. LEAHY. Madam President, today the Federal court evaluating the contempt charges against former White House Counsel Harriet Miers made a very significant ruling. The court's ruling is a complete rejection of the Bush administration's unprecedented and unfounded blanket claim of executive privilege and immunity. The Court's ruling is a rebuke of this White House's arrogant coverup and stonewalling, an arrogant coverup designed to shield from public view the inappropriate and even illegal actions of this administration. It is also a reaffirmation of the principle of separate, coequal branches of our Government, something that has guided our Republic since its inception and something this administration has tried to ignore by making its best efforts to accrue unchecked Executive power.

I commend Judge Bates. He is a former prosecutor, a Republican appointed by President Bush. I commend Speaker PELOSI and Chairman CONYERS for their steadfastness in pressing this matter.

I have long pointed out this administration's claims of executive privilege and immunity, which White House officials have used to justify refusing even to show up when the Congress has subpoenaed them, are wrong. Last November, in the Senate Judiciary Committee, I issued a ruling that the White House's privilege and immunity claims were not legally valid to excuse Karl Rove and White House Chief of Staff Josh Bolten from appearing, testifying and producing documents related to the Judiciary Committee's investigations into the unprecedented firing and manipulation of U.S. attorneys. Mr. Rove and Mr. Bolten's continued noncompliance with the committee's subpoenas, even after my ruling, led the committee to vote to hold them in contempt of Congress. Even with that, they have put themselves above the law by refusing to appear and testify.

This week the House Judiciary Committee also cited Mr. Rove for contempt. They had previously cited Ms. Miers for her failure to appear, as well as Mr. Bolten.

It is long past time for senior administration officials to abide by the law and appear before Congress to offer testimony, testimony that is compelled by subpoena. This administration places themselves above the law. What the court said is none of us is above the law, not even the President of the United States, and especially not the people who work for and take orders from the President of the United States. They are not above the law. I commend the court for making that clear.

In fact, the ruling by Judge Bates could not have been more plain. He wrote:

[T]he Executive's current claim of absolute immunity from compelled Congressional process for senior Presidential aides is without any support in the case law.

I will be sending letters to Karl Rove's lawyer and the White House counsel to schedule Mr. Rove's and Mr. Bolten's long-overdue appearances before the Senate Judiciary Committee. In fact, Judge Bates explained why the Bush-Cheney administration's blanket immunity claims were an unjustified encroachment upon the constitutional powers of Congress. The judge wrote:

[I]f the Executive's absolute immunity argument were to prevail, Congress could be left with no recourse to obtain information that is plainly not subject to any colorable claim of executive privilege.

This result, which the court concluded was ''unacceptable,'' would be that the ''Executive's proposed absolute immunity would thus deprive Congress of even non-privileged information.''

Many of us have said that this is an administration that considers themselves above the law, that the law applies to everybody except them. Well, the court has said the law applies to them just as it does to all other Americans. Despite the administration's attempts at every turn to short circuit Congress—even the courts—from being able to evaluate the executive privilege and immunity claims, Judge Bates's concurrence in these principles is a significant milestone.

I will be sending a letter today to Attorney General Mukasey. I am going to ask when he intends to withdraw the erroneous Office of Legal Council opinion from Stephen Bradbury relied upon by the White House to justify its noncompliance with congressional subpoenas since that opinion has been repudiated by a court and the court has said that this administration, the Attorney General, the White House—all have to abide by the law. In addition, I intend to ask the Attorney General whether the court decision will cause them to reevaluate the Department's memoranda and opinions that have supported overbroad and unsubstantiated executive privilege claims not only in the investigation of the firing and manipulation of the U.S. attorneys but also in other matters, such as the claims used to block Congress when investigating warrantless wiretapping, or the leak of the name of undercover CIA agent Valerie Plame for political retribution, or even White House interference in the Environmental Protection Agency's decisionmaking to protect corporations at the expense of Americans' health.

The court's decision undercuts the White House's blanket claims in all of these matters. The judge wrote that:

Clear precedent and persuasive policy reasons confirm that the executive cannot be the judge of its own privilege.

That is why we have asked for over a year for the White House to provide us with the specific legal basis for those claims and their validity. What the White House has said is they do not have to obey the law. They can break the law, they are above the law, and when they are asked: What do you base that on? What is it that says you are above the law and the people who work for you are above the law? their answer is: Because we say so. That is it. They do not point to any statute, they do not point to any case law, they do not point to anything except their own arrogance in stonewalling the people of this country who want to know what they are doing. That is not the way to have a nation of laws. You cannot have one person decide the law will apply to you, the law will apply to me, the law will apply to everybody in this Chamber but will not apply to the President or the people who work for him.

I will continue to ask whether the White House's continued assertion of executive privilege in this matter means the President takes responsibility for the decision to fire well-performing prosecutors. To date, after more than a year and a half, he has not done so. Instead, he seeks to have it both ways: Well, ''mistakes were made''—by others, of course, yet somehow, executive privilege still applies.

The White House's other blanket assertion says there is no wrongdoing in the firings. We have asked: What was the basis for that? They provide none. If the White House has information that led the President and others to discount the evidence of wrongdoing the investigating committees have gathered so far, that should be produced. Otherwise, we have to conclude they do not have any and it does not exist.

To the contrary, the Judiciary Committee's investigation which led to the resignation of the Attorney General, the entire senior leadership of the Justice Department, and several high-ranking White House political officials has uncovered grave threats to the independence of law enforcement from political manipulation in the highest political ranks in the White House, including Karl Rove. The evidence shows that senior officials were apparently focused on the political impact of Federal prosecutions and whether Federal prosecutors were doing enough to bring partisan voter fraud and corruption cases. It has long been apparent that the reasons given for these firings were contrived as part of a cover up.

The tragic and corrupt politicization of Federal law enforcement by this administration is wrong. Reports released by the Justice Department's Inspector General and Office of Professional Responsibility, the latest just this week, have shown the reach of the political operatives of this administration, infecting the hiring for career prosecutors and immigration judges with improper and illegal political loyalty tests designed to embed ''loyal Bushies'' throughout the Department. So far, neither the Justice Department

nor the White House has taken responsibility. Apparently, the White House intends its excuses that ''mistakes were made'' and that there were just a ''few bad apples'' to suffice. What we have uncovered is a widespread effort described by the Department's own Inspector General as ''systemic'', one that involved the highest ranking office holders at the Justice Department funneling White House loyalists into career positions.

The White House's response to the Senate Judiciary Committee's subpoenas has been to assert blanket claims of executive privilege and novel claims of absolute immunity to block current and former officials from complying. Based on these claims, neither Mr. Rove nor Mr. Bolten even appeared before the Committee to respond to the subpoenas. Now, a court has said that they must.

The effects of the White House's assertions of privilege and immunity have been unmistakable, amounting to the withholding of critical evidence related to the congressional investigation. And all along they have contended that their blanket claim of privilege cannot be tested but must be accepted by the Congress as the last word. Today's ruling from Judge Bates is a resounding rejection of this White House's attempt to thwart accountability and a reaffirmation of Congress's ability to conduct oversight and the right of the American people to learn the truth about their government.

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

ENERGY

Mr. DORGAN. Madam President, those of us who serve in the Senate serve in a political system. John F. Kennedy used to say that every mother hopes a child might grow up to be President as long as they do not have to be active in politics. But, of course, politics is the process within which we make decisions—a very honorable process. But it is not new to the political system to hear evidence of false claims. In fact, it is a time-honored tradition in politics to hear at least some people in striped pants stand up and make all kinds of false claims.

It has reached, I must say, some new heights on the floor of the Senate in the last couple of weeks. As I was listening to some of these things in the Senate, particularly on energy and some of the claims that have been made, I was thinking about when I was a little boy and the carnival would come to my small town of 300 people. You can imagine the size of a carnival that would come to a town of 300 and actually pitch a tent.

One of the things I remember about a carnival coming to town is it had a sideshow. And the sideshow in every carnival, I suppose, is the same. They paint the canvas on the sideshow with unbelievably bright paintings, and then they have a barker, a carnival barker, and they say: Come in here and see the woman with two heads; come in here and see the world's fatest man; come in and see the sideshow and see the man born with an alligator's tail. And my eyes were like dinner plates, thinking, boy this is going to be something. And none of that was in there. I mean, it was, you know, these big old claims.

Well, let me talk a little about big old claims that are not true here in the Senate. We have been hearing them now for 2 weeks.

We have an energy problem. It is a significant problem. The price of oil and gas doubled in a year, bouncing up to $120, $140 a barrel. The price of gasoline—$4, $4.50 a gallon—doubled in a year.

So our colleagues on the minority side come to the floor of the Senate. They have this voice track. It goes over and over and over; it is called looping. They say: Do you know what the problem is? We know what the problem is: The Democrats will not let anybody drill.

Well, it is an interesting discussion but not true. It reminds me of Will Rogers, who said: It is not what he knows that bothers me, it is what he says he knows for sure that just ain't so.

It is not true that people on this side of the Senate Chamber do not want anybody to drill. It is simply not true. I have brought out chart after chart showing so much that is open for drilling. In fact, I was one of four Senators who helped open what is called lease 181 in the Gulf of Mexico, 8 million acres. Four of us—myself, Senator DOMENICI, Senator BINGAMAN, and Senator TALENT from Missouri—introduced a bill saying: Let's open 8 million acres in the Gulf of Mexico that has substantial oil and natural gas deposits. Let's open that. You know what, we did it, in a bipartisan manner. And 2 years later, there is not a bit of activity on that 8 million acres.

Our colleagues rush over to the floor of the Senate and say: Well, the Democrats are at fault. They will not let you drill.

It is not true. There are many areas that are open for drilling, and we have supported that. Oh, I do not support a goofy proposition that is ricocheting around here that says: You know what, let's go to the Outer Continental Shelf, which belongs to all of America and which is not yet open, and let's let Governors of States decide whether it should be opened. I mean, that stands goofiness on its head. The Outer Continental Shelf belongs to all of the American people. That does not belong to a State. That does not belong to a Governor. That is an absurd proposition.

So they come to floor of the Senate with their chart, and it says: Produce more, use less. But you know what the problem is: the actions do not match the words. Let me describe what I mean by that.

Let me say that I support producing more. I am fine with drilling holes. I am fine with finding oil and gas. But our colleagues have this mindset of yesterday forever. Every 10 or 15 years, they shuffle into this Chamber, sort of slouched over with their hands in their pockets, saying: Let's drill some more. That is just yesterday forever.

I am for drilling, but what we ought to be doing is other things to change the mix, to change our energy future. You know, almost 65 percent of the oil we use comes from off our shore, from the Saudis, Kuwait, Iraq, Venezuela. That makes us enormously vulnerable. We need something that is game changing, that means different kinds of energy.

Yes, let's produce more, then let's produce different energy, and let's conserve more as well. But when you talk about the issue of production, it is not just drilling a hole for oil. That is what our colleagues believe. Production is also taking energy from the wind and producing electricity. Production is taking energy from the Sun and producing electricity. Production is the biofuels from corn or cellulose to produce gasoline and ethanol. Production is biomass and geothermal. Production is all of that.

Now, eight times in a little over a year we have had votes on the floor of the Senate to extend the tax incentives for renewable energy. Eight times, those who come to the floor with their little charts talking about producing more, eight times they have said: No, we will not support it. Now, let me tell those who listen to this why they will not support it—because it costs some money in the short term to provide tax incentives to get people to invest in renewable energy.

We ought to do renewable energy in a big way. This ought to be game changing. It ought to make us much less dependent on the Saudis and Kuwaitis and others. You do that, it seems to me, by changing the energy mix.

My colleagues do not support that on the other side of the aisle. Do you know why? Because it costs money to provide tax incentives. So we pay for that. We are deep in debt in this country, but we pay for it because it ought to be paid for in the bill we have offered. So my colleagues vote against it.

Let me describe why. One of our payfors to help provide these tax incentives for renewable energy is to shut down this unbelievable tax break that exists by which hedge fund managers can take their billions of dollars and move them through tax shelters overseas and avoid paying taxes to the United States of America. My colleagues oppose closing that loophole. They stand with the ability to move hedge fund income overseas to shelter it so they do not have to pay taxes. That is unbelievable. I mean, part of the process in this Chamber, at least, is: Who do you stand for? How on Earth do you want to go home and say: You know what, I decided to vote eight times against incentivizing substantial additional production of renewable energy, energy from the wind, from the

Sun and so on, to make us less dependent on the Saudis. I voted against that because I demand and insist that hedge fund managers have a right to run their income through the Cayman Islands and avoid paying U.S. taxes.

Get a chart. If you want to get a chart, print that up in a chart and take it to the Rotary Club and say: Here is who I stand with. Here is what I stand for. Explain that at home.

How on Earth do you get by with that? I do not understand it at all. You bring a chart to the floor and say ''produce more.'' Well, let me tell you how you produce more—the renewable energy production tax credit.

Let me tell you what we have done in this country. We said a long time ago, 1916: If you go looking for oil and gas, we like that. We want you to find oil and gas because we have an economy that needs it. So you go drilling, good for you; we give you robust permanent tax incentives. We have done that for nearly a century. Here is what we did for people who tried to do new technologies that take energy from the wind and the Sun and so on—a production tax credit for renewable energy.

In 1992, we said: We will give you tax incentives to expand renewable energy, kind of shallow tax incentives. By the way, they are going to be short term, so they will expire. We extended them five times for a short term. We let them expire three times. It was stutter, stop, start, stutter, stop. It was an unbelievably pathetic approach.

Some of us believe we ought to go 10 years and say: Here is where America is headed. You want to join us, we are going to be here for 10 years trying to develop America's renewable energy so we can become less dependent on oil from Saudi Arabia and elsewhere.

That is what we ought to be doing. But my colleagues from the minority come to floor of the Senate and have opposed it all along the way. They have opposed it eight times. In fact, the people who oppose this have come to the floor of the Senate and said: We need more electric-drive vehicles. We need to move toward plug-in hybrid vehicles. You bet we do. That means substantial investment in battery technology. That is in the bill, by the way, that you voted against. That means substantial investment in renewables. If you are going to drive electric vehicles, you are going to have to have electricity.

They vote against that, vote against all of this, and then come to the floor and say: We need the product of this to do what we want to do to drive electric vehicles. It is unbelievable.

I have described this probably 20 times in the Senate. Perhaps some get tired of it, but we are trying to do something here. We have been stopped, which is frustrating. It is the easiest thing in the world to stop progress. The minority has demonstrated that now for 2 weeks. I have described Mark Twain when he was asked if he would engage in a debate once. He said: Sure, I would be happy to engage in a debate, as long as I can take the negative side. They said: No one has told you the subject of the debate. Mark Twain said: The subject doesn't matter. The negative side will require no preparation.

It doesn't require any skill or preparation to take the negative side of anything. So for 2 weeks we have tried to pass legislation to wring the speculation out of the oil futures market. Seventy-one percent of that market is now controlled by speculators who don't want a thing to do with oil. They wouldn't lift a quart of oil. They want to trade paper and make money. We are trying to shut down excess speculation. What we have found is our colleagues, when the question is, who do you stand with, they say: We will stand with the oil speculators. We will block that.

Eight times we bring a bill to the floor that says, let's at least provide incentives to try to change the plan at this point and begin substantially increasing the use of renewable energy. Eight times our colleagues have voted against that.

Let me go through what this would have provided, what we tried to do: a renewable energy production tax credit, solar and fuel cell investment tax credits, clean renewable energy tax credit bonds, tax incentives for plug-in electric drive vehicles. The list goes on and on, all things we should be doing. Eight times we have lost the vote to proceed because the minority, which says they support all of this, has decided they don't want to close the a loophole that allows hedge fund managers to run their incomes through the Cayman Islands and other tax havens in order to avoid paying taxes. We close the loophole to help pay for all of this, and our colleagues have an apoplectic seizure. You can't do that, they say.

I don't understand. It is beyond me that they believe it is going to work to come to the floor of the Senate and make a claim that is a false claim that somehow the majority party doesn't support drilling. Of course we do.

Let me describe it from a parochial standpoint. The biggest drilling play in America right now is in eastern Montana and western North Dakota. The U.S. Geological Survey did an assessment at my request. The U.S. Geological Survey and I announced about 3 months ago that that is the largest assessment of recoverable oil ever made in the lower 48 States; 3.6 billion barrels to 4.3 billion barrels of oil using today's technology are going to be recoverable. We have up to 75 drilling rigs active right now, drilling a well about every 30 or 35 days, moving every 30 or 35 days to a new well site. It is the biggest oil play in our country. I fully support that. It makes a lot of sense. I was the one who got the U.S. Geological Survey to do the assessment. I was the one who helped get lease 181 opened up, 8 million acres in the gulf.

It doesn't wash with me or my colleagues to have people come to the floor with their little charts talking about this side doesn't support production. Of course we do. But production by drilling a hole searching for black gold called oil is not the only way to produce energy. We are never going to get out of this fix of needing 65 percent of the oil we use from the Saudis and others, unless we change the game completely. That means completely changing our energy future.

I have described often our situation. We have this big old planet that circles the Sun. We share it with about 6.6 billion people. We stick straws in the planet and suck oil out, about 85 million barrels a day, and 21 million barrels is destined for here because we need one-fourth of all the oil produced on the planet. One-fourth of the oil coming out of this planet every day has to come to this country because we have a prodigious appetite for oil. The fact is, we need to continue to use oil, and will. But we need to find ways to change our energy mix in the future. The only conceivable way to do that is to begin substantial research dollars and to pass these kinds of tax incentives to move toward other kinds of energy use, solar, geothermal, wind, and so on. You can add up all the money we spend on this sort of thing to change our energy future and make this country less dependent and more secure, and it's equivalent to what the Pentagon spends in 40 days. That makes no sense.

If we are going to invest in this country's future, we have to pass legislation such as this. We can't have a Senate in which we have people who fashion themselves as human brake pads coming over here to stop everything just because they want to support hedge fund managers who want to wash their U.S. income through foreign subsidiaries and avoid taxes. That is not a sustainable policy, to continue protecting tax avoidance and stopping investment in renewable energy.

This country can have a pretty terrific future, but we face big challenges. We are not going to solve or address this country's challenges unless we think in very different ways.

I understand there will be some perfectly content for this Congress to adjourn or leave town and go on the August break having done nothing. I will be one of those who is not content. It makes no sense that there are those out there with projects on the shelf right now for new wind energy farms, for solar energy applications, for geothermal and biofuels, all of the other renewables, and they are not going to go ahead unless they have some notion that this country will extend the tax incentives for that renewable energy. On eight separate occasions, the minority has come to the floor of the Senate and said, when asked, will you extend these tax incentives, they have said: No, no, no, eight times. That is not in this country's interest.

UNANIMOUS CONSENT AGREEMENT—H.R. 4137

On behalf of the majority leader, I ask unanimous consent that at 5:30

today, the Senate proceed to the conference report to accompany H.R. 4137, the College Opportunity and Affordability Act, and that there be 130 minutes for debate divided as follows: 50 minutes under the control of Senator MIKULSKI or her designee, 30 minutes each under the control of Senators ENZI and ALEXANDER or their designees, and 20 minutes under the control of Senator COBURN; that upon the use or yielding back of time, the Senate proceed to a vote on adoption of the conference report, without further intervening action or debate. I note for the Record that this agreement has been cleared on both sides of the aisle.

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. KLOBUCHAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

CONSUMER PRODUCT SAFETY IMPROVEMENT ACT

Ms. KLOBUCHAR. Mr. President, I know this is the Republican portion of the time, but until a Republican arrives, I will briefly say for 1 minute that I am very pleased the Consumer Product Safety Improvement Act of 2008 is going to be coming through the Senate. We saw over 28 million toys recalled in 2007. The Consumer Product Safety Commission is a shadow of its former self. This legislation is long overdue. It was a bipartisan effort. Many of us worked on this very hard, including the Presiding Officer. I am pleased we are able to get an agreement on what the Wall Street Journal has called the most significant consumer product legislation in 16 years. It is particularly important to my State where we had a 4-year-old boy die when swallowing a lead charm. It was the 99-percent lead, made in China. It should never have been in his hands. The lead in that charm went into his bloodstream over a period of time, in fact over a period of days. I was very proud that our staff, Kate Nilan and Tamara Fucile, was able to work on that provision and work with the committee. That is now the first provision in the bill.

I thank the conference committee, under the leadership of Senators INOUYE and PRYOR, and all the conferees who worked on this in the House and Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

APPROPRIATIONS LEGISLATION

Mr. COCHRAN. Mr. President, 2 weeks ago today, the Committee on Appropriations marked up three fiscal year 2009 appropriations bills. Those bills would provide funding for programs ranging from agricultural research to veterans' health care and from foreign aid to the infrastructure that supports our men and women in uniform in our Armed Forces. While some members of the committee had concerns about the overall spending levels in those bills or individual provisions within them, the committee reported the measures by broad bipartisan votes. Those votes reflected the committee's collective belief that it has a fundamental responsibility each year to draft, debate, and report to the Senate its spending recommendations for the day-to-day operations of our Government.

The markup on July 17 was the committee's fourth markup of the year to consider fiscal year 2009 bills. The bills reported at that meeting brought to nine the total number of fiscal year 2009 bills approved by the committee. There was every expectation the committee would complete action on the remaining three bills in July, as Chairman BYRD had publicly indicated. It was also expected the committee would consider a second supplemental bill.

Despite complete inaction on appropriations measures in the other body and low expectations for timely enactment of the fiscal year 2009 bills, the committee was fulfilling its responsibility to make recommendations to the Senate and moving toward completion of the only portion of the appropriations process under its direct control.

So I give Chairman BYRD credit for getting the committee as far as he did, given the dim prospects for floor action. The Senate deserves to at least see the committee bills before making a judgment about whether it will allocate time to consider them.

Unfortunately, progress in the committee came to an abrupt halt last week. The chairman announced the committee would not meet to consider the remaining fiscal year 2009 bills and would not meet to consider a second supplemental. At the time, the reasons given for the cancellation were not clear. It was clear, however—and has been explicitly admitted since—that further markups were canceled because the majority did not wish to discuss, debate or vote on amendments relating to domestic energy production.

It is virtually unprecedented in our committee to cancel a markup to avoid a vote. The amendments that likely would have been offered in the committee are completely germane to the appropriations process. The appropriations bills in place for fiscal year 2008 contain at least two provisions that prohibit the use of funds for certain purposes and thereby inhibit the development of American energy resources.

One of those provisions is a moratorium on further development of oil and gas on the Outer Continental Shelf. The other prohibits the issuance of regulations that would govern the development of our extensive domestic oil shale resources. Both of these matters would have been directly relevant to a fiscal year 2008 supplemental. It is also likely that one or both of these provisions would have been continued in the fiscal year 2009 Interior and related agencies appropriations bill, and as such would have been subject to consideration by the committee.

Nobody is playing political games in wanting to offer these amendments. Members interested in offering these amendments had several opportunities to present them during markups of the other appropriations bills but withheld from doing so on the promise that the committee would meet to consider the appropriate bills. I thought this was the responsible thing to do, but perhaps I was wrong.

Members are entitled to their own views about whether the moratorium on Outer Continental Shelf development should be continued. The same goes for oil shale production. But at a time when energy prices are dramatically affecting our economy and challenging the budgets of families across America, I do not think we as a Congress are entitled simply to sweep the issue under the rug—or attempt to—because it is inconvenient. We are not entitled to continue the moratoria for another year as part of a long-term continuing resolution without so much as a debate or a vote.

In addition to increasing our domestic supply of energy, responsible development of the Outer Continental Shelf and of American oil shale will mean billions of dollars in royalties, rents, and bonuses that will be paid to States and the U.S. Treasury—money that otherwise would be paid to foreign governments, many of which have policies that are in opposition to U.S. interests.

Responsible development of new areas of the Outer Continental Shelf and of American oil shale would not solve our energy problems overnight, but no one is claiming it will. But if we take action now, perhaps we can avoid a debate 10 years from now in which we try to adopt quick fixes or overcome our failure to even vote on these matters today.

When last week's markup was canceled, all of the Republican members of the committee signed a letter to Chairman BYRD to express our disappointment and asked that he reconsider. I ask unanimous consent that a copy of that letter be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS.
*Washington, DC, July 22, 2008.*

Hon. SENATOR ROBERT C. BYRD,
*Chairman, Committee on Appropriations, U.S. Senate.*

CHAIRMAN BYRD: We are profoundly disappointed by the cancellation of this week's scheduled markup of the Fiscal Year 2009 Interior and Legislative Branch appropriations bills, and the second supplemental appropriations bill for Fiscal Year 2008. It is readily apparent that the markup was canceled entirely due to the majority's unwillingness to consider and vote on amendments relating to domestic energy production.

The enactment of appropriations bills in recent years has often involved departures

from the regular order. Our Committee, however, has a proud tradition of successfully conducting that part of the appropriations process that is under our direct control, i.e. the timely consideration and markup of appropriations bills. You have been steadfast this year in insisting that the Committee continue in this fashion, for which we applaud you. We are therefore surprised at today's turn of events.

Energy prices are an issue of singular importance to people across the country. The American people are looking to their elected representatives in Congress to offer bold new policies that will help reduce our dependence on foreign oil by developing more domestic energy resources, and by reducing the amount of energy we consume. We must act on all fronts. The solution to our current problems will not come from any single policy, or from any single committee. The Committee on Appropriations, however, has an important role to play.

The Fiscal Year 2008 Interior, Environment, and Related Agencies Appropriations Act contained provisions that prohibit the production of oil and gas from large portions of the Outer Continental Shelf, and that prohibit the issuance of regulations that are necessary for the responsible development of America's vast oil shale resources in the Rocky Mountain west. It is likely that the chairman's mark of the Fiscal Year 2009 Interior bill would have contained one or both of these provisions. As such, it would have been timely and entirely appropriate for the Committee to meet to consider the merits of continuing these provisions in Fiscal Year 2009, and to consider whether the provisions should be modified or repealed in Fiscal Year 2008. Members of the Committee might well have other energy-related amendments that they wish to be considered.

We urge you to reconsider your decision so that the Committee can meet its responsibility to consider all of the appropriations bills, and also do its part to help address the energy challenges that face our country.

Sincerely,

Ted Stevens; Thad Cochran; Arlen Specter; Pete V. Domenici; Mitch McConnell; Judd Gregg; Robert F. Bennett; Richard C. Shelby; Larry E. Craig; Christopher S. Bond; Kay Bailey Hutchison; Sam Brownback; Wayne Allard; Lamar Alexander.

Mr. COCHRAN. It is now obvious we will go out of session having not finished our work as a committee, having not met to consider appropriations bills that deal directly with the most pressing issues facing American families today.

When we return in September, it is highly unlikely the committee will act on the remaining fiscal year 2009 bills or the second supplemental. Both the majority leader and the Speaker have indicated we will consider a second supplemental bill in September, but it is hard to imagine there will be enough time to act on that measure in committee. That is a shame.

Yesterday, Chairman BYRD issued a press release outlining what would have been in the chairman's mark of the supplemental had the committee met to consider it. He outlined a bill that would appropriate some $24 billion to respond to natural disasters, to improve American infrastructure, and for other purposes.

The chairman included a number of items I had requested that are important in my State of Mississippi in our ongoing efforts to recover from Hurricane Katrina. He included a number of other items in response to requests by other members on both sides of the aisle.

While there will justifiably be concern about the total cost of this proposal and some of its component parts, in my view, it is a measure worthy of consideration in the Appropriations Committee.

But a press release is not a markup. It is not a draft of a committee bill. No Senator can amend a press release. No Senator can see the legislative language that would implement the spending described in the release, and no Senator can know what provisions might be included in the bill but not mentioned in the press release.

I am the ranking member of the committee, and I do not know these things. If I thought we would return in September and hold a markup of the bill, giving the Senate time to debate it fully, perhaps I would be less concerned. But we know time is short once we return. Based on what we have witnessed on the floor in recent months, I have little confidence Senators will be allowed freely to offer amendments to the supplemental if it is taken straight to the floor.

I wish to reiterate that Chairman BYRD has done an admirable job of trying to uphold the committee's responsibilities and prerogatives in the face of these circumstances. We both share the view that our committee has an important and fundamental responsibility to write and put forth bills that support the basic operations of our Nation's Government. As a Congress, however, we are getting into some very bad habits as it pertains to consideration of these bills.

We are completely abandoning efforts to move the regular appropriations bills across the House and Senate floors, something which has nothing to do with filibusters. Nobody filibustered the fiscal year 2008 bills that were brought to the Senate floor. When we do manage to pass appropriations measures, the differences are resolved not by an open meeting of a conference committee but, usually, in closed-door negotiations, followed by an exchange of messages between the House and Senate. Now, apparently, we are starting to cancel committee markups based on an unwillingness to take votes on difficult issues. They may be entirely germane.

So I regret these trends for the sake of our committee that is struggling to maintain its tradition of bipartisan cooperation and action. I regret it for the sake of millions of Americans who will simply not know why the Senate cannot manage to take votes and process its legislation and its appropriations bills in a straightforward and open manner. I regret the way we are letting things slide now into an unusual procedure that does not reflect credit on the Senate.

The PRESIDING OFFICER. The Senator from Utah.

ENERGY

Mr. BENNETT. Mr. President, we are about to adjourn for the August recess without having passed a single piece of legislation addressing the energy crisis or the most important issue, which is the concern over rising gasoline prices.

I attended the Fourth of July parade in my home State. In Utah, there is also a 24th of July parade celebrating the anniversary of the time when the first Pioneer settlers came into the valley. In both parades, I had things shouted at me. Politicians have that experience. Usually, we hope the things that are shouted at us are complimentary. In this case, the things I had shouted at me in the parades were: ''Why aren't you drilling? Why aren't you producing more American oil? Drill now.'' I said: We are discussing it. We are trying to do that. We are trying to get something done.

If there were a parade scheduled now, I would have to go back and say: The Senate would not let us vote on any of the proposals to increase the supply of American oil. There are proposals coming in the form of letters from Senators to the President of the United States saying: Will you please go to Saudi Arabia and beg them to produce some more oil? There are suggestions that somehow we should sue Saudi Arabia or members of OPEC to get them to produce more oil. But we are not even allowed the opportunity to vote on proposals to produce more oil in the United States.

A lot of my constituents are not aware that at one point, not too distant in the past, America produced more oil than any other country in the world and controlled the pricing power over oil. We could affect the world price by opening more wells in east Texas. But in the 1970s, that pricing power left our shores and was transferred from the Texas Railroad Commission to the Saudi royal family. Now we are in the posture of begging the Saudi royal family to produce more oil when we have the capacity to bring that pricing power back to the United States by producing more here.

I wish to talk specifically about oil shale because I understand there has been an exchange on the floor about oil shale earlier, with the junior Senator from Colorado saying we are not ready, the technology is not finished, and, therefore, we should maintain the congressionally ordered moratorium on the Department of the Interior from promulgating the rules under which leases could be granted on public land.

Now, let's look at that argument for a minute.

The Department of the Interior has released draft rules. We know what they want to do. They have been prepared to do this, and are prepared to do it today. They cannot turn those draft rules into firm rules as long as the Democrat moratorium is in place. So

when we wanted to lift that moratorium—we tried to in the Appropriations Committee—we were denied on a straight party-line vote. The Republican leader tried to lift that moratorium here. We were denied in a unanimous consent request.

So let's ask ourselves: What are those rules? The best analogy to help people understand what those rules are is to talk about a fishing license. If you want to catch fish, you have to get a fishing license. You go in and you pay for it and it is for a specified period of time. Now, there is no guarantee the fish will respond to your efforts to catch them. There is only an opportunity to go forward with it.

Mr. President, I ask unanimous consent that I be allowed 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. All we are talking about, with respect to the rules of the Department of the Interior, is let's give companies a fishing license. If the technology is not ready, the companies will know that. They will find that out very rapidly. If the technology doesn't work, the marketplace will prove that it doesn't work, and companies won't invest in it.

This is not a government subsidy for oil shale. This is not even a government support of oil shale. This is simply a fishing license to say: Go see if you can find some fish or, in this case, go see if you can find some oil. If you can, and you can produce it at an economically acceptable price and in an environmentally friendly manner, then go ahead.

But in this body we are saying: No, we won't even let you look for it. We won't even let you move forward to try to find out if it will work.

The Senator from Colorado said: We are not ready. I would say to him: We are in Utah. We have a program going forward in Utah on State land that shows every indication of producing oil by the end of this year. The reason they can't produce large amounts of oil is that we don't have enough State land to produce on a larger scale. If you are going to produce large quantities, you have to allow development on public lands, but there is a moratorium in place that says: We won't even let you look at these lands.

The easiest thing we could have done this week in Congress would have been to lift the moratorium. The least we could have done would have been to let the Department of the Interior implement the rules and give companies an opportunity to look at the Federal lands to see if they want to get a fishing license to catch some fish or, in this case, oil. That is all we are asking for, but it has been objected to repeatedly and repeatedly.

If I march in a parade again, I am going to have a hard time explaining to anybody why the Senate won't allow us to do that.

## HIGHER EDUCATION OPPORTUNITY ACT—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report on H.R. 4137, which the clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4137), to amend and extend the Higher Education Act of 1965, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 30, 2008.)

The PRESIDING OFFICER. Under the previous order, there will be 130 minutes of debate: 50 minutes under the control of the Senator from Maryland, 30 minutes each under the control of Senator ENZI of Wyoming and Senator ALEXANDER of Tennessee, and 20 minutes under the control of Senator COBURN of Oklahoma.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you very much, Mr. President.

It is a great honor for me to be able to bring to the floor of the Senate the higher education conference report for the Health, Education, and Labor Committee. I bring this bill to the Senate on behalf of Senator KENNEDY.

What I wish colleagues to know is that this bill is truly a bipartisan agreement. It was led by Senator KENNEDY and Senator ENZI, the ranking member, our colleague from Wyoming, who worked tirelessly. This bill has been a work in progress for more than 5 years.

Early this summer, as Senator KENNEDY advanced this bill, we are all aware that he received some pretty surprising news. As he went into his own treatment regime, he called me and asked me to take over the conference report. I viewed it as an honor, I viewed it as a privilege, and I view it as an honor and privilege today.

Before I go into describing the bill and presenting it, I again wish to thank Senator ENZI for his work with Senator KENNEDY and his collegial and civil attitude in working with me to move this bill.

As I get ready to present this to the Senate, however, I have a letter from Senator KENNEDY. I have been in touch with Senator KENNEDY on a regular basis, receiving his advice, his guidance, his caution, and his jocular wit. I know he is watching us as we begin this debate today. This is a short statement he asked me to read to his colleagues:

I'm pleased to express my strong support for final passage of the Higher Education Opportunity Act of 2008. This legislation builds on key measures we've approved this Congress to increase college aid and make loans more available for students. This bill goes even further to assure that a college education is affordable and accessible to our citizens.

This legislation comes at a time when students and families need more help then ever to deal with the rising cost of college. Average costs at public colleges are more than $13,000 today, and $32,000 at private colleges. Each year 780,000 qualified students don't attend a four-year college because they can't afford it.

Our bill takes major steps to expand college access and affordability. It holds colleges accountable for rising costs requiring the top five percent of colleges with the greatest cost increases to submit detailed reports to the Secretary of Education on why their costs have risen, and what they will do to hold costs down. It simplifies the complex student aid application process by replacing the seven-page Free Application for Federal Student Aid with a two-page ''EZ–FAFSA.'' It also expands aid for our neediest students by enabling them to receive Pell Grants year-round for the first time.

The legislation also responds to the ethical scandals in the student loan industry, which the Committee documented in investigations last year. It bans lenders from offering gifts to college officials, and requires college to adopt strict codes of conduct on student loans.

I'm particularly proud of provisions that help students with disabilities and veterans.

It enables students with intellectual disabilities who attend postsecondary transition programs to receive Pell Grants for the first time, and provides support for colleges to expand these programs.

The bill helps service members by enabling them to defer payments on their student loans—interest-free—while they're on active duty. It also allows service members and their families to receive in-state tuition rates for college when they move to a new state, and enables them to re-enroll in college without delay when their service is complete.

This bill creates a lasting legacy for students and families, and it wouldn't have been possible without the bipartisan cooperation of the members of the HELP Committee and the House Committee on Education and Labor. I commend our Ranking Member, Senator Enzi, and Chairman Miller and Ranking Member McKeon in the House for their strong support. I'm especially grateful to my friend, Senator Mikulski, for her impressive work in resolving some of the most difficult issues in this bill.

We can be proud that with passage of the Higher Education Opportunity Act, we're meeting our responsibility to help all our citizens obtain a higher education. By improving their lives, we also strengthen our nation and our future. I urge all my colleagues to support this needed legislation.

I ask unanimous consent that a longer statement by Senator KENNEDY be printed in the RECORD.

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

SENATOR EDWARD M. KENNEDY, HIGHER EDUCATION OPPORTUNITY ACT OF 2008

From our earliest days as a nation, education has been the mainstay of our democracy and the engine of the American dream. Our Founders knew that an educated citizenry would strengthen the nation and build the values and character that make us Americans. They believed in the power of

education and its ability to create an even greater America over the horizon.

In our own day and generation, we've seen an excellent example of the fulfillment of the promise of that new horizon, after Congress passed the GI Bill of Rights in 1944, which enabled service members returning from World War II to receive a college education. Hundreds of thousands did so, and they went on to become the Greatest Generation. The GI bill produced 67,000 doctors, 91,000 scientists, 238,000 teachers, and 450,000 engineers. It funded the education of three Presidents, three Supreme Court Justices and many Senators who served in this very chamber.

Over the course of the past year, we've revitalized that vision once again with the passage of two important higher education bills. When Congress passed the College Cost Reduction and Access Act last fall, we renewed our commitment to the idea that no qualified student should be denied the opportunity to go to college because of the cost. It included the largest increase in student aid since the GI Bill—more than $20 billion. We also increased the maximum Pell Grant—the lifeline to college for low-income students—from $4310 to $5400 over the next five years.

In addition, the Act provided new relief for students struggling under the weight of their student loans, by allowing loan repayments to be capped at 15 percent of monthly discretionary income. We also included new incentives for students to enter key professions such as teaching, law enforcement, and social work, by providing loan forgiveness to those who commit to public service jobs for 10 years.

This past spring, we passed a second bill to underscore our commitment. When the crisis in the credit markets appeared to be threatening the ability of students and families to obtain loans for this school year, we approved emergency legislation—the Ensuring Continued Access to Student Loans Act—to make sure that loan funds will be available this fall.

That bill increased the amount of federally-subsidized loans for college students, in order to reduce their reliance on higher cost private loans. We gave parents greater access to low-cost federal PLUS loans, to provide an alternative to private loans and home equity lines of credit. We also gave the Secretary of Education new tools to ensure that lenders have the funds they need to make loans to students.

The bill before us today—the Higher Education Opportunity Act of 2008—takes even more steps to ensure that a college education is affordable and accessible to our citizens.

A college education has never been more important than it is now. Today, 60 percent of new jobs require some post-secondary education, compared to just 15 percent half a century ago. Yet the United States ranks only 14th in the college graduation rates of all industrialized nations.

At the same time, college has never been more difficult to afford. The cost of college has more than tripled over the last twenty years. Today, average tuition, fees and room and board at public colleges is more than $13,000, and it's more than $32,000 at private colleges.

Each year an estimated 780,000 talented, qualified students don't attend a four-year college because they can't afford it.

In last year's student aid bill, we made a commitment to American students and families to invest billions more in student aid—especially for those who need help the most. Now, with the Higher Education Opportunity Act, we're asking colleges to do their part to keep costs under control. Our bill requires the Department of Education, for the first time, to make detailed information about college costs available to students and families on its website. It also requires the Department to highlight, on national lists, those colleges that are doing a good job of keeping their costs down, and those that are not.

By providing greater transparency and enabling students and families to compare the costs of various colleges more easily, we hope to promote an environment where colleges think carefully before they raise their prices. But our bill requires even more. If, over three years, a college raises its prices so much that it ranks among the top five percent of institutions of its type with the highest cost increases, we require the college to submit a comprehensive report to the Secretary of Education, detailing the steps the college will take to bring its costs back under control.

We're also taking overdue action to rein in the high cost of college textbooks. According to the U.S. Public Interest Research Group, the average college student spends about $900 a year on textbooks. Since 1994, textbook prices have risen at four times the rate of inflation, and they continue to increase. Often, students are forced to waste money buying textbooks because they can only be purchased in ''bundles'' with workbooks and other materials that their professors don't use.

Our bill will reverse this trend by requiring textbook publishers to ''unbundle'' textbooks and supplementary materials, so students can buy only the materials they really need. It will also give faculty members better information about textbook costs, by requiring publishers to provide more detailed pricing information. And it will require colleges to include information about required textbooks in their course catalogs and on their websites, so that students can shop for the best prices.

In addition to holding the cost of college down, we're doing more to ensure that students receive all the aid they're entitled to by reforming the application process for federal student aid. Today, the process is needlessly complex. The Free Application for Federal Student Aid (FAFSA)—the basic form that all students must complete to determine their eligibility for federal aid—is currently seven pages long. That's longer than the standard federal income tax form.

Such complexity has unfortunate consequences for students. Each year, an estimated 1.5 million students eligible for Pell Grants don't receive them, either because they aren't aware of federal aid or because they find the process too complicated to navigate. It's time to make the process simpler.

The Higher Education Opportunity Act will replace the 7-page FAFSA with a 2–page ''EZFAFSA'' for low-income students. Within five years, the longer FAFSA will be phased out for all applicants. The bill also includes pilot programs to simplify the federal aid applications even further. To help more of our neediest students understand that college aid is available for them, a pilot program will give low-income students a federal aid determination in their junior year of high school, rather than their senior year. We also encourage the Secretary of Education to work with the IRS to share income tax data, so the federal aid form can include the data needed to determine a student's eligibility for college aid.

In addition, to ensure that this aid is directed to students, we must keep them informed about their choices and hold colleges and lenders accountable for giving students the best loan deal possible.

Investigations by our Committee found that many lenders are entering into sweetheart deals with colleges, offering gifts to college and university employees in order to obtain their students' loan business.

Lenders who participate in the federal student loan program have offered ''educational conferences'' at luxury hotels and offer free entertainment and free tickets to sporting events to college officials in order to entice those officials to recommend the lenders to their students. The Higher Education Opportunity Act makes these practices illegal, and protects students by ensuring that when a college recommends a lender, it's based on the best interest of students and nothing else.

The bill also creates a new process with respect to private educational loans—which now account for a quarter of all borrowing for college—to make sure that students know what low-cost Federal aid they're eligible for, and how much more they really need to borrow to cover the cost of college attendance with a private loan.

The Higher Education Opportunity Act also enhances grant aid for the neediest students, adding to the dramatic increase in student aid Congress approved in last year's student bill. For the first time, we allow students eligible for Pell Grants to receive those grants year-round, so they can accelerate their courses of study.

But ensuring access to adequate grants and loans is only one component of solving the college access crisis. We must also ensure that more students are graduating from high school ready for college. In 2001, colleges required one-third of all freshmen to take remedial courses in reading, writing, or math.

Because so many high school students are not learning the basic skills to succeed in college or work, the nation loses more than $3.7 billion a year. This figure includes $1.4 billion to provide remedial education to students who have recently completed high school, and $2.3 billion that the economy loses because remedial reading students are more likely to drop out of college without a degree, thereby reducing their earning potential.

To address this problem, our bill includes provisions to maintain the strength of the TRIO and GEAR UP programs, which provide underprivileged students with the support they need to go to prepare for and graduate from college.

We also strengthen efforts to help students with disabilities enter and succeed in college. For the first time, the bill allows students with intellectual disabilities to receive Pell Grants and Federal Work-Study funds to participate in transition programs at institutions of higher education.

We create new grant programs to help colleges offer even more of these transition programs, and make course materials more accessible for students with print disabilities. We establish a new center at the Department of Education devoted to helping students with disabilities and their families get the help and assistance they need to prepare for college and go to college.

These provisions to help students with disabilities will be one of the lasting legacies of this legislation, and I'm proud we've been able to do so much.

I'm also proud of the steps we take in this bill to help service men and women pursue a higher education. They risk their lives for us every day, and they deserve whatever we can give them to help them build a brighter future. Our bill provides a number of new benefits for servicemembers, including provisions to allow them to defer payments on their student loans—interest-free—while they're on active duty, provisions to help servicemembers re-enroll in college without delay, and a new online clearinghouse for servicemembers to learn about college benefits available to them.

Our bill also takes other much-needed steps to ensure that all citizens are able to enjoy the benefits of higher education. As we know, discrimination has long limited the opportunities of minorities and women in higher education. As a result, these groups are still under-represented today among graduates of institutions of higher learning, and among professors, attorneys, and other professionals.

Decades of reports and studies document the under-representation of women and minorities in higher education. In 2006, a report, Faculty Gender Equity Indicators by the American Association of University Professors found that women are significantly under-represented among university faculty—they make up just 39 percent of full-time faculty at institutions of higher education, and just 34 percent of such faculty at doctoral institutions. The Department of Education's most recent Digest of Education Statistics indicates that women continue to be underrepresented among those obtaining professional degrees, such as in law and business.

As the National Center for Education Statistics states in its Enrollment in Postsecondary Institutions, Fall 2006 report, minority students are underrepresented at every level of higher education, with numbers dwindling further in graduate and professional education. Likewise, law school enrollment surveys by the American Bar Association show that minorities are underrepresented among students at those institutions, and among law school tenured faculty and deans. This legislation takes needed steps to address this under-representation of women and minorities and to help make the goal of equal educational opportunity a reality for all our citizens.

The bill also provides new support for educational institutions that serve minority groups historically denied access to higher education because of prejudice and discrimination. These institutions—many of which were founded in direct response to the refusal by other colleges and universities to admit minority students—have long had an indispensable role in overcoming the legacy of discrimination in education that has led to under-representation of minorities in academia and in legal and other professions.

These institutions help ensure a diverse pool of qualified professionals in the nation's economy. They're particularly important because they provide postsecondary educational opportunities specifically tailored to students—especially low-income students—who have been denied access to adequately-funded elementary and secondary schools, or have been educated in schools marked by racial and ethnic segregation. As documented by studies and described in the Committee reports, these institutions have a proven track record of educating minority students. They graduate a disproportionate number of the nation's minority doctors, lawyers, teachers, and other professionals. They offer affordable, high quality college education and job training to tens of thousands of students every year.

In addition to these measures, the legislation includes several provisions to help colleges and universities improve student and campus safety. More than a year ago now, the nation was shocked by the worst shooting rampage in history—a shock made worse by the fact that it occurred at an institution of higher education. What happened at Virginia Tech was a wake-up call for Congress and the Nation—that tragedy can strike anywhere, including college campuses.

The bill takes steps to apply some of the lessons learned from that overwhelming tragedy, and ensure that students are safer in the future. It helps colleges upgrade their safety and emergency response systems with the latest technology, and requires them to have specific procedures to deal with serious situations on campus, including informing students immediately when such situations erupt. These steps are essential parts of the responsibility of colleges and universities in protecting the students entrusted to their care and we can help them do better.

This bill is the product of many months of hard work, and it couldn't have completed without the bipartisan cooperation of every member of the HELP Committee and the House Committee on Education and Labor. I commend our Ranking Member, Senator Enzi, for his strong support for moving this bill forward, and Chairman Miller and Ranking Member McKeon in the House for their enormous contributions to this legislation.

I'm especially grateful to my friend, Senator Mikulski, for going above and beyond the call of duty to help resolve some of the most difficult issues in this bill over the past several months.

I also commend Senator Dodd and Senator Shelby for the assistance the Banking Committee has provided on the private loan provisions in the bill, and all the Members of both committees for their individual contributions.

We owe an immense debt of gratitude as well to the many staff members on both sides of the aisle who have dedicated hundreds of hours to working on this legislation. I'm grateful for the efforts of Dvora Lovinger and Robin Juliano on Senator Mikulski's staff, and Ilyse Shuman, Greg Dean, Beth Buehlmann, Ann Clough, Adam Briddell, Lindsay Hunsicker, Aaron Bishop and Kelly Hastings on Senator Enzi's staff.

From Chairman Miller's office, I'm grateful for the efforts of Mark Zuckerman, Alex Nock, Gabriella Gomez, Julie Radocchia, and Jeff Appel. From Ranking Member McKeon's office, I thank Sally Stroup and Amy Jones.

I also thank Mary Ellen McGuire and Jeremy Sharp with Senator Dodd; Rob Barron with Senator Harkin; Michael Yudin and Michele Mazzocco with Senator Bingaman; Kathryn Young with Senator Murray; Seth Gerson with Senator Reed; Mildred Otero, Latoya Johnson, and Chelsea Maughan with Senator Clinton; Steve Robinson with Senator Obama; Huck Gutman with Senator Sanders; Will Jawando with Senator Brown; Allison Dembeck with Senator Gregg; David Cleary and Sarah Riffling with Senator Alexander; Celia Sims with Senator Burr; Glee Smith with Senator Isakson; Karen McCarthy with Senator Murkowski; Juliann Andreen with Senator Hatch; Alison Anway with Senator Roberts; Jon VanMeter with Senator Allard; and Elizabeth Floyd with Senator Coburn.

As I mentioned, the Banking Committee provided special help during this process and I thank Shawn Maher, Amy Friend, and Roger Hollingsworth with Senator Dodd; and Jim Johnson with Senator Shelby.

As always, we're grateful for the hard work of our Legislative Counsels, the Senate Budget Committee, and the Congressional Budget Office for helping us prepare this bill. I thank Mark Koster, Kristin Romero, Amy Gaynor, and Laura Ayoud from the Senate Legislative Counsel's office, Steve Cope and Molly Lothamer from the House Legislative Counsel's office, Debb Kalcevic and Justin Humphrey of the Congressional Budget Office, and Robyn Hiestand with the Senate Budget Committee.

And from my own staff, I thank Michael Myers, Carmel Martin, J.D. LaRock, Erin Renner, Missy Rohrbach, Emma Vadehra, Jennie Fay, Shawn Daugherty, Roberto Rodriguez, David Johns, Michael Zawada, and Jane Oates.

As President Kennedy said in 1961, ''Our progress as a nation can be no swifter than our progress in education. Our requirements for world leadership, our hopes for economic growth, and the demands of citizenship itself in an era such as this all require the maximum development of every young American's capacity. The human mind is our fundamental resource.''

President Kennedy was speaking then about the aspirations that gave life to the original Higher Education Act of 1965. His words rang true then, and they still ring true today. We can all be proud that with passage of the Higher Education Opportunity Act, we're recognizing our responsibility to help all our citizens obtain a higher education, not only to improve their own lives, but also to strengthen our nation and our future. I commend all my colleagues and their staff members on both sides of the aisle for coming together to make passage of this vital legislation possible.

Ms. MIKULSKI. Mr. President, I wish to add to this. I won't repeat what Senator KENNEDY reminds us are the good things in this bill.

In addition to our empowerment opportunity, which was expanding Pell grants from $4,800 to $6,000, we are also making sure Pell grants are available all year long, not just during the academic year, as well as getting rid of the cronyism in private lending where there were kickbacks going on between lenders and those at colleges who were offering it.

In addition to that, one of the things I am very proud of is how we met two major shortages in our country. Right now, there are the issues related to the nursing shortage. This bill recognizes the fact that though there is a nursing shortage, there are now several thousand people who want to go to nursing school but can't get in because the nursing schools either have no room, no labs, or no faculty.

Working together, we have been able to pass in this bill a very significant empowerment opportunity that will expand faculty and laboratory capacity so that we can crack the nursing shortage code by making sure all who want to go have the opportunity to go. By the way, there are 40,000 qualified applicants who could not get into nursing programs. They were smart enough. They were good enough. There was even financial aid to help them, but there just wasn't room. But we are making room for them.

Another issue that we were able to deal with was promoting innovative and effective teacher preparation programs. Our Nation faces a shortage of high-quality K–12 teachers, and new approaches are needed to make sure that every child has an effective teacher. In this legislation, we create a pipeline for high-quality teachers to teach in high-need schools by promoting partnerships with teacher education programs in higher need districts. We hold institutions of higher education accountable for the quality and progress of their teacher preparation programs as well as encouraging them with substantial help to develop alternative certification programs.

The Presiding Officer would be interested to know that on this 25th anniversary of Sally Ride going into space,

neither Dr. Ride nor I could teach in a Baltimore high school. Dr. Ride has a Ph.D. in astrophysics, two undergraduate degrees—one in physics and one in Shakespeare. I have a master's degree in sociology. I think I am qualified to teach current events but couldn't do it. That is OK. We should be qualified, but it would be darn hard to get into an alternative certification program.

I think there is a lot of talent coming out of our military, retired people who are looking for second careers—an experienced core. We need to give them an opportunity to come into our college classrooms, bringing knowledge, expertise, and the kind of mentoring that goes on. This is what is in this bill. It is not a laundry list of programs. It is about helping those young people who want to get into school, making sure we deal with some of the critical shortages facing our country, and at the same time having empowerment opportunity where we help important historic institutions, such as our Historically Black Colleges.

I am going to speak about this bill in more detail, but for now I wish to yield to Senator ENZI, who has been such an able partner and who has a particular area of expertise, because of his accounting background, in the fiscal reforms we did and a real passion for the community college.

Mr. ENZI. Mr. President, I rise to express my support for the conference agreement of the Higher Education Opportunity Act, which would reauthorize the Higher Education Act. This conference agreement represents a major victory for America's students and families. I can't say enough about the tremendous role that Senator MIKULSKI has played in getting this wrapped up. I often say, on bills it takes 90 percent of the time to get the 90 percent done, and the other 10 percent also takes 90 percent of the time. I think she did a significant job of cutting that other 90 percent to get the 10 percent done.

My only regret is that Senator KENNEDY isn't here to share in this great moment. He has been working on this with me for 3 years. We actually worked a little bit on it before that. Without his able help on this bill and the superb help of his staff, who have continued to work on it, we wouldn't be in this position today. I will be eternally grateful, though, that he asked Senator MIKULSKI to step in and help out. She has been tireless and has done a phenomenal job. Without her leadership, we also wouldn't be here at this moment.

This is an important step, and it will have an impact on the lives of students of all ages for years to come. It is much like the launch just over 50 years ago of the Sputnik satellite that sparked a great debate about our place in the space race. The success of Sputnik sent shockwaves through the Nation. Russia was getting the better of us technologically, and we couldn't allow that to happen. It sparked a change in our education policies, and it sparked America to do what it does best, which is to rise to the challenge with innovation and a marked determination to be second to none. No longer could we rest on our past triumphs as a nation. We met the challenge of Sputnik through the National Defense Education Act.

Today, we are again being challenged but in a different way.

Now, instead of a race for space, it is a race for knowledge and skills that confronts us. It is a race we dare not lose, for the stakes this time are even higher. What is at risk is our strong economy. The solution to this difficult problem is to make a college education more accessible, more affordable, and more accountable for more Americans. It is more important than ever to make sure students and their families have good information to use on making decisions about college.

We find ourselves at a time when 200 of the 230 highest wage, highest paying, and in-demand jobs require some college education. In this environment, it is necessary for America's students to be able to access the tools and assistance they will need to complete their college education and acquire the knowledge and skills that will enable them to be successful in the 21st century economy.

Institutions of higher education and employers have expressed their dissatisfaction with the fact that our high school graduates need remediation in order to do college-level work or to participate in the workforce. Each year, taxpayers pay an estimated $1 billion to $2 billion to provide remedial education to students at our public universities and community colleges. The cost to employers is even greater.

The legislation before us will take historic steps to provide students with the tools, the means, and the power to get a higher education.

We can all appreciate the complexity of the Federal student aid system. Filling out the Free Application for Federal Student Aid, or FAFSA, prevents many of our students from even considering college. We have taken that from multipages down to three pages—incidentally, that is both sides. One of the significant things is that it has kept people from even applying for financial aid, and without the financial aid, they cannot go to college. In 2004, an estimated 850,000 individuals who would have been eligible for Pell did not file a FAFSA. Completing bureaucratic financial-aid forms should not be a barrier to thousands of students who need financial aid to attend college.

This bill breaks down FAFSA to just those necessary questions to determine a student's financial need. In addition, Federal agencies will be required to examine and reduce the amount of information needed to establish eligibility for student aid. We also have included sunshine and transparency requirements for institutions, lenders, and guaranty agencies to restore confidence in student loan programs and eliminate the appearance of inappropriate arrangements.

As important as it is to increase the number of first-time college-going students, the fact is that nontraditional students are the students of the future. With seven community colleges in Wyoming, I know the value of serving adult learners who are returning to college for additional education and training. This agreement provides Pell grants for year-round education. You can think of it as 9 months and 3 months off, but people who are in this position need to be able to go continuously until they get the certification or degree they are working for. Again, this agreement provides Pell grants for year-round education, so students can complete their programs more quickly.

One issue I have concerns with is the maintenance of effort provision. I am worried that it may serve as a disincentive to States to reasonably allocate resources to higher education. I expect that we will find the provision unworkable, and we will be back in the future to make technical changes to fix it. We will leave that for another day.

For students today, a higher education is no longer optional. Without a lifetime of education, training, and retraining opportunities for everyone, we will not meet the 21st century challenges. This historic piece of legislation goes a long way toward meeting our commitment to all Americans.

This conference report is not a perfect bill, but it is a good bill and an important accomplishment because we followed the 80/20 rule. We focused on the 80 percent of the issues we could agree on, not the 20 percent we disagreed on. We also followed the regular order to craft this bill. It went through committee and was considered on the floor. The House did the same. Then we met with the House to draft a conference report. This process takes time, but the result is an important accomplishment for America's students and their families. What we are doing today will make a great difference in the lives of our children and our grandchildren for many years to come.

I thank all of the members of both the Senate and the House committees, and in particular Senator KENNEDY for working toward this goal for years and keeping his commitment that we would get this done. Senator KENNEDY has long been a champion for education in our country. He shares my determination that the education we provide to students of all ages will be second to none. That is a difficult challenge. When he and I started on this challenge to reauthorize the Higher Education Act 3½ years ago, we knew there would be many bumps along the way. I believe we hit every single one of those bumps, but he provided the kind of leadership in committee, in the Senate, and in the Congress that made it possible for us to reach this agreement today.

I also thank Senator MIKULSKI for the key role she played in assuring that we reached agreement on the bill.

In addition, I acknowledge the tremendous work of Chairman MILLER and Ranking Member MCKEON of the House Education and Labor Committee. There were a tremendous number of meetings between us to work in a very positive way toward getting to this point.

As well, I thank Congressmen HINOJOSA and KELLER of the subcommittee. They helped to shepherd this bill through the House so we could take it up on the Senate floor.

There are many congressional staff who worked on this conference report. The breadth and importance of the issues, not to mention the length of the legislation, requires many people working on it to get it done.

I have always said that I have a staff worthy of gold medals and my staff who worked on this bill have shown their gold medal status once again. I must first acknowledge and thank Beth Buehlmann, my education policy director. It is no exaggeration to state that without Beth there would be no Higher Education Act reauthorization bill today. She truly was the force to start the reauthorization 3½ years ago. She worked tirelessly to ensure that we drafted a bill to reflect the changing nature of our student bodies as well as to ensure that we, as a Nation, will maintain our status as having the best education system in the world. Her team of Ann Clough, Adam Briddell, Kelly Hastings, and Lindsay Hunsicker is comprised of remarkable individuals who brought their talents and knowledge to the forefront in this bill. I would also like to thank my staff director, Ilyse Schuman, and Greg Dean, Amy Shank, Randi Reid, John Hallmark, and Ron Hindle who also put in many hours and added invaluable input into the bill as well as the overall process.

I would also like to thank members of Senator KENNEDY's staff for their hard work—Michael Myers, Carmel Martin, JD LaRock, Missy Rohrbach, Erin Renner, Roberto Rodriquez, and Emma Vadehra.

Additionally, I would like to thank all of the other HELP Committee staff for their hard work throughout this process, especially David Cleary and Sarah Rittling of Senator ALEXANDER's subcommittee staff. Also deserving thanks are our Republican members' staff, including Allison Dembeck, Celia Sims, Glee Smith, Karen McCarthy, Juliann Andreen, Alison Anway, John van Meter, and Elizabeth Floyd, as well as their Democratic staff counterparts. Also, I would like to thank Scott Raab from Senator MCCONNELL's office for helping us work through some of the more difficult issues in the negotiations.

Also deserving my gratitude is the House staff including Mark Zuckerman, Alex Nock, Gabriella Gomez, Julie Radocchia, and Jeff Appel with Chairman MILLER's staff and Sally Stroup, James Bergeron, and Amy Jones with Mr. MCKEON's staff.

Also, with any piece of legislation that we draft, we should not forget the legislative counsels in both bodies who worked tirelessly to put this 1,000 plus page agreement together—Steve Cope, Molly Lothamer, Mark Koster, Kristin Romero, and Amy Gaynor—who all deserve to be recognized.

I look forward to getting the conference report to President Bush for his signature soon so that students and their families who are making plans to attend college this fall will have the benefits of this bill to help them.

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

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield time to the distinguished Senator from New Mexico, a member of the HELP Committee, who played a significant role in crafting this bill as it moved through our committee.

Mr. ALEXANDER. Mr. President, I wonder if I might ask, through the Chair, the Senator from Maryland if I might speak after the Senator from New Mexico.

Ms. MIKULSKI. If I may say to the Senator two things. One, I believe the agreement is that we have from——

The PRESIDING OFFICER. Under the order, the Senator from Maryland has 50 minutes and the Senator from Wyoming has 30 minutes. The Senator from Tennessee has 30 minutes.

Mr. ALEXANDER. I thank the Chair.

Ms. MIKULSKI. Mr. President, our order of agreement was that after Senator ENZI spoke, we would take 10 minutes for Senator BINGAMAN and Senator REED. If Senator REED is not here, we can then see how we can accommodate the Senator from Tennessee. The Senator from Tennessee was to go after the Senator from Rhode Island.

Mr. ALEXANDER. Thank you. I can wait until there is available time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

GREGORY SIMON

Mr. BINGAMAN. Mr. President, I rise today to speak about the devastating loss that Bob Simon and the Simon family suffered today with the loss of their beloved son and brother Gregory. Bob has been the staff director of the Energy and Natural Resources Committee for nearly 10 years, and worked with me in other capacities for a number of years before that. During that period, Bob has gone through harrowing times both personally and professionally. He has always handled these times with grace, strength, and his own personal brand of dry humor. Bob, his wife Karen, and their three other children—Stephen, Cathryn, and Anne-Marie—have spent countless hours at Gregory's bedside since Gregory fell ill on July 10, exactly 3 weeks ago, and throughout that time, they have shown extraordinary courage. Their devotion to Gregory reflects their devotion to one another as a family.

Greg was a really inquisitive, artistic, creative individual. He always drew cartoons and comics. He didn't like math. He looked exactly like Bob except with blond hair. He had Bob's temperament—he was such a positive young man.

Gregory was always small for his age, but he refused to let his stature get in the way of anything he wanted to do. He was a fighter, and he fought valiantly for the last 3 weeks. In the end, though, the odds were too great to overcome, and Gregory died at the age of 16.

Mr. President, there are no words that can properly capture the pain the Simons must feel now, and no words we can say that can truly provide comfort. The best we can do is be sure that those who are bereaved know that they have our love and our prayers, and so we send both in great measure to the Simon family.

Mr. President, I would like to speak briefly about the legislation that is before the Senate.

I urge my colleagues to adopt the conference report on this Higher Education Opportunity Act. The title to the legislation indicates that the bill is about providing greater opportunities for families to send their children to college and greater opportunities for students to succeed in and graduate from college.

I particularly thank Chairman KENNEDY and Senator ENZI for their untiring commitment and dedication to the college students of this country. Of course, I thank Senator MIKULSKI as well for her leadership in getting this legislation to the Senate floor for a vote this evening.

Only 1 year after passing the largest student aid package in more than 50 years, this body is poised to pass legislation that will take the next step to make college more affordable and accessible to students and their families. There are many important provisions in the bill, but I will highlight just one provision in particular.

Native American enrollment in postsecondary education more than doubled between 1976 and 2002, with almost 166,000 Native American students enrolled in higher education. Student enrollment in tribally controlled colleges and universities has increased in recent years to almost 16,000 students in 2002.

It is important to note the critical role tribally controlled colleges play in educating Native American students and the unique educational opportunity these schools offer Native American students. We need to continue to do all we can to strengthen and support those schools. But that means that approximately 150,000 Native American students are enrolled in higher education in non-tribally controlled colleges.

We know, unfortunately, that Native American students are still much less likely to enroll in college than their peers. Only 18 percent of Native American students have enrolled in college, as compared to 42 percent of other students. We also know, however, that Native American students are less likely

to persist once in college. And 77 percent of Native Americans did not have a postsecondary certificate or degree, as compared with 37 percent of others.

The Higher Education Opportunity Act, the bill before us today, addresses the reality that the overwhelming majority of Native American students are being educated in non-tribally controlled colleges and universities and that we need to do a better job to support these students within these schools. This legislation authorizes the Native American-Serving Non-Tribal Institutions Program to enable such colleges to improve and expand their capacity to serve these Native American and low-income individuals.

Right now, there are 43 colleges and universities that serve large Native American student populations. In my State, we have three such schools that serve large Native American student populations. In fact, the student population at the University of New Mexico at Gallup, NM, is close to 80 percent Native American.

Native American students in New Mexico would not be the only students to benefit from this provision. Colleges and universities around the country would also qualify in other States, including schools in Alaska, Wyoming, Colorado, North Carolina, and Utah. Out of the 43 schools that could be eligible to benefit from the provisions in this legislation, 24 of the schools are located in the State of Oklahoma.

I am very pleased this provision has garnered strong bipartisan support. It is a part of this very important legislation.

I am also pleased that the bill includes funding for a long overdue graduate program for Hispanic-serving institutions.

I thank the chairman and Senator ENZI for their strong support of these provisions. I urge my colleagues to support the conference report.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, following our agreement and time allocation, I yield 5 minutes to the Senator from Rhode Island—the other Senator from Rhode Island, the senior Senator, Senator JACK REED, also a member of the HELP Committee. He is a very persistent person in engaging in the content of this bill.

The PRESIDING OFFICER. The senior Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I thank Senator MIKULSKI for not only the time to speak about this important measure but for her leadership. I particularly wish to recognize the extraordinary contribution of Senator KENNEDY who has been the architect of this legislation and many previous reauthorizations. And I wish to give particular thanks to Senator ENZI whose quiet, thoughtful, and determined approach made a contribution to this legislation. I thank him for his hard work.

I rise in strong support of the Higher Education Opportunity Act of 2008. It will be an important way in which we fulfill our obligation to the American people, and keep opportunity and hope alive throughout this country. Education is truly the engine that pulls people forward. It allows individuals and families to move up the economic ladder, and not only for their own progress, but also for the benefit of the communities in which they live.

This might be one of the most important pieces of legislation we ever considered on this floor. I am proud it has been so well handled and so meaningful that today we are debating legislation which I believe will get overwhelming support. I am particularly pleased it is being reauthorized at this time. We have seen an economy in turmoil. One of the realizations that is taking place is that the housing sector of our economy is so central to everything we do. I can imagine, as we all can, that there are literally hundreds of thousands of families across America who are counting on the equity in their homes to send their son or daughter to college. That equity has been diminished, if it has not disappeared altogether.

Today we are responding to that urgent need by providing more assistance to families to send their children to higher education. I am particularly pleased the aspects of the legislation I helped author are included in this final version. I introduced legislation called the FAFSA Act, which is the acronym for the federal financial aid form, to streamline the financial aid application process. There will now be a short EZ–FAFSA form for low-income students and families while also allowing students to apply earlier so they have an idea of what their financial options are as they consider college. These provisions will make the sometimes daunting task of getting financial aid, I hope, a little easier and a little more efficient.

I am also pleased that aspects of my legislation called the ACCESS Act have been included. This legislation deals primarily with the LEAP program. The LEAP program is a partnership between States and the Federal Government to provide grants to students who need the help—not loans, but grants. The States put in some resources; we match those resources. It is a way in which we can fulfill our commitment and our promise to many low-income families. This legislation builds on the LEAP program by providing critical additional financial resources, particularly resources and that will be useful for helping middle- and low-income families attend college.

We are all concerned about another aspect of our educational system, and that is teacher quality. This legislation incorporates some other provisions which I advanced that will help prepare teachers for the reality of today's classroom. I am very pleased they are included also.

We also included in this legislation a Perkins student loan forgiveness for librarians and for members of the Armed Forces. The Perkins program provides need-based loan assistance for students attending college. We are going to forgive the debt on that loan assistance for librarians and members of our armed services.

This is a wonderful act. I am pleased and proud to support it and be a part of it. I once again thank Chairman KENNEDY, Senator ENZI, and Senator MIKULSKI for their great work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, do I understand I have up to 30 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. ALEXANDER. I thank the Chair. I ask unanimous consent that I may bring demonstrative evidence on the floor and use it during my remarks.

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

Mr. ALEXANDER. Mr. President, in case anyone is wondering, these boxes, which are nearly as tall as I am, are the rules and regulations that our 6,000 colleges and universities must comply with in order to receive students who have a Federal grant or loan. As I will make clear in my remarks, my primary objection to the legislation I am about to address is that the legislation doubles the size of this stack of boxes. My fear is we are undermining the quality of American higher education. The greatest threat, I believe, to American higher education is not underfunding, it is overregulation.

Before I say that, let me first say a word, as has been said before, about Senator KENNEDY, Senator ENZI, and Senator MIKULSKI. While they have, among themselves, different philosophical views, I regard each of them as institutions whom I greatly admire. In other words, they like to work within this body across party lines to get a result. I thank both Senator ENZI and Senator MIKULSKI for the courtesy accorded me in the development of this result. And as every other Member of this body does, I greatly admire Senator KENNEDY for his tenacity and his commitment to education. Obviously, we wish he were here tonight to join us.

Because I admire Senator KENNEDY and Senator MIKULSKI and Senator ENZI does not mean I have to admire the particular result of this work. After 4 years, the Senate has spewed forth a well-intentioned contraption of unnecessary rules and regulations that waste time and money that ought to be spent on students and improving quality. It confirms my belief that the greatest threat to the quality of American higher education is not underfunding, it is overregulation.

Current Federal rules for the 6,000 higher education institutions that accept students with Federal grants or loans fill a stack of boxes that is nearly as tall as I am. The former President of Stanford, Gerhard Casper, estimated

that it cost these institutions from Harvard to the Nashville Auto Diesel College 7 cents of each federal dollar to do all the busy work to fill out these regulations.

The legislation which we are considering tonight doubles those rules and regulations with 24 new categories and 100 new reporting requirements. These new requirements include a total of 54 so-called college watch lists which I believe will be too confusing for families to understand, and complicated rules involving textbooks which only will prove that Members of Congress have no idea about how faculty members prepare their courses.

Most of these complications of rules, graduation rates in 48 different categories, disaggregation of student reporting dates by 14 racial, ethnic, and income subgroups, employment of graduates of institutions will leave college administrators scratching their heads and create thousands of new jobs for people who know how to fill out forms.

All of this will be put on the Web, I suppose, and most of it will be sent to Washington, DC, for someone to read. Having once been the Secretary of Education myself, I do not know who will read all these new regulations and all these new reports, and I don't know what they would do about them if they did read them.

The American higher education system is far from perfect, but it is one thing in our country that works and it works well. It is our secret weapon in maintaining our brain power advantage so we can keep our higher standard of living and keep our jobs from going overseas.

The United States not only has the best colleges and universities in the world, it has almost all of the best colleges and universities in the world. Some are big, some are small, some are public, some are private, some are profit, some are nonprofit. They are community colleges, historically Black colleges and church-affiliated institutions.

Tuitions range from $50,000 a year at some private institutions to an average of $6,200 a year for 4-year public institutions, to $2,400 for community colleges. In Tennessee, some cities are even making community college free.

Their foremost advantage, the advantage of all these 6,000 institutions, is that in a rapidly changing world, these 6,000 autonomous institutions are flexible and able to meet the needs of their student customers.

Federal support for higher education goes almost all to these students. It does not go to the institutions. A little of it does, but almost all of it goes to the students who then choose the schools, forcing the institutions to compete, stay flexible and meet real needs. That is the precisely opposite way we fund kindergarten through the 12th grade. We give the money to elementary and secondary institutions, tending to freeze them into whatever they have been doing for the last 50 years.

We can compare the success of our higher education system with the lack of success of our K through 12 system and wonder whether the reason might not be that in higher education, we focus on autonomy, choice, and competition.

Generous research dollars in higher education are for the most part competitively awarded, which also helps to keep the institutions on their toes.

The rest of the world is busy trying to emulate the American system of higher education, which means other countries are creating more autonomy, more choices, and more competition. Yet here we are in the Senate today cluttering up our secret weapon with the same bureaucratic nonsense that has stifled excellence in universities in other parts of the world and will do it here if these trends are not reversed.

There is a great deal of beating of breasts about how much good this bill does to address the problem of college costs. It is ironic that the same legislation would add to tuition costs by imposing unnecessary regulations. And it is especially ironic that the very Members of Congress who are complaining the most about rising tuition costs fail to see that at least for public institutions, which about 70 percent of our students attend, Members of Congress are the cause of the rising costs. This is why it is true that State support for higher education has been low during this decade.

Between 2000 and 2006, State spending for higher education increased by only 17 percent, while tuition at public institutions during that time was up 63 percent. It is also true that the reason tuition costs are up is that State spending is down.

But what Members of Congress seem to be missing is that the principal reason State support of higher education is down is because Congress has mandated that States pay so much for programs such as Medicaid or fail to meet their commitments to programs like the Individuals with Disabilities Education Act, IDEA. When the Governors and legislatures are through paying for the mandates for Medicaid or to make up the lack of the Federal Government's commitment to IDEA, there is very little left for higher education.

When Federal requirements for Medicaid dictate that State spending for Medicaid goes up 7 or 8 percent a year when the overall State budget is only going up 3 or 4 percent a year, the money has to come from somewhere. States have to balance their budgets, and in State after State, the money has been coming from higher education. That was true in Tennessee during the 1980s, when I was the Governor, and it is even more true today.

During the 1980s, my major goal was to try to help us to spend at least 50 percent of our State tax dollar on education. My major adversary was Federal Medicaid. While I ultimately did succeed in getting to 50 cents, I had to squeeze it and push it and try to control it, and still it grew faster than everything else in the State budget. I was able to do that then because Medicaid and other health services were only about 15 cents of the State tax dollar. But by this decade, 2003 and 2004, the number was 40 percent of the State tax dollars in Tennessee went to education, not 50, and 31 cents went to Medicaid and health services. I am confident most of the cutting came out of higher education, which resulted in most of the tuition increases so the universities could operate and pay their bills.

I would respectfully suggest that we in Congress need to start along two completely different tracks if we want to retain the autonomy, competition, and choice that has led to quality and access to American higher education. First, we need to deregulate, not overregulate higher education. Cut this stack of rules and regulations in half and use the time and the money for students and for academic excellence.

Second, we need to stop loading State budgets with so many unfunded Federal mandates. For example, if Congress were to fully fund IDEA, the program for students with disabilities, at 40 percent of its cost, which is what Congress said it would do in the 1970s, that would add $250 million to Tennessee's revenue stream. I am sure much of this would go straight to higher education, whose annual budget is about $1.2 billion.

More importantly, we need to give States more flexibility in dealing with Medicaid costs and give them an opportunity to take steps to make it easier to free themselves from outdated Federal Court consent decrees, which restrict the ability of Governors and legislators to direct money to higher education priorities. Then, of course, there is the REAL ID, another $4 billion in unfunded mandates for the States, and out of which pot do you think the States might take that? Higher education would be my guess. Most Governors and legislators can point to many more unfunded Federal mandates.

These two steps are the best way to drive down college costs and to maintain academic excellence.

There are major accomplishments in this bill, some of which I have worked on and of which I am proud. They include simplifying the Federal student aid form and allowing year-round Pell grants for students making progress toward a degree. There is a new compliance calendar, which the Secretary of Education will be required to develop, that will set forth all of the reports and the disclosures required under the Higher Education Act. I am proud to say I suggested that. In other words, the new Secretary of Education will have to make a calendar listing every single report that has to be complied with, so the small Catholic college in Baltimore might not have to hire three more people in to go through this growing stack of requirements.

I authored the restrictions prohibiting the Secretary of Education from regulating student learning standards or requiring accreditors to adopt specific measures of learning assessment, which would have been additional federalizing of our 6,000 autonomous institutions.

There is an accountability research grant in this bill to focus attention on institutions making progress in measuring student achievement and asking the advisory committee, which has already done such good work in simplifying the student application form, to review this stack of growing Federal regulations. I also sponsored the new discretionary grant program for Teach for America.

All these actions in this bill are for the good, as is the increase in the availability of Pell grants for students who need help attending college. But I cannot support a piece of legislation that so undermines the excellence in higher education that comes from institutional autonomy.

I would like to offer a few letters and statements, and I ask unanimous consent they be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, the first of these is a release today from the National Governors Association, which points out that Governors are responsible for making funding decisions that serve the best interests of all citizens. The Governors, in their release, say:

Maintenance of effort undermines governors' authority and guarantees students and their families will be writing larger not smaller tuition checks in the future. This is not the answer to affordable higher education. Governors oppose the higher education bill because of the negative impacts of the maintenance of effort and implore Congress to vote against it.

We had a vote on stripping out the maintenance-of-effort bill, but I lost that by one vote in the conference committee. Basically, what it says is that Members of the Senate and the House will substitute their judgment for that of Governors and State legislators. My suggestion was that if we are going to pass a bill and take credit for requiring States to spend more money on higher education, whether or not they have other priorities, then we might as well also go back down to our State capitals and join in the pain and suggest to the Governors whom to lay off or what school to close or what mental hospital to limit or what tax to raise because of our requirement about higher education maintenance of effort.

The second letter I would like to include in the RECORD comes from the commissioner of the Department of Finance and Administration in Nashville. Our Democratic Governor, Phil Bredesen, who has done a great many good things for higher education during his 6 years, is in the midst of a budget crisis. He is reacting to the very idea that during the midst of that, when he is laying off employees and making cuts in virtually every program, that we would take it upon ourselves to say that if he doesn't increase funding for higher education, we are going to cut his Federal funding. All when we ourselves are one of the reasons he is having a hard time funding higher education, because of all our unfunded mandates.

The third letter I would like to include is from the chancellor of Vanderbilt University in Nashville, one of our most distinguished research universities and one of which I am proud to be an alumnus. It is a well-modulated letter, as you would expect from the chancellor of Vanderbilt. The letter argues very eloquently why the autonomy, competition, and choice that characterizes excellence in higher education is so important and so fragile and needs to be respected by us as we pass higher education bills, rather than to use a blunderbuss and start stacking boxes and boxes of regulations on institutions such as Vanderbilt.

Why do we think we can do a better job in the Senate making Vanderbilt University a better university by complying with all this stuff, when it takes money that might be used to educate the students and improve academic excellence? They already have deans, vice chancellors, provosts, chancellors, and a board of trustees. If they are a public institution, they have a Governor, they have a higher education commission. They have plenty of overseers. They do not need us.

Two other letters, one from the president of Duke University, office of the president, Richard Brodhead, an equally thoughtful letter about the Federal role in higher education. I might say that North Carolina has done one of the best jobs of any State in accountability for higher education.

No one is doubting we need accountability for the money the Federal Government spends. As I mentioned earlier, the dollars we spend for research, tens of millions a year, are made accountable by being competitively granted, for the most part. The dollars we spend for colleges and universities don't go to the colleges and universities, they go to the students, and the students choose the school. If they do not like the school or the cost of the school, they may go to another school. Each of those schools has to be accredited before the student can choose the school. That has been a marvelous system for helping to give autonomous institutions the freedom to be good, while at the same time allowing for accountability for the money we spend.

Finally, two letters that were written to Senator ISAKSON of Georgia. One is from the president of the University of Georgia, Mike Adams, who was president of two other colleges before he was president of the University of Georgia. A distinguished educator. Georgia, of course, is one of our distinguished public universities in America.

Finally, a letter from the President of Emory University, James Wagner, and the president of Georgia Tech, Gary Schuster, to Senator ISAKSON, making the same objections.

As I said at the beginning, I admire my colleagues, I admire their 4 years of hard work, and I admire their commitment to a result. My hope would be we could go on two different tracks from here. One would be to look for ways to deregulate higher education, not add regulations to it. Realize that in America, where we are worrying that this might work or that might work, our system of higher education, with all its warts, is the best in the world. The rest of the world is trying to emulate it. Its greatest threat, in terms of its quality, is overregulation, not underfunding.

That leads me to the second track we go on. I hope we will be careful as Members of Congress that if we have a great idea for States, that we don't pass it and send them the bill. Because I know from having been Governor and having been president of a university and having been Secretary of Education, and seeing it in different areas. As a Governor making up a budget, it's pretty well set that you start with K–12. That is pretty well set. He then goes to prisons, and that is probably in the courts. Then he does mental health. That might be in the courts too. Then he or she goes to highways, and that comes from the gas tax. Then they are pretty well down to the choice between Medicaid and higher education. I can guarantee you that if we continue to increase requirements for funding of higher education at the State level, at the rate of 7, 8 or 9 percent a year, when State budgets are only going up 2 or 3 or 4 percent a year, we will significantly reduce the quality of our State universities and colleges. We will significantly increase the tuition costs that we say in this bill we would like to lower.

EXHIBIT 1

NATIONAL GOVERNORS ASSOCIATION STATEMENT ON HIGHER EDUCATION BILL

GOVERNORS SAY INCLUSION OF MAINTENANCE OF EFFORT WILL RAISE TUITION FOR STUDENTS

WASHINGTON.—The National Governors Association released the following statement regarding the impending vote on the Higher Education Reauthorization bill:

''The nation's governors are committed to providing students in their states with affordable access to higher education and agree that the reauthorization of the Higher Education bill is a priority. However, inclusion of the Maintenance of Effort (MOE) provision in the bill has negative implications for states; therefore governors oppose the passage of the conference report with this provision.

''Governors must balance their budgets in both good and bad economic times. This mandate means that states will be unable to make major increases or invest one-time surpluses in higher education during good times because they will be penalized if forced to reduce spending during difficult times. In the end, this will increase the cost of college for students and their families.

''Governors are responsible for making funding decisions that serve the best interest

of all their citizens. MOE undermines governors' authority and guarantees that students and their families will be writing larger, not smaller, tuition checks in the future. This is not the answer to affordable higher education. Governors oppose the higher education bill because of the negative impacts of the maintenance of effort and implore Congress to vote against it.''

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STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION, STATE CAPITOL,
*Nashville, TN, July 29, 2008.*

Hon. LAMAR ALEXANDER,
*United States Senate, Via Email.*

DEAR SENATOR ALEXANDER, The State of Tennessee shares your concerns with regard to the MOE mandate provided in the higher education bill and appreciates your efforts in defending our state interests. These restrictions on a state's ability to manage its way through a fiscal downturn would be a terrible mistake.

Under Governor Bredesen's leadership, we have made public education a priority. We know sufficient funding is critical to achieving success in primary, secondary and higher education. During the good economic times, we've increased funding for higher education operating costs and put over $1 billion into capital projects.

However, when times are tough economically, we have to share the downside. When budget cuts have been necessary, education programs were always last to be considered. Unfortunately, Governor Bredesen has experienced two very tough budget fiscal years during his six years in office, FY 2003/2004 and FY 2008/2009. The severe problems required some base reductions in higher education's operating budgets. In FY 2003–04 there was a 9 percent base reduction of $101,327,200. In the current fiscal year, we were facing a $464 million total shortfall, and again had to ask higher education to do its part. As a result, higher education received a base reduction in its operating budget of $55.8 million. These reductions were not made lightly. However, our constitution requires us to balance, and in a relatively poor state, we have no choice but to spread the reductions as broadly as possible.

Our economy remains uncertain. We already face numerous restrictions on the state's ability to manage from our federal partner. An MOE mandate that reduces our flexibility even further is not warranted. We appreciate your efforts to oppose this measure.

Warmest Regards,

M. D. GOETZ, JR.,
*Commissioner.*

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VANDERBILT UNIVERSITY,
*July 23, 2008.*

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

DEAR SENATOR ALEXANDER: After nearly five years of work and ten years since the last reauthorization, I understand that the Higher Education Act reauthorization is nearly complete. It has been a long process, and I commend the Congress for its fortitude to enact the bill this year. My regret is that this final product is not one that I can be proud to share with the Vanderbilt campus.

As a new chancellor, I have the luxury, or some would say misfortune, of only seeing the end result of the past five years of negotiations. When I accepted the position as Vanderbilt's chancellor, I did so knowing that my first and most important priority is, and always will be, our students. Vanderbilt's mission states:

Vanderbilt University is a center for scholarly research, informed and creative teaching, and service to the community and society at large. Vanderbilt will uphold the highest standards and be a leader in the: quest for new knowledge through scholarship; dissemination of knowledge through teaching and outreach; creative experimentation of ideas and concepts.

In pursuit of these goals, Vanderbilt values most highly: intellectual freedom that supports open inquiry; equality, compassion, and excellence in all endeavors.

With this mission in mind, I have been evaluating the conference agreement for the Higher Education Act. While there are provisions in this agreement that will support and enhance our mission, there are many other provisions that deeply trouble me and, I think, have the potential to profoundly threaten our ability to be a ''center for scholarly research, informed and creative teaching, and service to the community and society at large.''

I believe you share my view that at the heart of the American system of higher education are its autonomy and its great diversity. What works for Vanderbilt may not work for Rhodes College, MTSU, Volunteer State Community College, or any other school in Tennessee. I firmly believe that increased federal intrusion into higher education would fundamentally and irreparably damage our system of postsecondary education. For these reasons, I am saddened to conclude that Vanderbilt cannot wholeheartedly endorse this conference agreement. However, before I enumerate the reasons for our reservations, I would be remiss in did not acknowledge and applaud the Congress—and you in particular—for preserving institutional autonomy with respect to the accreditation process. As you know, this has been our top priority throughout the reauthorization, and we are extremely pleased by the final outcome on this issue. Vanderbilt strongly supports an institution's ability to choose how it will demonstrate success with respect to student achievement as well as the standards by which such achievement is measured. We have consistently opposed any effort to make accrediting agencies agents of the federal government; in particular, we believe that the Secretary of Education should not be able to regulate in this area. This responsibility must lie with individual institutions.

The issue of accreditation is of such paramount concern to Vanderbilt that, had this not been adequately addressed, we would have strongly considered opposing the entire agreement. We are grateful that we do not have to take this drastic action, and we have you—and your staff—to thank for this. Without your unyielding persistence on the matter of institutional autonomy with respect to accreditation, the outcome would have been far different. Vanderbilt is immensely proud to call you one of our own and is indebted to you and your staff for your efforts.

Nonetheless, there is a lengthy list of provisions with which we have serious concerns. We recognize that many Members and staff have worked diligently on this legislation for years, and we regret that more reasonable language was not agreed upon.

Chief among our concerns are the countless number of new regulations with which universities are going to be forced to comply, covering such topics as peer-to-peer file sharing, campus emergency notifications, data on alumni, charitable gifts, student diversity, immunization records, missing person reports, and lobbying efforts. These new regulations will place an immense burden on institutions and carry with them a heavy implementation price tag. At the same time that we are trying to rein in costs, we are facing spiraling expenses associated with complying with federal regulations. Over-regulation of higher education institutions threatens the core of what makes our system successful—its autonomy and its diversity.

We also remain concerned about provisions that could lead us along the path toward federal price controls through the creation of innumerable ''Watch Lists;'' a mandatory Department of Education developed net price calculator; mandatory ''Quality and Efficiency Task Forces;'' projecting future tuition; and reporting on tuition based on income categories. Vanderbilt is committed to ensuring that every admitted student can afford to attend Vanderbilt, regardless of their financial situation and regardless of what the ''sticker price'' is. We are very proud of the fact that we meet 100 percent of a student's demonstrated financial need.

Finally, provisions related to textbook prices continue to concern us. Requirements that ISBN numbers for textbooks be disclosed in course catalogs are, frankly, unworkable as many courses have not finalized their textbooks at the time the catalog is printed. We recognize that textbook costs have grown considerably and are committed to finding ways to address this; federal requirements and a ''one-size-fits-all'' approach, again, fail to recognize the immense diversity of our nation's colleges and universities.

In short, other than the accreditation language, there is very little to support in this final agreement. Ultimately, in my estimation, this bill will do more harm than good for the students it purports to serve. Legislation that hampers an institution's ability to educate its students threatens our institutional mission. I am deeply troubled that the conferees will agree to this woefully misguided legislation, and I worry about how it will be implemented and the ramifications of that implementation. Therefore, I urge you to think carefully about whether this is the direction we want to take postsecondary education and whether this legislation supports the fundamental nature of our system of higher education.

Thank you again for your strong and principled leadership on so many issues about which we care deeply.

Sincerely,

NICHOLAS S. ZEPPOS,
*Chancellor.*

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DUKE UNIVERSITY,
OFFICE OF THE PRESIDENT,
*Durham, NC, May 28, 2008.*

Hon. EDWARD M. KENNEDY,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

Hon. MICHAEL ENZI,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

Hon. GEORGE MILLER,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

Hon. HOWARD ''BUCK'' MCKEON,
*House of Representatives, Rayburn House Office Building, Washington, DC.*

DEAR SENATOR KENNEDY, SENATOR ENZI, REPRESENTATIVE MILLER AND REPRESENTATIVE MCKEON: As you work to complete conference consideration of the Higher Education Act (REA) reauthorization, I write to add my voice to those expressing concern about a number of issues your committees are facing as you finalize this important legislation.

I appreciate the time and thoughtful consideration you and members of your staff have devoted to the REA bill. Two years ago I wrote the North Carolina congressional delegation urging our representatives to vote against the House version of the REA because of the significant steps the legislation took toward eroding the role of trustees in institutional governance and the long-standing, successful relationship between the

federal government and institutions of higher education. While the current legislation is somewhat more palatable, I fear that it still represents a major intrusion and regulatory encumbrance for higher education and that the proportion of bureaucracy relative to public value will be extremely high.

Please allow me to highlight several troublesome provisions that I urge you to revise or eliminate before the bill moves forward:

It is apparent that you have taken our concerns about the inappropriateness of unnecessary federal control of accreditation seriously. Including language that limits the authority of the Secretary of Education from prescribing standards and otherwise regulating measures of student achievement success is welcome. But, the language is not restrictive enough. I urge you to modify it specifically to prevent the Secretary from regulating standards for faculty, facilities, equipment, supplies, student services and the fiscal and administrative capacity of institutions.

Duke takes the accreditation process with great seriousness, and we use what we learn from our intensive self-study, as well as external evaluations, to help guide the high quality of the educational experiences we offer our students. Duke is currently in the midst of its decennial review with the Commission on Colleges of the Southern Association—of Colleges and Universities (SACS). I am impressed with the thoughtful questions the SACS team asks of us regarding a wide range of issues. Maintaining this quasi-independent system of assessment and assurance of quality is an important contribution to the unique success of American higher education. While there are areas of accreditation that may need some tinkering, it is not role, nor is it wise public policy, to have the responsibility of institutional trustees and accreditation usurped by federal intrusion. I urge you to fully close the door on the Secretary's ability to dictate the measurement of standards that should remain outside the scope of the federal government's responsibility in higher education.

At a time when institutions are struggling to find ways to reduce administrative costs, I am struck by the number of new reporting requirements in the bill, which inevitably will lead to greater bureaucracy both at the institution and at the Department of Education. For example, the reporting of graduation rates in 48 different student categories gives pause and raises questions about the usefulness of such information.

Penalizing institutions for increasing tuition by requiring a report to the Department of Education about cost reducing strategies is an egregious notion, at best. There is little doubt that the quality of the educational experience Duke provides does not come cheap. Our trustees invest in progressive and aggressive financial aid programs to make a Duke education affordable to the more than 40 percent of Duke students who receive financial aid under Duke's need-blind admissions policy. In the coming year alone, we are budgeting more than $86 million from institutional funds to help ensure that no admitted student is denied access to the Duke educational experience for financial reasons. Our trustees have developed over time both policies and procedures to ensure that the university's budget—including our tuition and financial aid programs—is consistent with the mission of the university. Inserting the Department of Education into this conversation eats away at the delineation between governmental responsibility and institutional autonomy. Please remove this provision.

Along those same lines, the proposed requirement to provide non-binding, multi-year estimates of future tuition and fee levels, is misleading and inappropriate. In order for this to be of minimal assistance to an entering student, each institution of higher education would need to forecast every individual student's financial situation in advance. Each year we reassess all of our students' financial aid packages to make sure we are meeting each student's demonstrated need. If their financial situation changes during the year—for instance if their mother loses her job or wins the lottery—the aid package is appropriately adjusted. We simply can't predict what will happen to the, student, nor can we predict the needs of the university as far in advance as the proposed legislation would require.

There is much in the proposed REA that will benefit students, their families, and institutions of higher education, and I applaud the Congress for these positive steps. As the bill works its way to passage, I urge you and your colleagues to reconsider the inappropriate regulatory burden that will be placed on institutions of higher education if this legislation passes as currently written.

Thank you for your consideration.

Sincerely,

RICHARD H. BRODHEAD.

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THE UNIVERSITY OF GEORGIA,
OFFICE OF THE PRESIDENT,
*Athens, GA, July 16, 2008.*

Hon. JOHNNY ISAKSON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR ISAKSON: As conference consideration of the Higher Education Act Reauthorization progresses, I would like to take the opportunity to comment on the latest draft of the proposed legislation.

As you know, we have followed the process to reauthorize the Higher Education Act very closely. We at the University of Georgia appreciate that, during this process, you have been an advocate for higher education nationally as well as for our institution and the University System of Georgia.

In the latest draft, many improvements have been made, particularly in the areas of accreditation, teacher education reporting, and collection of data on alumni. While such improvements are laudable, the legislation, in its current form, still represents a major intrusion and regulatory burden for higher education.

It is always difficult to balance the need for transparency in the educational process with the burdens associated with new regulations. In a time of declining state funds for higher education and a need to reduce administrative costs, I am concerned about the wisdom of creating new unfunded mandates for reporting data from our universities. Many of the new requirements contained in the draft of this bill are unnecessary and/or duplicative, and they would impose significant compliance costs in exchange for little, if any, benefit. I fear these reporting requirements will lead to greater bureaucracy both at the institution level and at the Department of Education.

Please allow me to highlight a few troublesome areas that UGA and other members of the National Association of State Universities and Land-Grant Colleges are seeking to revise or eliminate before the bill moves forward:

College Costs and Transparency: The proposed ''watch'' lists in Title I of the bill for institutions that must raise tuition; the reporting requirements related to the lists; and the proposed provisions in Title VIII of the bill (Tierney provisions) that would establish new requirements for costs reporting and reducing net tuition. All of these could be simplified, and Section 830 of the conference legislation would place additional reporting requirements on institutions with respect to costs and is inconsistent with the cost provisions of Title I.

Multi-year Tuition Price Estimates: The Murphy-Myrick Amendment would require institutions to publish non-binding, multi-year estimates of future tuition and fee levels. Although ''non-binding,'' these figures would create the potential for ill will between universities and prospective students if the state of the economy or other events force institutions to take action. As you know, tuition at state universities is inextricably linked to funding from the state. This provision is fundamentally flawed and should be addressed.

New Reporting Requirements: This legislation would impose a host of new reporting requirements on colleges and universities that would be virtually impossible to meet. For example, the bill would require universities to obtain information on alumni employment, salary, and graduate education. Such data is very valuable, but we cannot compel graduates to report it.

Student Diversity and Graduation Rates Reporting Requirements: Institutions would be required to report to the Department of Education the percentage of enrolled, full-time students who are male, female, Pell Grant-eligible, and self-identified members of a major racial or ethnic group. These categories would also be applied to existing reporting of graduation rates. Institutions would have to report graduation rates in no fewer than 48 separate categories. To determine Pell Grant eligibility, institutions would have to demand private financial information.

Peer-to-Peer File Sharing/Copyright Infringement Requirements: Institutions would be required to disclose ''the development of plans to detect and prevent unauthorized distribution of copyrighted material on the institution's information technology system, which shall, to the extent practicable, include offering alternatives to illegal downloading.'' Although our institutions offer alternatives to illegal downloading, the technology simply does not exist to prevent all unauthorized distribution of copyrighted material on our IT systems.

While it has the potential to benefit students, their families, and institutions of higher education, the regulatory requirements and the additional costs relative to benefits are such that I would recommend that you vote against this bill. We hope for a better version to come along shortly.

Sincerely,

MICHAEL F. ADAMS,
*President.*

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EMORY UNIVERSITY,
OFFICE OF THE PRESIDENT,
*Atlanta, GA, July 14, 2008.*

Hon. JOHNNY ISAKSON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR ISAKSON: As conference consideration of the Higher Education Act Reauthorization progresses, we respectfully write to offer our comments on the latest draft of the proposed legislation.

As you are aware, we have followed very closely the process to reauthorize the Higher Education Act. We appreciate that, during this process, you have been an advocate for higher education nationally as well as in the state of Georgia. Specifically, we have been pleased with improvements in the areas of accreditation, teacher education reporting, and collection of income data.

While improvements have been made, the legislation in its current form represents a major intrusion and regulatory encumbrance for higher education. At a time when institutions of higher education are struggling to find ways to reduce administrative costs, we are gravely concerned about the collective weight of these new federal requirements.

The draft bill would significantly increase the number of federal requirements with which universities must comply. Many of the new proposed requirements are unnecessary and/or duplicative, and they would impose significant compliance costs in exchange for little, if any, benefit. We fear these reporting requirements will lead to greater bureaucracy both at the institution level and at the Department of Education.

Please allow us to highlight several other troublesome areas that we hope can be revised or eliminated before the bill moves forward:

College Costs: The proposed 400 ''watch'' lists in Title I of the bill; the reporting requirements related to the lists; and the proposed provisions in Title VIII of the bill (Tierney provisions) that would establish new requirements for costs reporting and reducing net tuition should be simplified. The proposed reporting requirements in Title I and Title VIII of the bill would require ''high-cost'' institutions to form cost efficiency task forces and issue reports to the Department describing actions they are taking to reduce costs and net tuition.

Tuition Price Estimates: The Murphy-Myrick Amendment would require institutions to publish non-binding, multi-year estimates of future tuition and fee levels. In order for this to be of even minimal assistance to an entering student, each institution of higher education would need to forecast every individual student's financial situation in advance. Furthermore, public universities are highly dependent on state funding, making such estimates nearly impossible.

Alumni Reporting Requirements: Institutions would be required to report on alumni employment and enrollment in graduate and professional education programs. Although we would like to have more detailed information on our alumni, we cannot force them to provide us with this information.

Student Diversity and Graduation Rates Reporting Requirement: Institutions would be required to report to the Department of Education the percentage of enrolled, full-time students who are male, female, Pell Grant-eligible, and self-identified members of a major racial or ethnic group. These categories would also be applied to existing reporting of graduation rates. Institutions would have to report graduation rates in no fewer than 48 separate categories. Although we already collect some of this information, other data, like Pell Grant-eligible, would require us to demand personal financial information that our students, and their parents, may not want to share with us.

Peer-to-Peer File Sharing/Copyright Infringement Requirements: Institutions would be required to disclose ''the development of plans to detect and prevent unauthorized distribution of copyrighted material on the institution's information technology system, which shall, to the extent practicable, include offering alternatives to illegal downloading.'' Although our institutions offer alternatives to illegal downloading, the technology simply does not exist to prevent all unauthorized distribution of copyrighted material on our IT systems.

We have asked our staff to provide your staff with more information detailing our concerns with this legislation in its current form. The proposed HEA has the potential to greatly benefit students, their families, and institutions of higher education. We applaud Congress for these steps. However, we urge Congress to reconsider the inappropriate regulatory burden that will be placed on institutions of higher education if this legislation passes in its current form.

Sincerely,

JAMES W. WAGNER,
*President,*
*Emory University.*
GARY SCHUSTER,
*Interim President,*
*Georgia Institute of Technology.*

Mr. ALEXANDER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, under our agreement, I will yield time to our colleague, Senator HARKIN from Iowa, but before I do, I wish to do two things.

First, a few minutes ago we heard from our colleague, Senator BINGAMAN, about the untimely death of one of Senator BINGAMAN's key staffer's sons. Bob Simon is a staff director on his Energy Committee. Bob Simon's 16-year-old son passed away, and he, Senator BINGAMAN, was paying an eloquent tribute about this very melancholy situation. On behalf of the Senate, we would like to extend our condolences to the Simon family.

The other comment I wish to make is in response, very quickly, to the comments my colleague from Tennessee made.

First, I would like to thank my colleague from Tennessee for his very collegial and thoughtful efforts as we moved our bill through. I enjoyed our conversations, from talking about bluegrass and Grand Old Opry, we went on to high notes and higher education, and then we went on to maintenance of effort.

I am sorry you took out the regulatory stack you had because it is bigger than I am. As we said in our conversation, I look forward to working with the Senator from Tennessee to see if some of the regs might be dated, arcane, duplicative, and so on and how, over the next year or so, we could look forward to doing that.

But before I move off from the reg comment, I do wish to comment about the maintenance of effort. In many ways, I understand the point the Senator from Tennessee is making. My own home State of Maryland's Governor O'Malley inherited a $1.7 billion budget deficit that was not of his making, and at the same time I understand Governors and State legislators are facing real obstacles. However, we need to be realistic. Congress is doing its part by increasing Pell grants, and families can be assured that as the Federal Government increases its commitment to colleges, funds will not be offset by the States.

Last night we did pass an amendment offered by another gentleman from Massachusetts, Congressman TIERNEY. What his amendment does is provide incentives and funds to Governors, which they can use for a broad range of college access activities. They would be able to access $66 million to States to use on a variety of very important college access activities, particularly need-based grants and college prep programs.

But I also want to acknowledge the validity of the issues raised by the Senator from Tennessee on unfunded mandates.

Over here we have a champion.

Mr. ALEXANDER. Mr. President, may I have 60 seconds to respond?

Ms. MIKULSKI. Yes, but I am not done with my comments so I have not yielded the floor.

Mr. ALEXANDER. I am sorry.

Ms. MIKULSKI. I wish to comment on the unfunded mandates. The Senator who will speak shortly has been a champion of the disability community and a leader of the IDEA community. We have been fighting to double IDEA and we have been trying to do it on both sides of the aisle. We look forward to having the Senator's support to do exactly that. We look forward to increasing the Federal role in Medicaid, particularly in SCHIP, which would be a very important component of Medicaid.

Last, but not at all least, in Medicaid, 80 percent of the money goes to 20 percent of the population. That 20 percent of the population that gets that Medicaid is primarily old or fragile people in nursing homes, many of whom have serious cognitive impairment such as Alzheimer's.

Let's get the Coburn hold off my bill to double funding for Alzheimer's. One of the ways to lower the cost of Medicaid is to find the cure of the cognitive stretchout for people with Alzheimer's. It is estimated by NIH and other institutions that comment on these things that we could reduce Medicaid by $5 to $11 billion a year if we could do that.

I think we can work our way through this, but I must say, working with the Senator from Tennessee has been indeed a pleasure. It has been based on intellectual rigor, good conversation, excellent exchanges of ideas. I look forward to doing more of it and trying to solve some of the problems that we both strongly believe need to be addressed.

Mr. ALEXANDER. If I may just acknowledge the remarks of the Senator, I feel the same way about working with her. I am delighted we will be working together to take a look at the rules and regulations that we impose from here in Congress to make sure they are useful and needed. The natural thing here is to add. It is also very natural for us to have good ideas, but we might discover that the dean or the provost or the Governor or somebody else might have a good idea as well.

This is one of those issues that has no partisan attribute whatsoever. As far as I am concerned, the Republicans are as bad as the Democrats on unfunded Federal mandates and unnecessary regulations. I look forward to an opportunity to work with the Senator from Maryland to see if we can identify a process that makes certain that institutions are accountable for the Federal dollars, but at the same time we leave them free to be excellent in their own autonomous ways.

Ms. MIKULSKI. I yield to the Senator from Iowa, Senator HARKIN, also a member of the Health-Education committee and who is a prime mover in the area of expanding access for people with disabilities to be able to have access to higher education.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I came here to speak, obviously, in favor of the Higher Education Opportunity Act. Passage of this bill today restores the Federal commitment to make a college education a reality for Americans from all walks of life. I commend Senator KENNEDY and Senator ENZI for all of their hard work in passing this bill. I recognize and thank my good friend, Senator MIKULSKI, for stepping in and shepherding this bill to final completion the other evening.

The Higher Education Opportunity Act is the first reauthorization of the Higher Education Act in 10 years. It takes clear and strong action to make college more affordable for low- and middle-income students and their families, our top higher education priority.

This legislation will provide families with accurate information on the cost of college at any school, as well as hold colleges accountable for skyrocketing tuition and fees.

I am also proud we have saved money for students by requiring publishers to no longer bundle unnecessary materials with their textbooks, giving students the freedom to buy only what they need for their classes.

I have heard from students about the need to reform the unnecessary long form that is required to receive Federal student aid. It is called the Free Application for Federal Student Aid form—FAFSA, I understand is the short term nomenclature for that.

The bill we have here cuts through much of the redtape to immediately provide a 2-page application for low-income students and to phase out the current 7-page form for all students in 5 years.

In recent years we have seen corruption and mismanagement in the student loan arena. This bill takes strong action to root out the lenders' improper gifts and inducements for school financial aid officers and to protect students from scurrilous private lending practices.

I am proud of the many achievements of this bill. I want to take the time to highlight two initiatives included in this bill that I was proud to sponsor.

I started my legal career as a legal aid lawyer. It is an experience I will never forget and always cherish. Our promise of equal justice under law rings hollow if those who are most vulnerable are denied access to representation. But right now it is almost impossible for a new lawyer, a new young lawyer, newly admitted to the bar, to make the choice that I made, to work for legal aid. The average starting salary for a legal aid lawyer is now about $35,000 a year. But the average annual loan repayment burden for a new law school graduate is $12,000. That doesn't leave a lot left over for rent or food or for starting a family.

The Legal Aid Loan Repayment Program, which we have included in this bill, will make it possible for young lawyers to make a longer commitment to equal justice. The program is simple. If a legal aid lawyer agrees to make a minimum 3-year commitment, he or she will be eligible for up to $6,000 a year to help repay their student loan debt. This is a critical step to ensuring that qualified lawyers can be recruited and retained to represent low-income Americans.

I particularly again thank Senator MIKULSKI for her great leadership in this area, both on this committee and on the Appropriations Committee, in making sure we have adequate funding for the Legal Services Corporation and now, in this bill, to make sure we have a commitment to helping legal aid lawyers repay their student loans if they want to be a legal aid lawyer for at least 3 years.

I am also proud this legislation includes a Realtime Writers Program, an initiative I have long fought for to improve the quality of life for more than 30 million Americans who are deaf or have a hearing impairment. As many know, my late brother Frank was deaf for all of his life. I know from personal experience that access to culture and to news and other media was important to him and to others in having a good quality of life.

Closed captioning, which many of us now take for granted on our television sets, doesn't benefit those with a hearing impairment, however. Captioning improves the quality of life of individuals seeking to read or to speak better, adults who may be functionally illiterate, immigrants learning English as a second language and children just learning to read. Captioning also helps travelers trying to get emergency information in loud settings such as airports or bus terminals or train stations. I would guess that every American at some time or another relies on the captioning on their television to get some kind of information.

As part of the 1996 Telecom Act, I offered an amendment, a requirement in that bill now, that all English language television broadcasts must be realtime captioned by 2006. Every television program must be realtime captioned by 2006. That date has come and gone and all television programs are still not realtime captioned. This is due to a lack of captioners. So what has happened is that stations all across the country have asked the FCC for waivers from this requirement, which they should have because we simply do not have the supply of people trained to be realtime captioners. Passage of the Realtime Writers Act, which is now in this bill, authorizes competitive grants to recruit and train realtime writers to alleviate this shortage.

This is a very good bill. It has a lot of good things in it to help low-income families and kids to be able to get to college. It alleviates some of the burdens, some debts kids have hanging over their heads when they get through. It provides, as I said, for some of the unbundling of textbook materials and things that students buy that they do not need all of. Of course, as I said, it does a lot to weed out the corruption and mismanagement in the student loan program.

To close here, I often speak of the necessity of having a ladder of opportunity for our kids in this country, a ladder of opportunity for all of our citizens. A college education is an essential rung on that ladder. I am proud to support the Higher Education Opportunity Act which I believe extends that ladder of opportunity to more Americans who want to better themselves, their communities, and our country with a college education.

Again, I thank Senator KENNEDY and Senator ENZI, and in particular Senator MIKULSKI for stepping in and helping, with Senator ENZI, to bring this bill to completion. Hopefully we will have an overwhelming vote in favor of this conference report later this evening.

I yield the floor.

Mr. ENZI. I believe under the previous order we will move to Senator MURKOWSKI for 5 minutes at this point.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I rise to speak briefly on the conference report to the Higher Education Opportunity Act. The reauthorization of this act, the Higher Education Act, has taken 5 years and thousands of hours to complete. I congratulate Senator KENNEDY and Senator ENZI for guiding us through passage of the Senate bill and then through a long and somewhat contentious conference process. Their leadership has brought us to an achievement of which we can all be proud. It is a bipartisan product that will have a positive impact on the lives of American students.

I also acknowledge and thank Senator MIKULSKI for the good work she has done, stepping in for Senator KENNEDY during his period of absence, in order to help us resolve these last issues.

The Higher Education Opportunity Act includes many provisions that will benefit students and student loan borrowers in my home State of Alaska. One provision of which I am particularly proud will assist members of the military, particularly those who are in the lowest ranks. It will help them and help their spouses and their children to afford college or job training.

I had the opportunity last winter to visit Fort Richardson, outside of Anchorage. I met with the spouses of the deployed soldiers who were over in Iraq. It was kind of a townhall meeting. I was there to ask them what I could do to help make their lives a little bit easier, help them get through the long winter. One of them told me

that the one thing that was keeping her from being able to afford to go to college was the money that the military pays to help offset a portion of their housing costs. The housing allowance prevented her from being eligible for a Pell grant.

Given the low rate of pay for many members of our military, particularly those in the lowest ranks, they could not afford to take on any student loan debt. So I made contact with the National Military Families Association and learned that so many military spouses are in that same position.

So what we included in this legislation, through my provision, is language that excludes the cost of the basic allowance for housing for servicemembers who live off base, as well as the value of on-base housing. We exclude that from being calculated in the final calculations for financial need.

Excluding the basic housing allowance, which in the vast majority of cases does not completely cover military families' housing costs, and the value of on-base housing will benefit the least well paid members of our military and their spouses, whether they be privates, seaman apprentices, lance corporals, airmen—those folks whose base pay is less than $35,000 per year. While they are off defending our country at war, we want to be able to help the spouses and family members who remain at home.

I am very pleased to know that this wonderful woman I had the privilege to meet last winter, and potentially thousands like her, will have a better chance now of being able to attend college or obtain job training.

Another provision I was pleased to participate in and to author authorizes a program dedicated to improving science, technology, and engineering and mathematics education, with a focus on Alaska Native and Native Hawaiian students.

There are three programs in Alaska, Washington State, and Hawaii. They have had outstanding success using an innovative model to recruit and support Alaska Native and Native Hawaiian students through engineering, science, and technology programs. These are available at the University of Alaska, the University of Hawaii, and also through the Maui Economic Development Board.

The programs' graduation rate is phenomenal. By identifying the students who have an interest in math, science, and technology while they are still in middle school, helping them to graduate from high school with the courses they need to be successful in those disciplines in college, and then mentoring them throughout the college program, these entities have helped so many of our young students, Natives and the non-Natives alike, to really succeed in these demanding and high-need fields.

The Higher Education Opportunity Act includes many provisions of which Members of the Senate can be proud. Suffice it to say that before the fall semester begins at many colleges around the country, we will have authorized: improvements to the Federal Pell grant; changes designed to help colleges and textbook publishers take steps to make the textbooks more affordable; increased and improved information about the cost of college and financial aid; rules intended to increase students' safety on campus; and greater State involvement in and accountability to the public for the success of our teacher preparation programs.

There are so many provisions in this legislation that I think we have to be proud of, and I thank my colleagues for their good work and certainly urge all Members to support this legislation. And my thanks to those who have led this through the process: Senator KENNEDY, Senator ENZI, and Senator MIKULSKI.

I yield the floor.

Ms. MIKULSKI. I yield the Senator from Vermont 2 minutes so he can make a brief statement before he presides, and then to Senator BROWN.

Mr. SANDERS. I thank Senator MIKULSKI and Senator BROWN. I will be very brief.

In the United States today, there is a nursing shortage approaching a crisis. According to the Bureau of Labor Statistics, more than 1.2 million new and replacement nurses will be needed by 2014. We are not educating enough nurses to meet this need, which is why the U.S. Department of Health foresees a nursing shortage of over 1 million by 2020. Yet, even with such an enormous need for nurses, U.S. nursing schools turned away—turned away—41,000 qualified applicants for baccalaureate and graduate nursing programs in 2005 because they do not have the resources to train more nurses. If community college nursing programs are included in these numbers, 150,000 well-qualified applicants are turned away each year from nursing programs.

The College Opportunity and Affordability Act includes an important new program which will enable our colleges to train more nurses to meet the nursing crisis. It provides extra capacity for nursing students in a very simple, efficient, and cost-effective way.

The nursing provision in title VIII provides colleges, community colleges, and universities a grant for each additional student their nursing program enrolls over their previous average enrollment. The nursing program gets a $3,000 grant for each additional student, money which will help defray the increased cost required to teach and train that student. With this program in place, nursing programs can expand to admit an additional 10,000 student nurses each year, or more, at modest costs.

I thank Chairman MIKULSKI, and I thank Huck Gutman of my office for his outstanding work over the last year. This is an outstanding program, and we are going to begin to address a serious problem.

I yield for Senator BROWN.

Ms. MIKULSKI. I control the time. I now yield 5 minutes to the Senator from Ohio, Mr. BROWN.

Mr. BROWN. I wish to thank Chairman KENNEDY, Ranking Member ENZI, and especially Senator MIKULSKI for her terrific work, and their staffs. J.D. LaRock was especially helpful; Erin Renner, Carmel Martin, and Missy Rohrbach. I wish to give special thanks to Will Jawando in my office for his terrific success on this legislation. He celebrated the success of the full conference committee, which was earlier this week, by taking the Maryland bar for those 2 days during the actual passage of the conference committee.

The conference report before us takes important steps toward breaking down the barriers to higher education by addressing affordability and access. With college costs at alltime highs, family income and student aid simply have not kept up.

In my home State of Ohio, between 2001 and 2006, the cost of attendance has increased 53 percent at 4-year public colleges. Yet the median income in Ohio, household income, increased only 3 percent. We know the purchasing power of the Pell grant has fallen dramatically. Students and parents are finding it harder and harder to figure out a way to finance their education. But our bill, as we know, increases Pell grants to $8,000 by 2014, enabling thousands of low-income and first-time students to attend institutions of higher education. For the first time, low-income students can receive Pell grants year-round, allowing them to accelerate the completion of their degrees.

The Free Application for Federal Student Aid required for the receipt of Federal student aid is currently seven pages long and acts too often as a barrier for students seeking college aid. We have begun the process of taking care of the complexities and the bureaucracy of that.

In the last 2 years, I have held about 110 roundtables around my State, in 75 of the 88 counties, listening to people telling me what we should do with higher education and other issues.

Last Memorial Day, I met with veterans who were also students at Cleveland State University. I met with them at a veterans hospital and heard directly about their experiences transitioning from the battlefield to the classroom.

This bill takes steps to ensure student veterans get the assistance they need. It authorizes funds for campuses to create Centers of Excellence for Veteran Student Success. It is modeled after a program at Cleveland State University. It will allow schools to provide student veterans with a one-stop shop for assistance with financial aid, with class selection, with VA benefits, and with other transitional issues.

In addition to the unique challenges many student veterans face, others have their academic career interrupted by deployments. When students head

off to war, they know they will be given the time and support they need now, because of this legislation, without falling unnecessarily behind academically or financially when they return to their life as a college student.

By allowing servicemembers to defer payments, interest free, on Federal student loans while serving on Active Duty, we have removed a financial penalty for student veterans.

I would also like to thank the committee and the chairman for working with me to include several other provisions in the conference report. Among them is a program that creates an early childhood educator workforce development system to ensure that all children are taught by great teachers in their developmental years. I spoke with the head of Ohio Head Start today in Dayton, who is very excited about what this will mean for Head Start students in all of Ohio.

Also included was a program that helps increase the enrollment rates of rural students at institutions of higher education.

Finally, provisions are included that will reauthorize the Underground Railroad Educational and Cultural Program and establish a Perkins loan forgiveness program for our nation's firefighters. We did it for the nurses, teachers, and police officers. We inadvertently left out firefighters in the bill last year. This takes care of that.

While there are many other issues we must address in higher education, including the rise in private student loans, this bill makes important progress on assisting needy students, increasing affordability for all, and enhancing protections for our servicemembers because of this legislation, because of Chairman MIKULSKI's work. It means a whole lot of working-class kids, a whole lot of poor kids, a whole lot of middle-class kids will be able to go to college. It will be easier for them to finish their college degrees, not drop out with huge student loans. It will enable most of these students to graduate without the onerous burden of huge student loans.

I thank Chairman KENNEDY and I thank Ranking Member ENZI for their work. I hope my colleagues will join me in supporting this legislation.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. The Senator from Oklahoma has up to 20 minutes.

Mr. COBURN. Mr. President, I will assure everyone I will not take 20 minutes.

First of all, let my thank all of those on the committee who worked on this bill.

The Higher Education Act of 1965, HEA, authorizes the Federal Government's major Federal student aid programs, as well as other programs which provide institutional aid and support. HEA also authorizes services and support to disadvantaged students, and to students pursuing international education and certain graduate and professional degrees. The last time the act was reauthorized was over a decade ago, in 1998.

The Senate passed HEA reauthorize on in July of 2007, with a vote of 95–0. The House of Representatives passed their version February 7, 2008, with a vote of 354–58. The final conference agreement is the product of nearly 6 months of work between the House and the Senate.

The Higher Education Act conference report, by the numbers, is nearly 1,200 pages, authorizes for appropriation of roughly $3.7 billion, creates 65 new programs, requires 24 new government studies, and requires the Department of Education to create and publish 26 different lists with information from more than 6,463 schools.

This bill seeks to address an enormous concern for many American families and students who are struggling to afford the cost of a college education. During the 2006–2007 academic year, more than $130 billion in financial aid was distributed to students in the form of grants, Federal loans, work-study, and tax credits and deductions. However, this financial aid is hardly keeping pace with the increasing rate of tuition.

According to the College Board, from 1996 to 2006, tuition rose 51 percent at 4-year public colleges and universities, after adjusting for inflation. Furthermore, according to the U.S. Department of Education's National Center for Education Statistics, the average rate for undergraduate tuition and fees has nearly tripled over the past decade.

No one argues that the cost of college is rapidly rising, or that Congress, the States and institutions of higher education should examine this issue and work together to increase access and affordability for students. However, we must ask ourselves, is this bill the right solution? This bill dramatically increase general Federal financial aid to students through the following:

Increase the Pell Grant maximum from $5,800 to $8,000 at a cost of potentially $1.6 billion per year;

Permits students to receive Pell Grants year-round at a cost of $2.6 billion over 5 years;

Increases the loan fund for Perkins loans at a cost of $1 billion over 5 years;

Expands deferment for PLUS Loans and accrued interest would reduce direct spending $75 million over 5 years; and

Extend Federal loan forgiveness to the following groups—at a cost of $10.9 billion over 5 years: Public-sector employees (including Federal Government employees in Washington DC), nutrition professionals, mental health professionals, medical specialists, dentists, STEM employees, physical therapists, occupational therapists, superintendents, principals and other administrators, fire fighters, librarians, early childhood educators, nurses, foreign language specialists, speech language pathologists, school counselors, and others.

Dramatic increases in Federal student aid may sound like a helpful solution at first. However, research shows that increases in government funding only lead to further increases in tuition. According to a report by the Cato Institute, for every dollar increase in Pell Grants, private 4-year colleges increased tuition by more than two dollars.

The findings of the College Board in ''Trends in Student Aid 2007'' are even more astounding. The College Board reported that student aid increased by about 82 percent over the decade from 1997 to 2007, and Federal loans increased by 61 percent. Interestingly, this increase in aid covered about two-thirds of the increase in tuition at private 4-year colleges and almost all of the increase in tuition at public 4-year institutions.

These statistics demonstrate that both public and private universities are increasing tuition at the same pace—if not faster—than the Government increases funding. If we truly wish to make college education more affordable for students and families, we must focus on why tuition is increasing, despite increased subsidies from the Federal Government.

A July 31 editorial in the Washington Times discusses the correlation between increased government funding and rising tuition. The editorial states of the higher education conference agreement.

> This bill would do nothing to rein in rampant tuition inflation, by far the biggest problem in higher education. Indeed, by giving students yet more taxpayer-furnished aid, it will just keep exacerbating the problem . . . Just look at the numbers: It's no coincidence that while the inflation-adjusted price of college has gone up roughly 70 percent over the last two decades, aid per-student rose almost 140 percent.

The best way to make improvements in higher education is to begin removing the Federal Government from the equation. When Congress and the U.S. Department of Education interject themselves into education matters, the result is generally less competition and individual control, more bureaucracy and an ultimately an inferior outcome.

The American Council on Education states that the higher education conference agreement ''would create a huge number of new reporting and regulatory requirements . . . Complying with these new unfunded mandates will take time and will increase the administrative costs facing colleges and universities.''

Rather than increasing the role of the Federal Government in subsidizing and regulating higher education, Congress should create incentives for families to save money and ease tax burden for students. Federal education tax credits and the Federal tuition tax deductions generated $5.9 billion in savings for taxpayers in 2006.

The Higher Education conference agreement does more than expand financial aid for students. The bill authorizes 65 new programs, many of

which are duplicate, wasteful and unnecessary. By authorizing appropriations for these programs, Congress is allowing them to take funding away from student aid. Consider the following examples of misplaced priorities in the bill:

Henry Kuualoha Giugni Kupuna Memorial Archives: Provides a grant to the University of Hawaii Academy for Creative Media for the establishment and maintenance of memorial archives—such sums as necessary;

Campus-Based Digital Theft Prevention: Provides grants for schools to develop programs to prevent illegal downloading and distribution of music, movies and other intellectual property—such sums as necessary;

Pilot Program for Course Material Rental: Provides grants for college bookstores to operate textbook rental programs—such sums as necessary;

Off-Campus Community Service: Authorizes work study grants to institutions for recruiting and compensating students to supplement off campus community service employment—such sums as necessary;

University Sustainability Programs: Provides grants to establish sustainability programs and practices on campus. The term ''sustainability'' is not defined in the bill—such sums as necessary;

Modeling and Simulation Programs: Establishes a task force to study modeling and simulation and to support the development of the model and simulation field—such sums as necessary; and

Teach for America: Authorizes a 5-year grant to Teach for America, Inc. for $20 million in FY 2009, $25 million for FY 2010 and such sums for each of the four succeeding fiscal years.

It is important to note that if a Federal audit of Teach for America recently found that the organization did not properly account for $775,000 in Federal funds. The Department of Education Inspector General found that Teach for America was unable to provide documents to support roughly half its claimed spending. The New York Times reported that there was no documentation that any teachers actually attended and completed the class or that there even was a class. Rather than cleaning up the waste, Congress authorizes $45 million for the organization.

According to a July 11 CBS Evening News report titled, ''Teach for America Gets Schooled; Organization That Trains Teachers Gets a Failing Grade for Its Accounting Skills,'' after the audit, Teach for America tried handing over some newly-found documents, but it didn't help. The Inspector General said they contained ''significant discrepancies.''

Another important way to help contain the skyrocketing costs of education is to simply ensure taxpayers' dollars and students' tuition are directed towards educational purposes, and not lobbying or earmarks. We cannot continue to earmark millions of dollars to universities with billion dollar endowments, while students and families struggle to afford the cost of college.

The total cost of earmarks for colleges and universities exceeded $9 billion between 1995 and 2003. At the same time, average annual tuition at public 4-year institutions increased by 137 percent, from $2,357 to $5,836. The Chronicle of Higher Education recently reported that Congress set aside a record $2.3 billion in pet projects for colleges and universities last year, $300 million more than in 2003, when the total was $2.01 billion.

Furthermore, in 2005 and 2006, colleges and universities spent more than $127 million on lobbying activities. This amount could have paid the full tuition for more than 21,760 students to attend public colleges and universities. Most students struggling to pay for housing and tuition may not be able to afford a tutor, much less a lobbyist. They should not, therefore, be forced to pay higher tuition so their school can hire Washington lobbyists.

Nobody who listened to Senator ALEXANDER can come away saying we have not done what we need to do. And this is certainly a compromise piece of legislation.

But it is very worrisome to me that the only thing rising faster than the cost of health care in this country, other than gasoline in the last year and a half, is the cost of a college education. The only way we can compete globally is with an educated workforce. We have to ask ourselves the question, Why is it costing so much? Could it be the 10-foot tall—now with the passage of this bill—group of regulations that require billions of dollars to comply with every year that has taken away from the educational opportunities in this country?

I think another thing that was not addressed in the bill that should have been added in the bill is the fact that we have had over $9 billion worth of earmarks in the higher ed bill over the last 7 years. That is $9 billion that did not get prioritized. It was put in in the dark of night, inside a bill, inside an appropriations bill, that did not go out on the basis of merit, did not go out on the basis of a competitive grant.

And when the American people hear that $127 million was spent last year by colleges and universities to lobby this place, is it not any wonder that we are spending $9 billion on earmarks?

I also want to spend a moment talking about realtime writers. I held that bill; am still in opposition to it. I know it is in the bill. That is the way things work around here. I am going to lose that. But I want you to ask yourself the question: If there is greater demand for realtime writers and we are seeing the salaries rise and we are seeing the numbers start to come in, why in the world are we going to create a program to pay for it when the market is going to create the demand and the pay to get people to do it? We are going to blow that money because those people are going to go do that because the amount of money that is being paid for someone to do that is rising. So we are going to get in the middle of the economics of that. We are going to create a false level of it because we are going to train them. Now, do you know what is going to happen? Everyone who is a realtime writer now is going to make less money in the future.

So we are going to disown the economics of supply and demand, much like we are doing on energy, and we are going to put a grant program in, we are going to make sure these people are there, but everyone who is doing it now is going to make less money, and then we are going to have an overage. And so then what is going to happen is the people who went out and did it on their own and invested in it, they are going to go look for another job because we did not trust what has made this country great, which is the idea that if there is a demand, someone is going to fill the supply, and if they do not, the price is going to rise. So we have put that in this bill.

It will be a part of the bill. It is going to become law. But we are going to waste that money. It is shortsighted. It is wasteful. This bill creates 65 new Federal Government programs. Thirty-six reports are demanded from this bill, and it gets rid of six programs. Of the programs we create, nary a one has a metric on it so we can measure it 2 years from now to know whether what we did was right or wrong. In Oklahoma we call that peeing into the wind. It is going to come back on us.

As to the cost of a college education, we are seeing families squeezed by $2,400 a year in energy costs because we didn't act when we should have acted on energy, and we are not acting now. So they have less resources. Even with the wonderful increase in Pell grants and everything that we have done in this bill, the cost of a college education is going to rise about 9 percent a year. They can't keep up no matter what we do with Pell grants.

The better part of wisdom would be to ask the question: Is what we are doing really making a difference to increase the availability of a 4-year education or a 2-year education post high school?

The maintenance of effort in this bill will kill every community college in Oklahoma because they design programs for certain things and then walk away from them because there is not a demand for them anymore, whether it be for a new business, a new industry, or a new area where there is a shortage, and then they walk away. Now they have a maintenance of effort requirement. There is no exemption on that. You have killed one of the best things we have in Oklahoma, which is our community colleges. You are going to strangle them with this maintenance of effort. Now they will be very hesitant to create a new program that

will make a big difference in the lives of Oklahomans, even though they will only run the program for 2 years because they will have to continue to fund it to be able to get anything else from us. It is shortsighted.

I will not go on. I know everybody who worked on this bill is well intentioned. Their heart is in the right place. They want us to have better educational opportunities. They want us to be able to afford it. They want greater excellence in terms of academia. I just don't think we did it. If we didn't do it, we are not going to be able to measure because we don't have any metrics.

The hope would be that maybe we could learn from this exercise. Maybe we ought to put in metrics. If we are going to create 65 programs, maybe we ought to think about getting rid of 65 instead of 6, and maybe we ought to measure the effect of what we are doing.

I yield the floor.

Mr. FEINGOLD. Mr. PRESIDENT, I am pleased to support passage of the conference report reauthorizing the Higher Education Act of 1965. This law is the main Federal law governing higher education in this country and authorizes a number of important federal programs including Pell grants and other need-based grant programs as well as Federal student loan programs. This conference report, the Higher Education Opportunity Act, will improve college access and affordability for our nation's students in a number of ways including, raising the authorized level of Pell grants, allowing Pell grants to be awarded on a year-round basis, and simplifying the financial aid application process. Congress has been working on revisions to the Higher Education Act for many years and it is welcome news that Congress has finally completed its work on this important, if imperfect, legislation.

Access to postsecondary education is becoming more and more important in this increasingly competitive 21st century. In Wisconsin and around the country, we continue to see a significant gap in which students can afford to obtain a higher education and which students cannot, with students from low income and middle class families increasingly unable to attend college due to escalating costs and less availability of financial aid. Furthermore, students increasingly have to turn to federal and private student loans to cover the costs of a higher education because of declining grant aid. Some of these students are then saddled with heavy debts upon graduation from college, which impact what sort of career decisions and life choices they can make for themselves.

Since coming to the Senate in 1993, I have made increasing funding for the federal Pell grant program one of my top higher education priorities. I have worked with Senators KENNEDY, COLLINS, and COLEMAN to lead efforts to increase funding for the Pell grant program as part of the yearly budget and appropriations process. I am pleased that the 110th Congress has taken some important steps to boost the availability of Pell grants for our Nation's students. Soon after the 110th Congress convened in January of 2007, we passed a continuing resolution funding the government for fiscal year 2007. As part of that continuing resolution, we increased the maximum award for the Pell grant for the first time since 2003, from $4,050 to $4,310.

As part of the College Cost Reduction and Access Act which was signed into law last September and the fiscal year 2008 omnibus appropriations bill, Congress further increased the maximum Pell grant award from $4,310 to $4,731. These recent increases in the maximum Pell grant award represent a good step to improved access to higher education for our Nation's students most in need, but much more remains to be done. This conference report builds on these efforts to boost the Pell grant program, by increasing the authorized levels for the maximum Pell grant award to $8,000 by 2014 and by allowing students to use their Pell grant awards year round. I will continue to work to help ensure that Congress appropriates funds for the Pell program consistent with these new authorized levels.

This conference report also reauthorizes another critical need-based grant program, the federal TRIO programs, which include Upward Bound, Student Support Services, Ronald McNair Post Baccalaureate Achievement, and Talent Search programs, among others. Every year, students who have participated in TRIO programs at Wisconsin's universities come out to Washington to meet with myself or my staff to discuss how the various TRIO programs are improving access to higher education and providing support services once these students have enrolled in college. These students' testimonials illustrate how important the TRIO programs are, and have guided my yearly efforts to work to boost Federal funding for the TRIO programs. I am pleased that this conference report also includes language based on previous legislation I introduced that defines the terms ''different campus'' and ''different population'' for purposes of administering the federal TRIO program. The language included in this bill ensures that higher education institutions with branch campuses geographically apart from each other, like some of the campuses in the UW System, can compete on an equal footing for these important TRIO grants.

This conference report also includes language to modify the application progress for Federal financial aid in order to make it simpler for students and parents to complete the process. I often hear from students and parents in Wisconsin that applying for financial aid is a time consuming and confusing process and this legislation should help to simplify the process for Wisconsin's families. This legislation establishes a two-page FAFSA application for certain low-income students and broadens the use of this simplified FAFSA to other students within the next few years. This legislation also improves the process whereby students can reapply for financial aid so that they do not have to fill out a new FAFSA every time they want to apply for additional financial aid. Many of Wisconsin's students fill out these FAFSA forms every year and I hope that the new provisions in this conference report can make the FAFSA application process less burdensome in the coming months and years.

This conference report also retains language from the Senate-passed bill to ensure that the grants for training of teachers will promote a wide range of teaching skills, including measuring students on different forms of assessment, such as performance-based measures, student portfolios, and formative assessments. In an era of increased accountability at the local, State, and Federal level, we need to do all we can to promote more responsible and accurate assessment of students in our K–12 schools.

I remain concerned about the increased use of high-stakes standardized testing at the K–12 level, including using high-stakes standardized tests to make decisions regarding school accountability. By broadening the definition of student learning and teaching skills as this new title II language does, we can better ensure that teachers are trained to more accurately and responsibly measure student achievement through alternatives to high-stakes standardized testing. I hope that Congress can build on these efforts to promote better and more responsible assessments of our Nation's students when we reauthorize the Elementary and Secondary Education Act by providing increased funding for the development of these types of assessments as well as the teacher training that is needed to implement these assessments in our classrooms.

The student loan industry has also seen some tumultuous times over the past 2 years, with a number of abuses involving lenders and some financial aid administrators brought to light as well as ongoing unrest in the lending business due to the current instability in our credit markets. While we should do all we can to boost Federal funding for grant aid so that students are not as dependent on student loans to finance their higher education, we also need to make certain that our Nation's students have access to Federal student loans to help cover any unmet costs they face. Wherever possible, we should help students participate in the various Federal student loan programs before making them turn to private loans, which do not offer our students as many safeguards as the Federal student loan programs. Earlier this year, Congress passed a law designed to help

ensure students' continued access to Federal loans in the upcoming school year and this conference report seeks to help prevent certain abuses in the student loan markets from happening in the future. For example, this conference report requires schools and lenders to create codes of conduct governing their lending practices and relationships. This legislation also bans lenders and colleges from accepting gifts as part of their student loan business. I cosponsored many of these provisions in Senator KENNEDY's standalone legislation, the Student Loan Sunshine Act, and I am pleased that these provisions were included in this conference report.

I know a number of colleges are concerned about the increased reporting requirements in this legislation related to college costs and tuition increases. These reporting requirements and the provisions creating searchable college cost lists and Web sites are designed to improve access to information for students and their families. This sort of information is important to Wisconsin families deciding which colleges they can afford. I hope that these provisions can be implemented in a reasonable way that addresses the concerns of our Nation's universities while ensuring that students and their families have access to this valuable information.

This legislation has broad bipartisan support and it is good news that we were finally able to reach agreement on this reauthorization of the Higher Education Act. The conference report Congress is set to pass this week strengthens a number of existing Federal student aid programs and creates new programs to boost access to and affordability of higher education for America's students who wish to attend college. With the new school year set to begin in about a month, I hope that the President will quickly sign this legislation into law and that the Department of Education will work to implement this legislation in a fair and responsible manner.

Mr. ALLARD. Mr. President, today I wish to speak about a topic that has been important to me for some time the role of veterinarians in safeguarding the public health. Yesterday, the Senate passed the Higher-Ed bill which contained historic language improving veterinary education in this country. This language has important implications for human health. We have been overdue to invest in veterinary medicine as a national asset. Today, there are only 28 colleges of veterinary medicine across the Nation which collectively graduate a mere 2,500 veterinarians per year.

Unfortunately, this number is insufficient to meet demand and leaves our Nation vulnerable to emerging infectious diseases such as west nile virus, severe acute respiratory syndrome, SARS, Monkeypox and Avian Influenza although there are numerous other examples of animal-born infectious diseases, some of which could be used as biological agents in a terrorist attack.

To meet the critical shortage of public health veterinarians and to augment the ability of veterinary expertise to guide public health, I introduced the Veterinary Workforce Expansion Act, S. 746, this Congress and the two previous Congresses. I am pleased that part of the Veterinary Workforce Expansion Act made it into the higher-ed reauthorization.

The language in the higher-ed bill will establish a new competitive grant program for capital improvements to allow veterinary medical colleges to expand and graduate more veterinarians trained in public health. As both a veterinarian and a member of the HELP Committee, I have seen firsthand the links between human and animal health. A half-century ago, more people appreciated this too and we were able to all-but eradicate malaria and other animal-born infectious diseases with techniques such as mosquito control and inoculations.

Veterinarians are uniquely qualified to address high-priority public health issues such as animal-to-human transmission of infectious diseases because the curriculum in veterinary medical colleges is significantly different from that of other health professions. In addition to the basic biomedical sciences and the surgical and medical training that physicians receive, veterinarians receive extensive training in population medicine. Veterinary colleges also provide a broad, multispecies, comparative medical approach to disease prevention and control, which is fundamental to understanding the transmission and life cycle of infectious disease agents, especially those that animals share with humans.

Although I hope awareness of the part veterinarians play in promoting public health will improve, I want to note that I am by no means the first Government official to recognize the importance of veterinarians in public health practice. Dr. Julie L. Gerberding, Director of the Centers for Disease Control and Prevention, CDC, noted that, ''Eleven of the last 12 emerging infectious diseases that we're aware of in the world have probably arisen from animal health sources.'' CDC estimates that more than 60 percent of all infectious organisms that are harmful to people are transmissible between humans and animals. In addition, more than more than 75 percent of newly emerging infectious diseases fitj into this category and, even more important, more than 80 percent of biothreat agents of concern are shared between animals and man. These are the harmful biothreat agents most likely to be used in a bioterrorism attack.

So in closing, I would like to thank Senators KENNEDY, ENZI, MIKULSKI, and BURR for working with me to include this program in the bill. I am grateful for their hard work and support. My hope is that through this new grant program, veterinary colleges will be able to fulfill the needs of the communities that they serve and on a national level will augment the expertise of other public health specialists in preventing or mitigating the effects of possible pandemics or biological terrorist attacks.

Mr. DORGAN. Mr. President, I am here today to talk about the reauthorization of the Tribally Controlled College or University Assistance Act of 1978, which is included in H.R. 4137, the Higher Education Reauthorization and College Opportunity Act of 2008.

As chairman of the Senate Committee on Indian Affairs, I worked closely with the Health, Education, Labor, and Pensions Committee and the House of Representatives to ensure that provisions enhancing tribal colleges and universities were included in the reauthorization of the Higher Education Opportunity Act.

H.R. 4137 reauthorizes the Tribally Controlled College or University Assistance Act of 1978. Additionally, it will authorize two tribally controlled postsecondary career and vocational technical institutions: United Tribes Technical College and Navajo Technical College. Both of these institutions are critical to strengthening tribal higher education and providing the necessary resources for Indian students.

I have been a longtime supporter of tribal colleges and universities because of the benefits they provide to both the community and the individual student. There are 36 tribal colleges and universities throughout the United States. I am very fortunate to have 5 of these tribal colleges in my State of North Dakota.

Tribal colleges and universities offer a wide range of accredited programs from business administration to nursing. In addition to college-level courses, tribal colleges and universities also offer high school completion programs, job training, and college- preparatory courses.

These colleges and universities are essential to their communities, often serving as community centers, libraries, tribal archives, career and business centers, economic development centers, public meeting places and childcare centers.

Because most tribal colleges and universities are located on or near Indian reservations, they provide a greater level of access to higher education for a group of Native students who would otherwise be unable to attend college.

Approximately 28,000 American Indian and Alaska Native students attend tribally-controlled colleges and universities across the country. Characteristics of American Indian students enrolled in tribal colleges differ from those of most other undergraduate students: Students attending these schools often come from geographically isolated communities with high unemployment rates where the average family income is $13,998.00. This is 27 percent below the Federal poverty level. Most students attending tribal

colleges are the first generation in their family to go to college. American Indians who earn a bachelor's degree or higher can expect to earn two times as much as those with a high school diploma and four times as much as those with no high school diploma.

I am committed to finding ways to strengthen tribal colleges because they are truly a success story in Indian country. The reauthorization of the Tribally Controlled Colleges or University Assistance Act is a strong step in that direction.

Mr. LEVIN. Mr. President, access to higher education is increasingly important in a competitive, global economy where training beyond a high school education is frequently required. On average, a student who earns a bachelor's degree will earn 70 percent more annually than a student who has only a high school diploma.

Last year, Congress approved more than $17 billion in new Federal aid for college students, the largest Federal investment since the GI bill with the enactment of the College Cost Reduction Act of 2007. This was a great victory for students and families all across America, including my home State. Michigan will receive over $80 million in new assistance above the current $429.8 million for the upcoming academic year and an additional $689.6 million over the next 5 years.

However, we still need to do more to help students achieve their goal of attaining a college education as college cost continues to rise. The legislation before us, the conference report of the Higher Education Opportunity Act of 2008, is another major step forward to support students and families in this endeavor. It contains several important policy changes to increase access to college and help protect students, families and taxpayers from high college cost and unmanageable debt.

It expands need-based grant aid further by increasing Pell grants, from $4,800 to $6,000 for 2009 and to $8,000 for 2014; and allows students, for the first time, to receive Pell grants year-round, to help them accelerate the completion of their degrees. The legislation also creates the Grants for Access and Persistence, GAP, program, a new matching grant program to allow States to increase need-based grant aid to students. This will give a major boost to the 5.3 million students who qualify for the Pell grant, 182,000 in Michigan.

The bill enhances and strengthens TRIO and GEAR UP, proven programs that help students, many of whom are first generation college-bound, prepare for and succeed in higher education. It expands required activities with a special focus on improving students' financial and economic literacy, and encourages student enrollment in challenging secondary coursework and professional development.

The legislation also replaces the complex, 7-page Free Application for Federal Student Aid, FAFSA, with a 2-page EZ-FAFSA; bans lenders from offering gifts to college officials as a condition of making student loans, and requires colleges to adopt a code of conduct regarding student loans; promotes innovative and effective teacher preparation programs for new and prospective teachers; and creates a pipeline for high-quality teachers to teach in high-need schools by promoting partnerships between teacher education programs and high-need districts.

The bill also makes college a reality for more students with disabilities through a number of new initiatives, including supporting model demonstration projects to make college course materials more accessible; and expands and strengthens nursing faculty by creating a new grant program to help nursing schools enroll more students.

Finally, this legislation also includes a much-needed amendment introduced by Senator DURBIN, which I cosponsored, that creates a targeted student loan repayment assistance program that will bolster the ranks of attorneys in this country's criminal justice system. It will provide up to $10,000 a year in student loan forgiveness for those who will work a minimum of 3 years as State or local criminal prosecutors or as State, local, or Federal public defenders. This would benefit many young law graduates who want to take a job as a young prosecutor or public defender, but find it difficult to do so because of a mountain of student debt. The need for this amendment is apparent. Prosecutor and public defender offices throughout the country are having serious difficulties recruiting and retaining qualified attorneys. In a recent survey, over a third of prosecutor offices nationwide reported problems with keeping attorneys on staff. Over 60 percent of prosecutor offices that serve populations of 250,000 or more have reported serious problems with the retention of attorneys. The story is the same for public defender offices. Another recent survey found that over 60 percent of State and local public defender offices reported difficulty in attorney recruitment and retention. When prosecutor and defender offices cannot attract new lawyers or keep experienced ones, their ability to protect the public is compromised. Caseloads become unmanageable, cases can be delayed or mishandled, crimes may go unprosecuted, and innocent defendants may sit in jail.

A student's access to higher education ought not to depend on his or her family's income. Working families and aspiring students across this country are struggling to obtain the financial resources to secure a college education. Low and middle income students who have managed to enter and stay in college are graduating with unprecedented levels of debt. This legislation, coupled with the legislation Congress passed last year responds to this crisis.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Higher Education Opportunity Act of 2008 that would renew major programs that ensure our Nation's students have access to a college education.

This important legislation would increase grant aid to our neediest students, provide new measures to address rising college costs, and would reform the student loan system so that it better serves students.

Students and their families in California and nationwide are struggling to pay the growing costs of a college education.

Specifically, this bill will increase Pell grants from $4,800 to $6,000 for 2009 and to $8,000 for 2014. Over 625,000 California students rely on Pell grants to afford college.

It will allow low-income students, for the first time, to receive Pell grants year round, including summer school. This will help students complete their degree programs more quickly.

It will allow military servicemembers to defer payments, interest free, on Federal direct loans while they are on active duty. Our service men and women risk their lives for our Nation and deserve to not have to worry about paying their student loans while they are on duty.

It will authorize the U.S. Department of Education to award competitive grants for Teacher Preparation Programs that help recruit and retain high-quality teachers in high-need schools.

It will require the U.S. Department of Education to publish detailed data about college pricing trends on its website to ensure more transparency.

It will simplify student financial aid forms by creating a new 2-page form for low-income students, and phase out the current 7-page form within 5 years.

It is critical that we help make college more affordable and accessible for students at a time when they are taking on more debt to pay for school.

More than half of California students who graduate from 4-year public colleges have debt averaging over $12,000.

Nearly 1 year ago, the President signed into law major legislation that provides over $17 billion in new grant aid to low-income college students—$2.5 billion of which would go to help California's students. And the key reforms in the renewal of this Higher Education legislation before us today will further help ensure that college is more affordable for our young people and that they receive the education they deserve to succeed.

Mr. KERRY. Mr. President, education is at the core of America's basic promise—that all Americans should be able to make the most of their potential.

Every young person should graduate from high school, and every young person who works hard and wants to go to college should be able to afford it. And all Americans should be able to get the skills they need to succeed throughout their lives.

Today, I am supporting the Higher Education Opportunity Act conference report because it will advance key reforms that will address the soaring

price of a college education and remove obstacles that make it harder for qualified students to attend college. This legislation is an important step forward for students and their families. It will help reduce their college costs and will help expand the future growth of our economy.

This legislation would not have been possible without the leadership of Senator EDWARD M. KENNEDY who has tirelessly dedicated his time in the Senate to helping children and their families gain increased access to education. It is another victory for Senator KENNEDY, whose record of achievement in the Senate has helped benefit the lives of virtually every man, woman and child in the country. As we adopt this legislation, I want Senator KENNEDY to know that we miss him, that we are thinking of him as he recovers from his illness and we congratulate him on this important accomplishment.

The Higher Education Opportunity Act will hold colleges more accountable for increasing costs and will simplify the federal financial aid application process. The legislation will make textbook costs more manageable for students by helping them plan for textbook expenses in advance of each semester. It will increase college aid and support programs for veterans and military families. This legislation will ensure equal college opportunities and fair learning environments for students with disabilities. It includes new measures to curb unethical practices in the student loan industry, increasing federal grant aid to our neediest students, and strengthen college pipeline programs.

The Higher Education Reauthorization Act will help ensure that all Americans can make the most of their God-given talents. Educating our children is a key part of ensuring a strong economy in the future. It will help make college affordable for all and expand lifelong learning. I urge my colleagues to support this legislation.

Mr. ROCKEFELLER. Mr. President, I wanted to affirm my support of the Higher Education Act, which will help many young Americans realize their dream of a college education.

As president of West Virginia Wesleyan years ago, I saw firsthand that given the opportunity, student will perform to the highest degree. Our goal as legislators should be to provide quality, affordable education for every American. While we have done a good job giving high school students the opportunity to attend higher education, the time has come to do more to make it affordable.

Tuition rates have steadily increased over the last few years while our Nation's financial aid programs have failed to keep up, causing college students to graduate with higher amounts of debt than ever before. In West Virginia alone, the cost of college education has increased at least 30 percent since the 2000–2001 school year, while the median family income of most West Virginians has increased only 13 percent. Additionally, the percentage of higher education that is paid for with grants has decreased significantly, from 77 percent in 1975–1976 to just 20 percent in 2004–2005.

The Higher Education Act before us today will modernize the financial aid system. The act will revitalize title IV loans, including Pell grants. Pell grants help over 35,000 West Virginia students attend college, a value of $92 million annually. An increase in assistance is needed to help students cope with the rising cost of tuition. The bill will invest $20 billion to improve Pell grants. The loan amount will increase approximately $500 next year, and in 2012, the maximum Pell grant should be $5,400. These improvements will allow more low-income students to have the opportunity to pursue higher education that before would have been out of their reach.

An important provision in the act will protect students by giving them greater access to information about their loans by requiring student loan providers to be up front about terms and rates. This new law will reduce interest rates on Federal student loans, allowing students to graduate college with less debt and on a stable financial foundation. The law even addresses the real concern about the rising costs of textbooks with balanced provisions to disclose prices.

The act would also increase TRIO funding and provide better tools to encourage high school students to apply for college. Every year, I meet with TRIO leaders and students from across the state of West Virginia about the importance of this program. The Higher Education Reauthorization Act allows our dedicated TRIO counselors to focus on tutoring, college exam preparation, and assisting students with application and financial aid applications. West Virginia has 30 TRIO programs which will benefit by the increase in the grant duration and funding. This increased support, will better enable the 8,000 plus West Virginian TRIO students to reach their potential in high school, and achieve their goal of pursuing higher education.

Another vital part of this legislation is the emphasis it places on sciences and mathematics. The greater assistance and grant money going to students who study science and mathematics, will ensure that our Nation has a group of educated individuals who are ready to handle future challenges.

To support our troops and their families, this legislation allows service members to defer payments on loans, and stop interest on Federal direct loans while they are on active duty. It will ensure that military benefits do not count against service members' eligibility for Federal grants and loans they need to pay for college. It will provide for easy reenrollment for service members when they return from duty and go back to school.

The Higher Education Reauthorization Act will provide opportunity to students in West Virginia and throughout the country. This bill also encourages public service and puts a new emphasis on science and math, causes that I have long promoted. This is an important bill and I commend my colleagues and the leadership for forging bipartisan consensus to enact this legislation that should inspire students to pursue their dreams of a higher education.

Mr. AKAKA. Mr. President, today, I was pleased to vote in favor of the conference report to accompany the College Opportunity and Affordability Act, H.R. 4137. I congratulate my colleagues, particularly my good friend, Senator KENNEDY, for their dedication and bipartisan efforts in moving this vitally important legislation forward. It is imperative during these difficult economic times, to do all that we can to help students achieve their educational goals by making college more accessible and more affordable. This legislation will assist students and their families in Hawaii and across the Nation by, among other things, simplifying the Federal financial aid application process, increasing the amount of Federal grants to students and their families who need them most, providing more authority to regulate private student loan lenders engaged in predatory practices, and holding colleges accountable for growing tuition rates.

As chairman of the Veterans' Affairs Committee and a senior member of the Armed Services Committee, I was also pleased to support this legislation which will make higher education more accessible for the men and women who have volunteered to protect and defend our Nation. It includes a provision allowing the members of our Armed Forces to defer their payments, interest free, on Federal Direct Loans while they are on Active Duty and making reenrollment easier for service members who left college to join the military. It also benefits the families of our soldiers and sailors who have also sacrificed so much. First, by providing new scholarships for the children and family members of service members who have died since 9/11. And, second, by providing instate tuition for members of the military and their dependents who have lived in a state for more than 30 days.

This legislation also incorporates several provisions which will specifically benefit students in Hawaii. These include the authorization of the creation of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii as a repository for Native Hawaiian historical artifacts and the expansion of authorized grant programs for Native Hawaiian Institutions to include education designed to improve financial literacy. It also clarifies that Native Hawaiians and other Pacific Islanders are eligible for the Federally funded McNair Scholars Program. In addition, it benefits our State by authorizing the development

and expansion of programs to improve science, technology, and mathematics education specifically focused on meeting the educational and cultural needs of Native Hawaiian students.

Today, more than ever, a college education has become a key to future opportunities and financial stability. A student who desires to attend college should not have to delay or give up their dreams of a higher education because of the cost.

With the passage of this bill today, we are helping students achieve this dream and I applaud its passage. Now, it is time for the President to sign this critically important bill into law and make it a reality.

Mr. REID. Mr. President, last year, as Democrats took control of the Congress, we made college affordability and access one of our top priorities.

In the fall, we completed work on the first part of that promise—the College Cost Reduction and Access Act. This landmark legislation provided nearly $20 billion in new student aid and benefits, including a significant increase to the Pell grant and a reduction in student loan interest rates, which went into effect last month, providing a tangible benefit to college students across this country.

It's been a full decade since the Congress last reauthorized the Higher Education Act. Today, as a result of a strong bipartisan effort, we take up the final piece of our commitment to make a college education more affordable and accessible.

Among other key provisions, this conference report addresses the scandals that have tainted the student loan industry. Through increased disclosure requirements, a prohibition on payments and gifts from lenders to colleges and financial aid administrators, and new restrictions on preferred lender lists, we are finally putting an end to these unacceptable practices, and making sure that the student loan system works in the best interests of our students.

Just as importantly, the Higher Education Opportunity Act tackles the rising costs of college. Despite the billions in new student aid and benefits we approved last year, if college costs continue to rise at the rate they have been—nearly tripling over the past 20 years—higher education will continue to remain further and further out of reach for too many Americans.

I am pleased that students in Nevada have the good fortune of a state university system with some of the lowest tuition costs in the nation. But the same is not true everywhere and this bill will hold colleges and universities accountable if their costs increase too dramatically. It also ensures that students and parents have the information they need to make objective decisions based on the cost of college, and attempts to rein in the high cost of textbooks, by requiring greater disclosure of prices and purchasing information.

On the issue of costs, the Federal Government has raised the bar in its commitment to higher education. While statehouse budgets are undoubtedly strained in these difficult economic times, I am hopeful that these efforts will not result in a reduced State commitment to making sure that a college education is affordable. I am concerned, along with students and college administrators in my own State, about harmful budget cuts to colleges and universities in Nevada. The Federal Government is doing its part for students, and I hope State governments will continue to do the same.

To further assist students, the bill authorizes an increase in the maximum Pell grant to $6,000 in 2009 and $8,000 by 2014, and makes it available to college students year-round, instead of just during the traditional academic year. This is particularly important for low-income, nontraditional students in Nevada—those juggling college, jobs and a family—or for those students at community colleges taking summer courses so they can finish their degrees.

Additionally, to help low-income and first generation students, this legislation strengthens the GEAR UP and TRIO programs, programs which have helped thousands of young Nevadans achieve their dream of a college degree.

A final point I want to highlight is the simplification of the federal financial aid form—the FAFSA. Currently seven pages long and probably more complicated than filling out a tax return, the bill creates a two-page ''EZFAFSA'' for low-income kids, and phases out the current form within five years. This will help get federal aid to the students that need it most.

While Senator KENNEDY and ENZI, and the entire HELP Committee deserve enormous credit for their work to move this legislation forward in a bipartisan way, I also want to thank my friend from Maryland, Senator MIKULSKI, who stepped into some very big shoes with Senator KENNEDY's absence, to help get this bill across the finish line.

Combined with our efforts last year, passage of the Higher Education Opportunity Act reaffirms our commitment to making sure higher education is affordable and accessible for students across America.

The PRESIDING OFFICER (Mr. SANDERS). Who yields time?

Ms. MIKULSKI. I yield the Senator from Illinois 3 minutes.

Mr. DURBIN. I thank the Senator from Maryland. What a great job she did pinch hitting for our friend TED KENNEDY, with Senator ENZI, bringing this bill to the floor tonight and the conference report. There are three or four provisions in here I worked hard to include, and I think they are going to help provide an affordable college education.

You would be surprised to know that about one-fourth of the expense that college students face when they go to college is for textbooks. Textbooks cost twice as much as ordinary books. Until we put this provision in, students couldn't go on Amazon and other places to find discounts. Now they will be able to. They will have the information so they can search for the most affordable books. We make the publisher split up the books into pocket parts and CDs so they don't bundle them together, and students can buy only what they really need.

Secondly, I have been working for years with my friends who are prosecutors and public defenders. Kids graduating from law school today have a mountain of debt. They can't afford, usually, to take a job as a young prosecutor or public defender. We have a student loan forgiveness program in here. It went through the Judiciary Committee, now through the HELP Committee. It will provide up to $10,000 a year in student loan forgiveness for those who will work a minimum of 3 years. That is the way to build the professionals we need as both prosecutors and defenders. It is the John R. Justice Act. It is one that will help our Nation and help the enforcement of law all across the country.

I also have a provision to help campuses deal with insecurity and terrorism. We have seen too many instances of violence on campus. This will provide for coordination on campuses to develop plans to keep their students safe. That is something every parent wants to feel when they leave their kids at school.

These are all steps in the right direction. I thank all those who worked on this bill. Most of us in the Senate would say flat-out we wouldn't be here today were it not for higher education. It has become a more difficult challenge for today's students. This bill is going to give those students a helping hand. I will be happy to cast my vote in favor of it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes.

Ms. MIKULSKI. I yield 3 minutes to the Senator from Connecticut, who also chairs the Banking Committee. On behalf of all of us who worked on this bill, I thank Senator DODD for helping us resolve some very serious issues that existed between the Banking and Education Committees on the student loan issue. His steadfastness and work with Senator SHELBY actually helped us bring this bill to the floor. I thank him.

Mr. DODD. Mr. President, let me return the compliment by commending our colleague from Maryland, who has taken on the Herculean task in the absence of our colleague from Massachusetts, of shepherding, along with Senator ENZI, this very important piece of legislation. My compliments to MIKE ENZI, the Republican leader on this issue, along with BARBARA, and the House leaders—GEORGE MILLER, with

whom I was elected to Congress many years ago—and the members of the House Education Committee.

This is a very important bill. A few days ago we passed the housing bill to make a difference for people facing foreclosure. We tried to pass legislation dealing with low-income energy assistance. I remind my colleagues, the Presiding Officer led the effort on that issue, and we will come back to it.

Education costs are critical to address. This bill is sweeping in its reforms, making a difference for average Americans and their families to deal with those costs and allow them to achieve the goal of a higher education, which not only has tremendous advantage for them individually but for us, as a country. It is a small price to pay for the reward we receive. The GI bill, which was adopted during World War II, is another example of this sort of effort, providing 8 million Americans benefits. Over the years it cost a lot of money, but the benefit to our country has vastly exceeded the cost of that program. This bill is like that one in many ways. This bill is not inexpensive, but it provides benefits to our country.

I am particularly proud of a number of provisions. One is the Pell grant increase, up to $8,000, which will help us in dealing with the cost of a public education, though not close enough when it comes to private education. The Patsy Mink Fellowship Program, which I am proud to have authored, creates scholarships and makes it possible for young women and minorities to become college professors, and addressing the very small number of women who are providing a college education. The provisions designed to get colleges and universities to control their costs, including both transparency and incentives for schools who succeed in this endeavor. I am also proud of the improvements we have made to TRIO and GEAR-Up and the expansion of child care in this bill.

Lastly, as my friend and colleague from Maryland pointed out, the inclusion of the Private Student Loan Transparency Improvement Act, which Senator SHELBY and I, along with 19 other members of the Banking Committee authored unanimously, will make a difference when it comes to protecting student borrowers from excessive debt. These provisions require lenders to provide more accurate and timely information to their customers about interest rates, terms and conditions of their private loans, and prohibits documented private student lending practices that have harmed students and their families, keeping them from obtaining the most competitive and affordable student loans.

The bill also ensures that private lending is done on the fairest and most transparent terms. It prevents kickbacks and co-branding that may allow steering of students to specific lenders, and it guarantees borrowers time to consider their options and shop around for better terms without losing the loan they have been offered. These are very important steps.

Finally, I end where I began. None of this would have happened without the senior Senator from Massachusetts who has dedicated his life to working families. This bill is yet further testimony to his commitment to those constituencies, the people of this country. We have missed him terribly lately, but he had a champion in the Senator from Maryland. If I had to pick one person to replace TED KENNEDY, I would choose BARBARA MIKULSKI every day of the week. She did a fabulous job on behalf of students and their families. We thank her immensely. I know my friend from Massachusetts is watching tonight, and he thanks her as well.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, may I ask how much time I have?

The PRESIDING OFFICER. The Senator has 15 minutes.

Mr. ENZI. Mr. President, I won't use nearly that much time, and I would be happy to share with my colleague, if she wants to make some closing remarks as well.

I rise to summarize why the Higher Education Opportunity Act is a major victory for America's students and their families and for our future economic security. Simply put, it ensures that a college education, which is the gateway to the future for working families and for businesses, will be within their reach in the years to come.

I thank those who have made their comments earlier: the Senator from Oklahoma, Mr. COBURN, and the Senator from Tennessee, Mr. ALEXANDER, who pointed out some things that still need to be done in the area of higher education. It would have been nice to have been able to do them in the bill.

One of those is deregulation. If we have that much paper, that many billions of dollars' worth of paper that need to be done, it is time for us to appoint a task force to evaluate their usefulness. I did that with some of the elementary education issues the first year I was here, and we found that every single paper that was submitted to the Department of Education was looked at to be sure that every blank was filled in and every ''t'' was crossed and every ''I'' was dotted. Our disappointment was that they were then filed away and nobody made any use of them.

We were able to get rid of some of those forms. Obviously, this is an even bigger opportunity.

The Senator from Oklahoma pointed out the lack of metrics for progress in these areas. Although there are new programs, past experience has been that many of them do not get funded because they have to come out of discretionary funds. They are good ideas that probably will never happen. But it would be a good idea to have metrics in there so we can gauge how well things are doing. We have a law that provides for that kind of measurement and requires each agency have a program to set up the guidelines by which we can measure, and then they are required to measure. I have noticed over the years that there are a number of agencies that are actually failing their own evaluations. We never do anything with that, which is another challenge.

Our country is being challenged today, and it is a challenge we cannot afford to lose. We are engaged in a race for knowledge and skills, and the nation that wins will have a head start on building a stronger economy. The solution to this challenge is to make a college education more accessible, affordable, and accountable for all Americans. That is what we are trying to do in the Higher Education Opportunity Act.

In this era of rising college costs, students and families must have good information to use when making decisions about which college to attend, how to finance their college education, and how to manage their student loans once they are out of college. This agreement is about good information, sunshine, and transparency. College is no longer an option. It is a necessity. Most good jobs today require some college. I want to make sure everyone has access to the education and training they will need to be successful in the global economy. This legislation gets us much closer to that goal.

I am pleased to say that with the passage of this agreement, we will have completed the work of two of the four pieces that make up Federal education and training policy.

Late last year we finished Head Start. Today we will finish higher education. We still have more work to do because we must reauthorize and improve the Workforce Investment Act so that our workers have the skills they need to be successful in an increasingly skill-driven economy. That leaves reauthorizing No Child Left Behind to complete our education task.

Mr. President, as this debate on this legislation comes to a close, it is necessary to thank those who have worked long and hard on this bill. First and foremost, I thank Chairman KENNEDY for his commitment to keeping this process bipartisan, and working with me and all of my Republican colleagues on the HELP Committee throughout this entire process, lately by telephone, but with the same passion and enthusiasm.

I also thank Senator MIKULSKI for taking the helm and getting us to the finish line when others might have given up.

Because this has been a bipartisan, bicameral process, I want to thank our House counterparts—Chairman MILLER, Ranking Member MCKEON, Congressman HINOJOSA, and Congressman KELLER—for their commitment to working with us to find ways to reach

an agreement on issues that many thought would be impossible to achieve.

There are many other Members I wish to thank for contributing the time and effort they did to make sure we were putting together good policy. It is difficult to single out just a few. I have to immensely thank every single Senator who is on my committee, both Republican and Democrat. That is where we share ideas. That is where most of the changes in the bills are made. That is where people are able to get together and debate at length their ideas for how to make things better. And we do.

I thank Senators ALEXANDER, BURR, and COBURN for their comments. They have disagreements on some of the key issues in the conference report, but, nonetheless, they continued to work to reach a resolution and improve the final product.

There are many congressional staff who worked on this conference report. The breadth and importance of the issues, not to mention the length of the legislation, requires many people working many hours to get it done. Actually, it is not only many hours or many days or many weeks or many months—but this one has been many years.

I have always said I have a staff worthy of gold medals, and my staff who worked on this bill have shown their gold medal status once again. I must first acknowledge and thank Beth Buehlmann, my education policy director. It is no exaggeration to state that without Beth, I do not think there would be a Higher Education Act reauthorization today. That is what I hired her for several years ago. She truly was the force to start the reauthorization 3½ years ago. She worked tirelessly to ensure that we drafted a bill to reflect the changing nature of our student bodies, as well as to ensure that we, as a nation, will maintain our status as having the best education system in the world.

Her team of Ann Clough, Adam Briddell, Kelly Hastings, and Lindsay Hunsicker is comprised of remarkable individuals who brought their talents and knowledge to the forefront in this bill.

I also thank my staff director, Ilyse Schuman, and Greg Dean, Amy Shank, Randi Reid, John Hallmark, and Ron Hindle, who also put in many hours and added invaluable input into this bill as well as the overall process.

I also thank members of Senator KENNEDY's staff for their hard work: Michael Myers, who has been tireless on this and has provided the kind of leadership that coordinated it through some of these difficult times; Carmel Martin, the expert on education; JD LaRock; Missy Rohrbach, who, incidentally, had twin babies today, a boy and a girl. It is my understanding she is doing well. She worked while pregnant and helped to get this pregnant bill done. I also thank Erin Renner, Roberto Rodriguez, and Emma Vadehra of Senator KENNEDY's staff.

Additionally, I thank all of the other HELP Committee staff for their hard work throughout this process, especially David Cleary and Sarah Rittling of Senator ALEXANDER's subcommittee staff. Also deserving thanks are our Republican Members' staff, including Allison Dembeck, Celia Sims, Glee Smith, Karen McCarthy, Juliann Andreen, Alison Anway, John van Meter, and Elizabeth Floyd, as well as their Democratic staff counterparts. Also, I thank Scott Raab from Senator MCCONNELL's office and Jim Johnson in Senator SHELBY's office for helping us work through some of the more difficult issues in the negotiations.

Also deserving my gratitude is the House staff, including Mark Zuckerman, Alex Nock, Gabriella Gomez, Julie Radocchia, and Jeff Appel with Chairman MILLER's staff, and Sally Stroup, James Bergeron, and Amy Jones with Congressman MCKEON's staff.

Also, with any piece of legislation that we draft, we should not forget the legislative counsels in both bodies who worked tirelessly to put the 1,500-page agreement together. They are Steve Cope, Molly Lothamer, Mark Koster, Kristin Romero, and Amy Gaynor, who also deserve to be recognized.

It has been 10 years since the last major reauthorization. I believe it was worth the time and the effort to get it to this point. The changes we make today will affect today's students and students for generations to come.

I yield the floor and yield the remainder of my time to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from Wyoming.

We are now heading to our wrap-up.

Mr. President, I ask unanimous consent that a list of 48 letters in support of the bill be printed in the RECORD. They range from the American Association of State Colleges and Universities, to the United States Student Association, to the Chamber of Commerce, and many others.

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

LETTERS OF SUPPORT RECEIVED FOR HIGHER EDUCATION OPPORTUNITY ACT

American Association of State Colleges and Universities, State Higher Education Executive Officers (SHEEO), U.S. Public Interest Research Group/United States Student Association, United Negro College Fund, Association of Jesuit Colleges and Universities, Council for Opportunity in Education, Thurgood Marshall College Fund, National Association for Equal Opportunity in Higher Education (NAFEO), National Council for Community and Education Partnerships (NCCEP), National Council of La Raza, National Education Association, American Federation of Teachers, American Indian Higher Education Consortium, National Down Syndrome Society/National Down Syndrome Congress, National Federation for the Blind, and Consortium for Citizens with Disabilities.

U.S. Chamber of Commerce, American Bar Association, American Association of University Women, American Association of School Administrators, American Association of Colleges of Teacher Education, Career College Association, Council of Graduate Schools, National School Board Association, National Association of Student Financial Aid Administrators, National Association for the Education of Young Children, New York State Education Department, University of North Carolina, California State University, Midwestern University, Student Loan Servicing Alliance, and National HEP/CAMP Association.

Hispanic Education Association, Center for Law and Social Policy (CLASP), Direct Loan Coalition, Massachusetts Institute of Technology, Endicott College (MA), College Summit, Motion Picture Association of America, National Association of College Stores, Legal Action Center, EdInvest, International University of Nursing, St. George's University School of Medicine, University of Phoenix, Massachusetts Educational Opportunity Association, St. Matthew's University, and Saba University School of Medicine.

Ms. MIKULSKI. Mr. President, I too thank the very hard-working staff on this bill. There have been many compliments of me tonight, but I could not have done what Senator KENNEDY asked me to do without the very able help of Senator KENNEDY's staff. Senator ENZI articulated them by name, but especially Mike Myers, Carmel Martin, JD LaRock, and others. I could not have done it without them. Also, I say to Senator ENZI, we could not have done this without you. I worked with you on pensions and I knew how solid our relationship was and how carefully you pursue these matters. Senator KENNEDY said you were a prince of a guy to work with, and he was absolutely right. I extend my thanks to you and to your professional staff as well.

There were also other Democrats who worked on the bill on our side—two who could not speak tonight, but I acknowledge the very hard-working role of Senator OBAMA, who was a very aggressive advocate on many of these issues, along with Senator CLINTON.

Mr. President, I ask unanimous consent that a list of the staff thank-yous be printed in the RECORD so we do not forget one person who helped make this legislation possible.

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

LIST OF STAFF THANK-YOU'S FOR HEA

Senator Kennedy: Michael Myers, Carmel Martin, J.D. LaRock, Erin Renner, Missy Rohrbach, Emma Vadehra, Jennie Fay, Shawn Daugherty, Michael Zawada, Roberto Rodriguez, David Johns, Jane Oates.

Senator Enzi: Ilyse Shuman, Greg Dean, Beth Buehlmann, Ann Clough, Adam Briddell, Lindsay Hunsicker, Aaron Bishop, Kelly Hastings.

Chairman Miller: Mark Zuckerman, Alex Nock, Gabriella Gomez, Julie Radocchia, Jeff Appel.

Ranking Member McKeon: Sally Stroup, Amy Jones.

Senator Dodd: Mary Ellen McGuire, Jeremy Sharp.

Senator Mikulski: Julia Frifield, Dvora Lovinger, Robin Juliano.

Senator Harkin: Rob Barron.

Senator Bingaman: Michael Yudin, Michele Mazzocco.

Senator Murray: Kathryn Young.
Senator Reed: Seth Gerson.
Senator Clinton: Mildred Otero, Latoya Johnson, Chelsea Maughan.
Senator Obama: Steve Robinson.
Senator Sanders: Huck Gutman.
Senator Brown: Will Jawando.
Senator Gregg: Allison Dembeck.
Senator Alexander: David Cleary, Sarah Rittling.
Senator Burr: Celia Sims.
Senator Isakson: Glee Smith.
Senator Murkowski: Karen McCarthy.
Senator Hatch: Juliann Andreen.
Senator Roberts: Alison Anway.
Senator Allard: Jon VanMeter.
Senator Coburn: Elizabeth Floyd.
Senate Banking Committee: Senator Dodd: Shawn Maher, Amy Friend, Roger Hollingsworth.
Senator Shelby: Jim Johnson.
Senate Budget Committee: Robyn Hiestand.
Senate Legislative Counsel: Mark Koster, Amy Gaynor, Kristin Romero, Laura Ayoud.
House Legislative Counsel: Steve Cope, Molly Lothamer.
Congressional Budget Office: Debb Kalcevic, Justin Humphrey.

Ms. MIKULSKI. Mr. President, I also thank our colleagues in the House. Congressman MILLER and Congressman MCKEON were absolutely stalwarts in working with us. Congressman MILLER and I had daily conversations on how to move this bill forward, and it was both fruitful and productive, and what the Congress should be.

A word about working with my colleague, Senator ENZI. We had disputes. We had issues. We had things that had to be worked out. You heard some of them this evening from the Senator from Oklahoma, the Senator from Tennessee. But at the end of the day, the day was over. We would be able to work and follow that kind of Ronald Reagan-Tip O'Neill rule that when the day was over, the dispute was set aside. We went home and thought about what we could do to move this bill.

I wish the whole Senate could work the way we worked on this bill, starting with Senator KENNEDY's leadership, and Senator ENZI's, as they held the hearings, listened to us, and included us. We need to do more bipartisan work. When all is said and done, we have to start doing things and less saying things. Because one of the great things I like about this bill is it achieves a very important American freedom.

Our Constitution explicitly guarantees many rights: the freedom of speech, the freedom of assembly, the freedom of religion, the freedom of press. But implicit in our Constitution, our Declaration of Independence, and all of our documents, all of our beliefs, and all of our values, is we believe in the freedom to achieve, that in the United States of America you can be anything you want to be, and you have access, and should have access, to an opportunity ladder that enables you to participate in the American dream.

We are a country whose values say: Dream about what you can be and dream about what you can contribute. And when you want to follow that dream, you should not be barred from it because of the size of your wallet. Your dream should only be shaped by the size of your talents.

I think this bill today, tonight, will advance this whole freedom to achieve, this opportunity ladder for our young people. I am very honored to participate in it. I am very honored Senator KENNEDY asked me to take on this conference. But we could not have advanced this idea without Senator TED KENNEDY.

Senator TED KENNEDY is a giant in this institution and in this country. His whole life has been devoted to access to opportunity, access to education, access to health care, that there be no barriers in the area of civil rights where people were sidelined or redlined.

So tonight, as we move to the adoption of this bill, I say to my colleagues here, I urge the adoption of this bill.

I want Senator KENNEDY to know many of us today, and while he has been recovering from his illness, have worn these blue armbands. They say: ''Ted Strong.'' Well, we know Ted is strong.

So, Ted, this is for you tonight.

Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. MIKULSKI. Mr. President, I understand that the actual vote on the conference report will occur at a time to be determined by our leadership.

Mr. President, I yield the floor.

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.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I ask unanimous consent that the conference report to accompany H.R. 4137 be set aside; and the Senate now proceed to the conference report to accompany H.R. 4040, the Consumer Product Safety Commission Act; there be debate on the conference report until 8 p.m. this evening, with the time equally divided and controlled in the usual form; that at 8 p.m. the Senate proceed to vote on adoption of the conference report to accompany H.R. 4040, that upon disposition of that report, the Senate then resume the conference report to accompany H.R. 4137 and the Senate proceed to vote on adoption of the report, without further intervening action or debate; that prior to the second vote, there be 2 minutes of debate equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DURBIN. Mr. President, if I could have the attention of the Members, there will be two votes at 8 o'clock.

## CONSUMER PRODUCT SAFETY MODERNIZATION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will lay before the Senate the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4040), to establish consumer product safety standards and other safety requirements for children's products, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 30, 2008.)

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise today to urge my colleagues to support the conference report for H.R. 4040, the Consumer Product Safety Improvement Act of 2008.

Today is a great day for American families. This bill is the first step toward revitalizing an important safety agency and restoring confidence in the safety of consumer products for years to come.

Media reports and consumer advocates have called this bill the most important consumer product safety legislation in a generation. I call it legislation that is long overdue. The Consumer Product Safety Commission—Commission—is a small agency with an exceptionally broad and important charge, as the name suggests, the protection of consumers, particularly children from dangerous products. The Commission is responsible for ensuring that the more than 15,000 products—everything from infant cribs to all-terrain-vehicles—are safe to use. Every year, more than 28,000 Americans die and an additional 33 million are injured by consumer products. These numbers are too high, and an effective CPSC with increased funding, staff, and authority is essential to reducing these losses.

I am very pleased that many of the key provisions which originated in the Senate, such as the searchable database, whistleblower protection, phthalates restrictions, mandatory toy safety standards, and all-terrain vehicle safety standards were included in

the final bill. Several of these initiatives faced significant initial opposition from the administration, industry, and indeed, from the chair of the Commission itself, and I am pleased that we have come together in the House and the Senate to overcome these challenges.

H.R. 4040 restores needed resources and authority to the Commission. Starting in fiscal year 2010, the bill would authorize $626 million over a 5-year period to provide the agency the manpower and the technology it needs to police a complex consumer marketplace. The legislation would restore the CPSC to a full complement of five Commissioners in order to expand expertise, maintain continuity and avoid the losses of quorum that have plagued the agency in recent years.

In addition, State attorneys general gain clear authority to bring civil actions to seek injunctive relief for clear violations of statutes enforced by the CPSC. Creating a joint enforcement relationship with the states has proven to be successful in the area of consumer protection, and this collaboration would provide CPSC a strong partner to help protect American families in a meaningful way.

H.R. 4040 would require manufacturers to use independent labs to test children's products and to certify their compliance with mandatory safety standards, including the mandatory toy safety standard established in the bill. This new toy standard would provide the CPSC with necessary enforcement tools to keep dangerous toys out of the hands of children.

Essential and groundbreaking provisions that will improve the health of every child include the bans of lead and certain phthalates from children's products. Dangerous substances have no place in children's products. This legislation provides a significant shift in policy in favor of children and. Children have no business being used as guinea pigs or becoming victims of the expediency of the manufacturing process.

Our bill also would provide better information to consumers and the CPSC. It would create a searchable, publically available database of information from nonindustry sources, such as hospitals, child care providers, public safety agencies, and consumer reports about product hazards collected by the CPSC. The database would provide consumers with potentially life-saving information, in an organized and timely fashion, which would better equip them to assess product safety risks and hazards. To aid in the Commission's enforcement mission, H.R. 4040 would provide whistleblower protections for employees of manufacturers of consumer products when they find and report violations of consumer product safety laws.

Reconciling the differences between the House and the Senate was no easy task, but I had no doubts that the work of the committee would come to a timely and successful conclusion. The Senate conferees worked countless hours since the passage of the Senate amendment last March. Senator PRYOR authored the original Senate bill reported by the Commerce Committee, which became the backbone of the Senate amendment to H.R. 4040. His stewardship and attention to the details of this bill were essential to negotiating the conference report with the House. I also commend my good friend Senator TED STEVENS. Without his guidance and support, the Senate amendment would not have passed, and we would not have this groundbreaking legislation before us today.

I would also like to recognize several Senators who were not conferees for their contributions to the original Senate amendment and for working with the conference committee on the provisions they championed in the Senate. Senator NELSON was the leader in crafting mandatory toy standards and the independent third party testing mandate in the Senate bill. Senator MCCASKILL's work on the whistleblower and the inspector general provisions helped convince the conferees to provide whistleblower protections to millions of workers in the consumer products sector. Finally, Senator FEINSTEIN's amendment to ban certain phthalates from children's products was the foundation of the compromise provision that was ultimately accepted by the conference.

I thank my friend Congressman JOHN DINGELL, the chairman of the House Energy and Commerce Committee, who has shown his legislative skill and care for the American people for more than 50 years. His partnership with me this Congress has led to the passage of two monumental bills. We worked together to increase fuel economy standards last December, and to reform the Consumer Product Safety Commission today.

The conference committee staff have labored on a nonstop basis since May. I want to thank David Strickland, Alex Hoehn-Saric, Jana Fong-Swamidoss, Mia Petrini, and Jared Bomberg of my Commerce Committee staff for a job well done. I would also like to thank Paul Nagle, Rebecca Hooks, and Megan Beechener of the Republican Commerce Committee staff, and Lloyd Ator and Christopher Knox of the Commerce Committee's Office of Legislative Counsel.

I also wish to recognize the efforts of the following staff of the Senate conferees: Erik Olson, Bridget Petruczok, Price Feland, Kate Nilan, Tamara Fucile, Brian Hendricks, and Peter Phipps; the House Energy and Commerce Committee staff: Consuela Washington, Judy Bailey, Christian Fjeld, Andrew Woelfling, Valerie Baron, Brian McCullough, Will Carty, and Shannon Weinberg; and House legislative counsel Brady Young.

I would also like to thank CPSC Commissioner Thomas Moore and Michael Gougisha and Pamela Weller of his staff for their assistance.

Mr. President, I urge the adoption of this conference report, and I look forward to the President signing this landmark measure into law.

Mr. STEVENS. Mr. President, I thank my house and senate colleagues for their hard work and dedication these past months as we have worked for a bipartisan, bicameral consumer product safety bill. This is a product of a bipartisan effort in both chambers and I am proud to have been a part of it. This final product will provide essential resources to a commission badly in need and help ensure the safety of our children from hazardous products.

The number of toys coming from overseas has increased greatly, while the resources of the Consumer Product Safety Commission have decreased. The result is unsafe products making their way to our store shelves and into our homes. We all remember the wave of recalls last year. Passage of this bill will help assure consumers that products are safe.

This bill provides the commission with $626 million over the next five years and directs it to significantly increase the number of staff, also adding to the number of CPSC employees stationed at our ports of entry inspecting products for safety defects.

In addition to these increased resources, the CPSC will have greater authority to punish violators of its statutes. The amount the CPSC can collect in civil penalties for a single violation will be raised to $100,000, with a maximum penalty cap of $15 million. And, as a way to ensure compliance, state attorneys general will have authority to enforce particular violations of CPSC statutes, including violations of consumer product safety rules, regulations, standards, and bans, as well as product recalls.

I am pleased that the all terrain vehicle (ATV) provision that I included in the Senate-passed bill remains in this final bill. For many Alaskans ATVs are the primary means of transportation in the summer. More than a third of the ATVs sold in 2006 came from overseas—many ATVs from overseas do not meet our safety standards. ATVs injured over 146,000 people in 2006, and approximately 39,000 of those injuries were to children under 16. This bill requires all ATVs, both foreign and domestic to be subject to the same safety standards.

Additionally the bill establishes tough lead standards and calls for safety rules for durable infant and toddler products such as strollers and cribs. Selling, reselling, offering or providing for use any of these products not meeting our new safety standards will be illegal. Consumers will also have the option of registering their purchases so they can be notified in the event of a recall.

Consumers are purchasing more products over the internet or through catalogues, and it is sometimes difficult to ascertain a product's dangers by the photo online.

Advertisements providing a direct means of purchase will be required to contain a cautionary statement. By including these statements, consumers, will be able to make an informed decision when purchasing products for a young child.

I congratulate everyone who worked so diligently on this bill. It took some time, but we have a solid bill to send to the President that will better protect our children and give the Consumer Product Safety Commission the resources it has been missing.

Ms. COLLINS. Mr. President, I am pleased that the Senate is taking up the conference report on legislation to accomplish the urgent task of preventing dangerous consumer products—especially those intended for children—from entering the country or reaching store shelves. The conference report contains a wide variety of measures that, taken together, deserve our support because they will greatly bolster defenses against hazards that must not reach American homes.

I want to commend the chief sponsor of the bill, Senator PRYOR, for his leadership on this issue. It has been a pleasure to work with him.

We all remember last year's alarming and, too often, tragic stories of product hazards and recalls that demonstrated the need to strengthen protections for consumers, particularly children. Unfortunately, those dangers continue. In 2008, new Consumer Product Safety Commission, CPSC, recalls have included 19,000 baby rattles that present choking hazards, 685,000 wireless helicopter toys whose batteries can catch fire, and 91,000 horseshoe-shaped magnet toys whose coating contains high levels of lead.

Lead, as we know, is a particular concern because of its use in plastics and paints can expose children to the risk of serious nervous system damage and other health effects. The conference report's dramatic reduction in the permissible lead content in products marketed for children under 12—starting at 600 parts per million and ratcheting down to 100 parts per million over 3 years—is just one example of the bill's aggressive pursuit of safety.

Even with these tighter restrictions on lead content, we must continue to pay special attention to imported products that violate our safety rules. As we have seen with the lead issue, the bulk of toys sold in American stores come from China, where cases of careless or unscrupulous factories or suppliers using cheaper lead paints in violation of factory or official standards make clear the need to upgrade our ability to police safety violations in global supply chains.

I am, therefore, pleased that the conference report contains four key provisions from the Senate-passed bill, S. 2663, that emerged from an in-depth investigation conducted by my staff on the Homeland Security and Governmental Affairs Committee. Combined with important enhancements to CPSC authorities and funding provided in the conference report, these four provisions will ensure that unsafe imported consumer products, including toys and clothing that endanger our Nation's children, are effectively screened at the border and, when necessary, destroyed.

Last August, I asked my HSGAC staff to review the effectiveness of Federal safety standards governing children's toys and clothing. The committee investigators conducted numerous interviews of manufacturers' representatives, retailers, consumer advocacy groups, and Federal regulatory agencies, and visited a manufacturer's testing lab and two ports. Their findings confirmed several weaknesses in our current consumer product safety regime; namely; the CPSC is understaffed, inadequately resourced, and lacks crucial authorities needed to fulfill its mission; voluntary standards applicable to many classes of products can be useful in quickly addressing safety issues, but lack the full force of law; and the inability to effectively enforce safety standards at our ports limits our Nation's ability to stop hazardous imported products from entering the American marketplace.

My staff investigation made it clear that our border inspections regime must target and intercept foreign products that fail to meet U.S. safety standards. As our committee found, Customs and Border Protection currently lacks the authority to seize and destroy dangerous imported products even if the agency suspects that an unscrupulous importer turned away at one port might attempt to bring these products in through another U.S. port.

The committee's investigation also revealed that coordination and information sharing between CBP and CPSC were often ad-hoc—providing CBP with little useful information that would allow its agents to target shipments that are more likely to contain dangerous goods.

The provisions that I authored, and worked with Senators INOUYE, STEVENS, and PRYOR to include in the bipartisan reform bill that the Senate passed, specifically target problems with unsafe imports by ensuring that CPSC and U.S. Customs and Border Protection work effectively together to keep unsafe consumer products out of our country. These provisions: authorize CBP to seize and destroy dangerous consumer products entering our ports, long before they reach store shelves or American homes; enhance information sharing between CPSC and CBP so that inspectors at our Nation's ports can focus their resource on the most risky shipments, targeting products, manufacturers, and importers with poor consumer-safety records; task CPSC with developing a comprehensive risk assessment tool to help CBP quickly evaluate imported products that might violate our Nation's safety standards; and direct the CPSC to develop a plan to ensure that Commission employees are assigned to the National Targeting Center at CBP to increase interagency collaboration in evaluating the potential risks of inbound shipments for potential safety issues.

I am pleased that the conferees retained these provisions in their report. They will help the CPSC and Customs and Border Protection identify dangerous products that enter our ports and prevent them from reaching American homes.

Other measures in this conference report—increased staffing and funding for the CPSC, tougher civil and criminal penalties for violations of safety laws, a ban on reselling recalled products, enhanced whistleblower protections, safety certifications, and product tracking labels—will also strengthen the Consumer Product Safety Commission's ability to protect American consumers. With the new authorities in this bill, the CPSC will be able to work more effectively with importers, retailers, consumers, and industry associations to develop and enforce product-safety standards.

This legislation will make a real difference in protecting America's children and other consumers from hazardous toys and other products.

I urge my colleagues to adopt the conference report.

Mr. SUNUNU. Mr. President, I rise today in support of the conference report to H.R. 4040, the Consumer Product Safety Improvement Act. As many of my colleagues know, the Consumer Product Safety Commission, or CPSC, is responsible for protecting children and families against unreasonable risks associated with 15,000 consumer products. Over the past year, Congress has worked to improve the ability of the CPSC to ensure the products in their jurisdiction are safe for children and families across the Nation. The legislation before us today will provide increased funding and expanded authorities for the CPSC to accomplish their mission.

This conference report is a comprehensive measure that reflects months of hard work on both sides of the aisle and between both Chambers. It is a compromise measure that reflects the give and take of each Chamber and each party. It is a bipartisan measure, demonstrated by the fact that the House of Representatives voted 424–1 on Wednesday in favor of this conference report.

Among the many items in this report, it takes a tough stand on lead in children's products by banning lead in products made for children 12 and younger in 6 months, setting a maximum threshold of 600 parts per million, ppm, which is reduced over time to 100 ppm after 3 years.

The conference report includes a significant increase in civil fines, with a maximum fine of $15 million, more than 8 times the current maximum, and it raises the per violation penalty cap to $100,000 from the current level of

$8,000. It also includes language to consider the economic impact on small businesses when levying a fine. Further, it toughens criminal penalties on bad actors who commit ''knowing and willful'' violations of product safety laws by making them eligible for up to 5 years in prison, fines, or both.

The conference report establishes testing and certification requirements for children's products made for those ages 12 and under before they are sold in the U.S. It also accredits third party labs to do such product testing, including qualified proprietary labs.

The conference report includes a searchable consumer database that the CPSC will have on-line in 2 years. It will contain minimum reporting requirements for data to be posted, including: a description of the product; identification of the manufacturer; a description of the harm related to the use of the product; the submitter's contact information; and verification that the submitted information is true and accurate. Companies would have ten business days to review whatever information is slated to go on the database, and post their own comments. If necessary, the CPSC would remove inaccurate material and redact confidential information.

The report gives authority to the CPSC to pick the recall remedy that a business must follow, to either replace the product, repair the product, or refund the consumer's money. It also makes it illegal to sell a recalled product, or export a recalled product without explicit permission. Further, it requires tracking labels for children's products and packaging where it is practicable, to make sure products are identifiable for more effective recall purposes.

Under the report, all foreign and domestic-made all-terrain vehicles, or ATV's, will be required to meet the same mandatory safety standards. It also bans the sale of new 3-wheeled ATV's in the United States.

On one of the more contentious items dealt with in the conference, a compromise was reached earlier this week to ban three specific phthalates, and place an interim ban on three other phthalates while a formal health assessment is done. Once complete, the CPSC would consider the findings of this assessment and conduct a rulemaking to see if the interim ban should stay in place or be removed.

Finally, the conference report provides a significant increase in the amount of funding available to the CPSC. Beginning in fiscal year 2010 and running through fiscal year 2014, the agency is authorized to receive a total of $626 million. A specific authorization for travel is included in the overall funding level to meet the ban placed on travel paid for by outside groups. Given the new and expanded authorities the CPSC will be required to undertake, this level of funding will meet those needs.

Mr. President, the American people expect the CPSC to protect them from dangerous toys and household products and ensure the consumer goods they use every day are the safest possible. Congress is giving them the tools to meet that goal.

I would like to extend my thanks and congratulations to Senator INOUYE, who chaired this conference committee, for the bipartisan process in which the conference was run, and how this report was crafted. I would also like to thank my fellow conferees—Senators PRYOR, BOXER, KLOBUCHAR, STEVENS and HUTCHISON—for their hard work and due diligence in putting together a measure that should enjoy the support of a majority of our colleagues.

Mr. LEVIN. Mr. President, I will vote for H.R. 4040, the Consumer Product Safety Improvement Act. The conferees have reached a responsible compromise that makes important reforms to the Consumer Product Safety Commission, CPSC, that are long overdue that will make products safer for consumers and children.

This bill takes important steps to shore up a weak and ineffective Consumer Product Safety Commission. As a grandfather and consumer, I am appalled at the lack of resources and enforcement authority of the CPSC and its inability to adequately protect our children, our food supply and the general public from harmful or contaminated products.

We can and should be doing much more to protect the American consumer. As was recently underscored by the alarming number of children's products with high lead content, contaminated pet food, and defective imported tires, there are a lot of cracks in the systems that were supposed to be watching out for consumers.

We need to know our children's and grandchildren's toys are safe. We need to know that the food we import is not tainted with harmful chemicals. We need to know the products we buy will not harm us or our children. I believe it is the government's basic responsibility to protect the public.

Those who work for the companies that make these products may often be in a position to detect and prevent serious problems or injuries before they occur. I am pleased that this bill includes important protections for corporate whistleblowers that will encourage employees to come forward about violations and defective products without the fear of retaliation by their employer.

Many of the defective and contaminated products are imported. Even with its current limited resources and reach, CPSC recalled approximately 150 tainted products from China in 2007 including tires, toys, baby cribs, candles, bicycles, remote controls, hair dryers, and lamps. Imagine how many more contaminated or defective products are slipping through the cracks and reaching American consumers without being detected.

We are being deluged by cheap imports from China and elsewhere. We should at least be making sure the products we import are not contaminated or dangerous. That is why I wrote to President Bush requesting that his administration investigate dangerous products that have been imported from China. We need to strengthen our agencies and laws so that products that do not meet our health and safety standards are stopped at our borders. To do this we need to give the CPSC the necessary tools and resources, including more manpower to adequately inspect imports.

This bill makes the legislative changes needed to give the CPSC the necessary tools and resources to improve on its past poor performance and reassure consumers that there will be more oversight of the marketplace in the future.

This bill will: increase overall funding for the CPSC ; increase CPSC staffing; prohibit the use of dangerous phthalates in children's toys and child care articles; streamline product safety rulemaking procedures; ban lead beyond a minute amount in products intended for children under the age of 12 and require certification and labeling; increase inspection of imported products so we are not allowing recalled or banned products to cross our borders; increase penalties for violating our product safety laws; strengthen and improve recall procedures and ban the sale of recalled products; require CPSC to provide consumers with a user-friendly database on deaths and serious injuries caused by consumer products; and ban 3-wheel all terrain vehicles, ATVs, and strengthens regulation of other ATVs, especially those intended for use by youth.

The legislation has the strong support of consumer, scientific and public health organizations. In a letter to Senate leaders, key representatives of these groups called H.R. 4040, a ''ground-breaking measure, which will help ensure that the Consumer Product Safety Commission (CPSC) has the resources and regulatory authority it needs to protect consumers and repair our long-broken product safety net.''

Organizations supporting the bill include the following, among others: Thomas H. Moore, Consumer Product Safety Commissioner; Alliance for Patient Safety; American Academy of Pediatrics; American Association of Law Libraries; American Association of University Professors, AZ Conference; American Library Association; Circumpolar Conservation Union; Coalition for Civil Rights and Democratic Liberties; Consumers Union; Consumer Federation of America; Doctors for Open Government; DoorTech Industries, Inc.; Ethics in Government Group, EGG; Federation of American Scientists; Federal Employees Against Discrimination; Focus On Indiana; Fund for Constitutional Government; Georgians for Open Government; Government Accountability Project; HALT, Inc.—An Organization of Americans for Legal

Reform; Health Integrity Project; Information Trust; Integrity International; Kids in Danger; Liberty Coalition; National Consumers League; National Association of State Fire Marshals; National Employment Lawyers Association; National Judicial Conduct and Disability Law Project, Inc.; National Research Center for Women & Families; National Whistleblower Center; No Fear Coalition; OMB Watch; OpenTheGovernment.org;
Parentadvocates.org; Patrick Henry Center; Project on Government Oversight; Public Citizen; Public Employees for Environmental Responsibility; Sustainable Energy and Economy Network; Taxpayers Against Fraud; The 3.5.7 Commission; The New Grady Coalition; The Semmelweis Society International, SSI; The Student Health Integrity Project SHIP; Truckers Justice Center; Union of Concerned Scientists; U.S. Bill of Rights Foundation; U.S. Public Interest Research Group; and Whistleblowers USA.

I support this bipartisan legislation and I am please that it will now become law.

Mr. KYL. Mr. President, I fully support many of the changes that H.R. 4040, the Consumer Product Safety Improvement Act of 2008, makes to ensure that America's consumers are safe. However, one of the main goals of the bill is to provide the Consumer Product Safety Commission, CPSC, with the tools and resources it needs to protect American consumers. Although this conference report does take some steps towards that end, it simultaneously hurts businesses without providing commensurate benefits to consumers. For this reason, I will vote against the conference report.

The CPSC was created in 1972 to establish a single set of product safety regulations for manufacturers and distributors to follow throughout the country. This conference report, however, includes a section that would expand the power of state attorneys general to bring actions on behalf of their own states against businesses they believe violate federal consumer protection statutes mandated by the CPSC. Giving 50 attorneys general discretion over consumer product safety laws would lead to 50 different interpretations of the law, and, thus, a confusing patchwork of safety standards that would make it more difficult for the CPSC to enforce uniform, national policies. Moreover, in recent years, some State attorneys general have used their positions to garner national attention to advance their careers. I am worried that this conference report leaves enough discretion to the state attorneys general to enforce CPSC rules that would tempt some to file frivolous lawsuits that could ultimately undermine the effectiveness of the CPSC.

The conference report also keeps intact a requirement for the CPSC to create a public database of product-related complaints. This public database provides the opportunity for parties to post false information online, and allows minimal oversight by the CPSC or an opportunity for manufacturers to defend themselves. Inaccurate information about a company's product on a government-endorsed website could irrevocably harm a company's reputation, and I cannot support such a provision.

I also oppose the section in the conference report that would extend new whistleblower protections to millions of employees of consumer product manufacturers, distributors, and retailers. Under this bill, once an employee notifies the CPSC of an action he ''believes to be'' a violation of a consumer product safety regulation, the employer faces a fine if it discharges or takes any negative action against the employee. Including such a provision would grant any disgruntled employee a powerful incentive to report erroneous or unsubstantiated information as an alleged product safety violation in order to insulate himself from unrelated disciplinary actions. There is no reason for such a provision except to dramatically unbalance the employee-employer relationship, and the failure to fix this section after repeated attempts causes me even greater concern that it has little to do with legitimate whistleblowers and more to do with hamstringing employers from dealing appropriately with problem employees.

It is unfortunate that I am forced to vote against this conference report because I do believe the CPSC's resources ought to be bolstered. However, this conference report carries with it too many of the problems that existed when the bill left the Senate.

Mr. NELSON of Florida. Mr. President, I rise today in strong support of the H.R. 4040 conference report.

The issue of consumer product safety—and particularly the safety of toys and other children's products—has long been an important issue for me.

Over the last few years, however, we've seen ample evidence that the Consumer Product Safety Commission's authority to protect the public was not up to the task. This breakdown in authority was made crystal clear by last year's ''summer of recalls''—when we saw recall after recall of children's products, including:

Children's jewelry and toys covered in lead paint. Toys with detachable magnets that can cause fatal intestinal obstructions. Stuffed animals with small parts that can detach and become a choking hazard. A children's craft kit containing beads that—when swallowed—metabolized into the same chemical compound as GHB, the date rape drug.

Unfortunately, I saw some of the impacts of harmful toys first hand. Last July, I visited with a team of emergency room doctors in Tampa who treated children with intestinal obstructions due to magnets that had detached from toys. In some cases, the doctors noted that the intestinal obstructions were so severe that the children had to undergo surgery to remove the blockages.

Invasive surgery like this is scary for most adults—so you can only imagine what it was like for a 4- or 5–year-old to go through something like this.

That August, I also visited with a family in Jacksonville who left two of their children in a room with a disco ball toy. The disco ball toy later overheated, caught fire, and emitted enough carbon monoxide to kill both children.

After visiting with the families of these children, I also learned first hand about the weaknesses in our product safety laws—and the general failure of leadership at the CPSC. This regulatory breakdown was highlighted by the fact that the CPSC had only one full time employee—who worked in this cramped, antiquated lab—responsible for ensuring the safety of our children's toys.

Quite frankly, I was outraged by this—and last summer I introduced S. 1833, the Children's Product Safety Act, which would, require third-party testing of toys and other children's products.

These third-party testing requirements were incorporated by Senator PRYOR into the Senate version of the CPSC Reform bill—along with an amendment I offered in the Commerce Committee that would mandate the first mandatory safety standards for toys.

And I am very pleased that they are included in the final conference report.

Taken together, these provisions will ensure that toys and other products intended for children 12 and under will be tested by a rigorous third-party screening process that is continuously updated to address new and emergency hazards. And that is a big victory for America's families.

I would like to thank the members of the conference and the staff of the Senate Commerce Committee for all of their hard work on this issue.

This legislation will help ensure that we never face another ''summer of recalls.''

I urge my colleagues to support this bill and get it to the White House as soon as possible.

Mr. COBURN. Mr. President, the Consumer Product Safety Bill, while well intentioned, will do little to improve consumer product safety.

Since when should the Government be held responsible for the safety of consumers when time and time again the Federal bureaucracy has failed in its other safety obligations and responsibilities?

In 2005, Hurricane Katrina was a stark and sad reminder that a bloated, inefficient, and incompetent bureaucracy does not have the ability to protect citizens.

Just last year, the interstate bridge collapse in Minnesota reminded us all of the misplaced priorities of the Federal Government. Instead of ensuring

the structural soundness of bridges, politicians were more concerned with their earmarks, and diverted funds away from bridges such as the one in Minnesota for their own political benefit.

In another example of Government incompetence, the census is currently in grave peril of not completing its constitutional duty effectively and on time. This speaks volumes about the inefficiencies of our Government, as we have 10 years to prepare for the census with over two centuries of experience to draw upon to execute this responsibility.

This bill is a perfect example of politicians rushing to legislate on a problem that really isn't there in order to pat themselves on the back to try to curry favor with their constituents in an election year.

The truth is the paranoia and hysteria currently with consumer product safety is not proportional to the reality of the situation. Nancy Ord, Chairman of the Consumer Product Safety Commission, stated in January, ''Last year was marked by intense media scrutiny of the agency and of toy recalls in particular . . . the coverage reached near-hysteria level, And then, of course, some politicians, sensing a possible political issue, jumped on the bandwagon.''

While there has been a rise in product recalls, in a sense, the recalls are themselves a positive sign, as dangers were identified by manufacturers and products were removed from the market.

More importantly, these product recalls have not translated into dire health consequences, as there has been little evidence of any deterioration in overall product safety. There were few if any reports of consumer injuries from the recalled products. Although the number of injuries from toys increased somewhat in 2006, injury rates generally have decreased since 2001. Also, lead poisoning cases are at historic lows in many areas.

Regardless, many of the companies that fall under the CPSC umbrella have raised the levels of their own self-policing. Wal-Mart has announced that this month it will require independent lab testing for all new toys as well as those it reorders. Mattei and others have ended the use of certain kinds of batteries. And the Toy Industry Association has worked with the Commission on a plan to test toy safety in the design and manufacturing process as well as the final product.

The political reaction to the problem, like most Government solutions, is to throw money at it.

While some statutory upgrades are needed, almost doubling the size of the agency, as this bill does, will not eradicate or drastically improve the issue.

As we have seen time after time, when Government throws money at a problem, rarely does it improve a situation, and more often than not, it further complicates and aggravates the problem.

In addition, there are also a lot of unintended consequences in this bill, as it is a trial lawyer giveaway. While the dramatic increase in authorization is troubling, the provisions that subject businesses to the wrath of the trial lawyer and plaintiffs bar are far more problematic as they will raise the cost of doing business, hurt or destroy small businesses, and could further exasperate an already unstable economy.

Authorizing State attorneys general to initiate lawsuits, creating a consumer product safety database, and drastically increasing fines are free giveaways to trial lawyers that will do little for consumer safety and will unnecessarily damage small businesses.

Allowing State attorneys general to bring lawsuits on behalf of their residents for violations of consumer safety rules would reverse 35 years of successful policy experience.

Overzealous State attorneys general will now have the authority and discretion to interpret safety regulations and could unilaterally on a whim rule a business is noncompliant and could then hand over expensive lawsuits to their trial lawyer's cronies who are notoriously close with State law enforcement officials.

State attorneys, then, would be hardpressed to deny politically active State trial lawyers to sue companies when the litigation will not cost the State a dime and could, in many cases, bring the attorney general positive publicity.

This provides false incentives for overzealous attorneys general and would run precisely counter to the CPSC's policy of carefully balancing cost and benefit in making safety regulations.

Lawsuits, which are expensive, adversarial, and often drawn out, can be an impediment to a successful long-term relationship that maximizes compliance and safety.

State attorneys general should not have the power to reduce the effectiveness of the CPSC's efforts by undermining its balanced approach to enforcement.

Another free giveaway to trial lawyers is the creation of a consumer product safety database. The database is estimated to cost $10 million, which accounts for over 10 percent of the Commission's budget.

This section requires the CPSC to establish a Web site to post any complaint, regardless of accuracy or merit, from consumer groups or individuals.

While on the surface the database appears to aim to educate and warn consumers about potential product defect or harm, the reality of it is far from effective. It is highly doubtful that many consumers will know about or even care to peruse a Government Web site to validate whether a product is safe prior to purchase, especially considering the claims are not verified prior to posting.

What the database does provide in much more practical terms however, is a centralized, consolidated data source where law firms, unions, and lobbyists are given access to cherry-pick consumer reports for potential lawsuits.

There is already a consumer product database, called lawcash.com, that consolidates consumer product complaints.

The Web site brags that its database provides consumers ''the information you need and the access you deserve to find out if you are eligible to claim your share of billions of dollars distributed yearly through thousands of class action lawsuits.''

This reveals the true motives for such ''consumer product batabases,'' and accordingly the Government has no role in serving as a conduit of information that promotes hit job lawsuits.

This cumbersome endeavor will divert funds and resources from efforts that actually go toward consumer safety and redirect it toward maintaining a Web site that will only contain inflammatory information that unions and lawyers can utilize to sue businesses.

The bill drastically increases maximum civil penalties more than tenfold and the individual violation more than twentyfold, subjecting each product that wrongfully enters the market to a $100,000 fine. The threat of a $100,000 fine will cause many small manufacturers and retailers who commit only minor violations to declare bankruptcy.

Additionally, faced with these hefty fines, this provision could erode the healthy and productive relationship between businesses and the Commission.

Faced with bankruptcy, many businesses would be much less inclined to voluntarily report violations and as a consequence would not receive the proper guidance to fix the problem, subjecting the business and its employees to potential harm.

While allowing increases in frivolous lawsuits and drastically hiking up the fines for businesses may allow Senators to tout to the public that they are tough on consumer safety, these actions are unlikely to improve the situation, and more importantly, the unintended consequences would be to increase the cost of doing business, impairing economic and job growth at a time when our economy desperately needs economic and job growth.

Mr. SCHUMER. Mr. President, I ask today to speak on the Consumer Product Safety Improvement Act of 2008.

I commend the conferees for ironing out the differences between the House and Senate passed versions of this bill that will deliver to the American people strong and much needed reform to consumer product oversight. I was proud to be a cosponsor of the Senate version, and I would like to thank and congratulate Chairman INOUYE for his leadership and Senator PRYOR for his extraordinary work in crafting this outstanding, bipartisan bill.

Over the last several years the Consumer Product Safety Commission has become a shell of its former self, with a noticeable void in leadership. Dangerous goods and toys have fallen into

the hands of our most vulnerable population while the CPSC has looked the other way. This act, however will prevent the CPSC from shirking its responsibility and ignoring its obligation to make America safe.

This act will provide the Consumer Product Safety Commission with the authority an resources it needs to be more effective in its critical mission to protect consumers. Quite frankly, the current product safety system is broken, and the CPSC is in desperate need of reform. Too many unsafe goods are reaching the shores of the United States. Too many dangerous products are finding their way into the hands of American consumers, and all too often, young children.

We worry about our kids when they are in class, when they are walking or driving home alone, even when they surf the Internet. We should not have to worry that the toys they play with might be hazardous to their health, or god forbid, even fatal.

The effectiveness of the CPSC has been severely undermined by years of budget and personnel cuts and, as a result, has been unable to keep up with globalization of the marketplace. This bill will reverse those trends and give the CPSC the budget and the tools it desperately needs to again become an effective force for consumer protection.

Protecting consumers, and especially children, is a priority, and the bill takes a tough approach to products that might threaten their health and safety. Imports of untested children's products will be prohibited, and mandatory third-party testing of children's products will be implemented. Tracking labels for children's products will help parents tie safety recalls and alerts to prior purchases. Children's products containing lead and certain plastic additives will be banned. A new Chronic Health Advisory Panel will be created. Finally, the sale of recalled products will be prohibited.

The CPSC must do a better job of getting hazardous products off the shelves and out of consumers' reach and these provisions will give the CPSC the tools to do just that. Manufacturers, importers, and retailers will be required to do their part as well or face serious consequences. The bill provides for increased criminal and civil penalties for those who knowingly and willingly violate product safety laws. It also gives State attorneys general the means to enforce Federal safety standards and get dangerous products off the shelf. Protections for whistleblowers are also included in the bill, so that employees who identify dangerous products along the supply chain can come forward with vital health and safety information without fear of reprisal.

These and other provisions of the CPSC Reform Act represent commonsense solutions to keeping consumers informed and safe from dangerous products. The bill will also ban industry-sponsored trips, which have the perception of unduly influencing CPSC officials.

Passage of this bill is vital if we hope to rebuild, reform, and revitalize the CPSC. The CPSC must be re-equipped to do its job of enhancing product safety and protecting kids and consumers from unsafe products.

The Federal Government must again become an effective force for consumer protection. The Consumer Product Safety Improvement Act is a first step—and a vital one at that.

Ms. BOXER. Mr. President, in a Senate where recently it has been so hard to get things done, Democrats and Republicans have come together in a bipartisan manner to produce a strong conference report that is a victory for children and families.

I have a message for American parents everywhere who are concerned about the safety of their children's toys, ''We have heard your concerns, and today, Congress has acted.''

The Senate is about to approve landmark consumer legislation to protect our kids from dangerous children's products and hazardous substances.

I want to thank Chairman INOUYE, Vice Chairman STEVENS, Senator PRYOR and their staffs for all of their hard work and dedication to this important bill.

As both a parent and a grandparent, I have been incredibly distressed by the seemingly endless stream of reports about defective and dangerous children's toys and products.

Consumers Union dubbed 2007 ''The Year of the Recall'' after 45 million toys and other children's products were recalled. Recalls jumped 22 percent for the 9-month period that ended June 30 of this year.

Clearly, the Consumer Product Safety Commission has not been able to keep pace with the growing market of consumer products many of which are now manufactured abroad.

For too long we have asked this agency, which has a staff of approximately 400 charged with overseeing the safety of 15,000 consumer products, to do too much with grossly inadequate resources and enforcement tools.

The Consumer Product Safety Improvement Act of 2008 addresses those resource problems and finally brings the CPSC's enforcement powers in line with those of other Federal agencies charged with protecting the public.

The Consumer Product Safety Improvement Act of 2008 includes a strong ban on lead and phthalates, requires testing of all children's products that must meet mandatory toy standards, and for the first time, includes a public, searchable national database on the CPSC website of all consumer complaints filed with the CPSC so consumers can be better informed about dangerous products.

The bill also strengthens the Consumer Product Safety Commission's authority to recall products, increases enforcement authority for Attorneys General, includes stronger civil and criminal penalties for violators, bans industry sponsored travel, and provides whistleblower protections for employees of manufacturers, private labelers, retailers, and distributors.

I want to thank the conferees for including two provisions I authored in committee.

The Labeling Requirement for Advertising Toys and Games requires products sold over the Internet or in catalogues to list any cautionary statements, such as choking warnings, in their advertisements.

These labels would normally be visible when the products are purchased in the store but oftentimes are not visible to the consumer when sold over the Internet or in catalogues.

My second provision requires manufacturers of durable infant or toddler's products to provide consumers with postage-paid registration forms with each product so consumers can be better informed if the product they bought is eventually recalled.

This provision was based on a bill by Congresswoman JAN SCHAKOWSKY called the Danny Keysar Child Product Safety Notification Act.

Danny Keysar was a 16-month-old child who died when his Playskool Travel-Lite portable crib collapsed—5 years after the CPSC had ordered it off the shelves because it was dangerous. Danny was tragically the fifth victim to die due to the faulty design of this crib and a sixth child died 3 months later.

From 1990 to 1997 more than 1.5 million portable cribs with a similar dangerous design were manufactured. A total of 17 children have been killed by these types of cribs.

Neither Danny's parents nor a caregiver at the daycare where the accident occurred were aware of the recall. State inspectors who had visited the daycare a week before were not aware of the crib's recall.

Our provision will provide parents with a method for receiving these vital recall updates that could save their child's life.

I was also pleased to work closely with Senator KLOBUCHAR, Representative WAXMAN, and other conferees to get a strong ban on lead in toys and other children's products to protect our kids from dangerous lead contamination.

I also want to thank Chairman INOUYE and Senator PRYOR for their leadership and support on this issue.

We all know that lead poisons the brain and nervous system, can decrease IQs, and cause behavioral problems, and that it is especially dangerous to children.

Let me tell you about Colton Burkhart, a 4-year-old boy from Oregon on a family camping trip who became violently ill from lead poisoning after he swallowed a medallion from a necklace bought in a 25-cent toy vending machine. The medallion turned out to be 39 percent lead, which had elevated his blood lead level to a potentially

fatal level of 123 micrograms of lead per deciliter of blood, more than 12 times the CDC's lead poisoning level of concern.

Jarnell Brown, another 4-year-old boy was brought to the hospital emergency department in Minneapolis, Minnesota complaining of vomiting. Believing that the child had a stomach virus, he was released. The next day, Jarnell was rushed to the hospital after having suffered a seizure and respiratory arrest. Jarnell later died. An autopsy revealed that he died of acute lead poisoning from a heart-shaped charm from a bracelet that his mother had gotten free with her Reebok sneakers. The charm was found to contain 99.1 percent lead. Reebok recalled 300,000 bracelets worldwide as a result.

The many recalls of lead toys and products over the past year have highlighted the need for action.

This legislation puts into place a ban on lead in children's products that gets increasingly stringent over 3 years, and that will help ensure that we protect our kids today and in future generations from the scourge of lead poisoning.

In addition, Senator FEINSTEIN, Representative WAXMAN and I successfully fought, shoulder-to-shoulder, for a ban on dangerous phthalates in many children's products.

Studies show that phthalates are endocrine disruptors linked to reproductive abnormalities in male babies and many experts believe that the accumulation of exposures to multiple phthalates presents a risk to developing fetuses and young children.

Phthalates have been banned from many children's products in the European Union since 1999, and at least nine other countries have followed suit in an effort to better protect children from harmful health effects of these chemicals.

My home State of California was the first in the Nation to prohibit phthalates in many toys and child care products, and Washington State and Vermont have taken similar actions.

In addition, major retailers such as Wal-Mart, Target, and Toys ''R'' Us have already begun to take phthalate-containing children's products off their shelves.

China, which manufactures 85 percent of the world's toys, reportedly has created a separate manufacturing line for products intended for export to nations that ban phthalates.

This legislation will permanently ban three of the most dangerous phthalates, DEHP, DBP, and BBP from all children's toys and child care articles.

In addition, it imposes an interim ban on three other dangerous phthalates, DINP, DIDP, and DnOP, in children's toys that can be put in the mouth, and in childcare articles. That ban can only be altered after a detailed scientific review.

Of course, nothing in this bill undercuts the Commission's authority to go beyond the specific products listed in this section's ban, or the specific phthalates listed in the ban, in any additional action the Commission takes under its regulatory authorities.

States such as California that have been leaders in protecting children by restricting toxic phthalate alternatives, are protected.

I also want to thank the conferees for working with Congressman WAXMAN and myself to protect State warning laws related to consumer products, such as California's Proposition 65.

We are so pleased to see the final conference report clarifies that State and local toy and children's product requirements in effect before the date of enactment of this legislation are not preempted.

This bill is so important to the health and safety of our children and families. I want to again thank my colleagues on both the House and Senate side for all of their efforts on this legislation.

We can't risk one more child's injury or tragic death due to faulty toys or children's products. I am glad to hear that the President has agreed to sign this legislation.

Mrs. FEINSTEIN. Mr. President, I rise in support of the Consumer Product Safety Improvement Act of 2008. This legislation makes a number of long overdue changes and improvements in the Consumer Product Safety Commission and their ability to protect children and other consumers. It will impose mandatory toy safety standards, in place of the current voluntary standards; create an online database, which parents and consumers can search for reports of safety problems; provide whistleblower protections to employees of manufacturers, retailers and distributors to promote prompt reporting of any safety hazard; and authorize a much needed funding increase for the Consumer Product Safety Commission to ensure that these reforms are carried out.

Most importantly, this legislation bans the use of six phthalates in many children's products and child care articles. It will ban the use of more than .1 percent of three phthalates—DEHP, DBP, or BBP—in toys for children ages 12 and under and childcare articles for children ages 3 and under; and place an interim ban on the use of more than .1 percent of three additional phthalates—DINP, DIDP, and DnOP—in any toy that can be placed in a child's mouth or a child care article for ages 3 or under.

The Consumer Product Safety Commission will convene a Chronic Hazard Advisory Panel, CHAP, to fully examine the science on the effects of phthalates and any phthalate alternative. After this study, they will determine whether the interim ban should remain in place.

I believe they will find that the ban is essential to the protection of children's health.

Let me say, it is about time. The United States is often behind the rest of the world when it comes to chemical policy. The same has been true for phthalates. These chemicals have been restricted in at least 31 nations, including European Union—27 countries—Argentina, Fiji, Japan, Korea, and Mexico.

It took action from three States—California, Washington and Vermont—before we have reached this point.

It took voluntary action from the country's largest toy retailers: Wal-Mart, Toys ''R'' Us, and Target, all of which have announced that they will stop selling products that contain phthalates.

With the passage of this legislation, parents throughout this country will have the same assurances as parents in the E.U., in Argentina, in Japan, and all of these other counties. They will be sure that the toys they give their children do not contain a dangerous plasticizer.

And make no mistake, these chemicals are dangerous. When children chew on toys filled with phthalates, these chemicals leach from the toy, and into their bodies. Phthalates have been linked to a variety of reproductive defects.

The science on phthalates is still evolving. But today, we are acting out of precaution: removing potentially dangerous substances from products until they are shown to be safe.

Our current system for dealing with chemicals requires that regulators show that a chemical is dangerous before it can be removed from the market. We have this backwards: the burden should be placed on the manufacturers to prove to us that the chemicals they want to put in everyday items are safe. Our children should not be guinea pigs for untested chemicals.

The interim ban on three phthalates marks a departure from this long-standing ''use chemicals first, ask questions later'' approach. These chemicals will be permitted back into toys only if they are proven to be safe, the very hallmark of the precautionary principle.

We need to move fully in this direction. It is my belief that chemical additives should not be placed in products that can impact health adversely until they are tested and found to be benign. I look forward to working with my colleagues to see that we exercise the same caution with all chemicals.

This is a sea change in our Nation's chemical policy, and predictably, we faced strong opposition from industry. Many people contributed to this victory here today, and I would like to mention a few.

I would like to thank Chairman INOUYE, Senator STEVENS, and Senator PRYOR for their steadfast support throughout this process.

This would not have been possible without my home State colleagues, Senator BOXER and Congressman WAXMAN. They supported this from the beginning, and their work ensured that the best product possible emerged from conference.

David Strickland, Alec Hoehn-Saric, and the Commerce Committee staff have been invaluable. They worked long nights and weekends to reach an agreement on this provision, and I appreciate it.

Kristin Wikelius and Chris Thompson of my staff, who quickly learned about this issue and worked hard to move this through the legislative process.

Dozens of grassroots groups from across the country supported my amendment and rallied their members to do the same. I will ask to have a list of these groups printed in the RECORD.

This Coalition was led by the Breast Cancer Fund, based in my home city of San Francisco. Their work, expertise, and support made this happen.

On another matter central to children's health, I am very pleased that this bill includes a provision that I sponsored to require secondhand cribs that are sold and used in the marketplace to have the same product safety standards as new cribs.

This bill will close a loophole in consumer product safety standards, and help reduce injuries and deaths that come from used cribs that have missing or broken parts.

Currently, U.S. consumer product safety standards apply only to new cribs and not to the sale or commercial use of secondhand cribs, which cause most crib-related infant injuries and deaths.

The measure included in the conference report would prohibit commercial users, such as thrift stores and resale furniture stores, to sell, resell or lease unsafe used cribs that are structurally unsound, and prohibits hotels, motels, and daycare centers from using unsafe cribs, and adds secondhand cribs to the list of child and infant products covered by the Consumer Product Safety Act, the law that already applies to new cribs and other children's products.

The safety standards for secondhand cribs will now match the safety standards for new cribs, including crib slats should be no more than 2⅜ inches apart to prevent infant from slipping through the slats and corner posts should not be higher than 1/16 inches above the end panels of the crib which prevents infant's clothing from becoming tangled on the crib.

Every year, more than 11,300 children require hospital treatment from crib-related injuries and over 30 children die from injuries sustained in cribs.

Most of these injuries and deaths occur in secondhand cribs that have dangerous features.

The language included in this conference report is similar to proposals that Representative ELLEN TAUSCHER and I have worked on for many years.

I am very pleased that this legislation will help give parents the peace of mind that secondhand cribs are just as safe as brandnew cribs.

The phthalate ban, the expansion of crib safety protections, and the entire Consumer Product Safety Improvement Act are hard-fought victories for children and all of those concerned with their safety.

I urge my colleagues to join me in supporting this conference report, and I urge the President to sign this into law the moment it lands on his desk. We have waited years to take action against chemicals like phthalates, and we should not wait any longer.

I ask unanimous consent that the list of groups supporting my amendment be printed in the RECORD.

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

MAY 27, 2008.

Hon. DANIEL K. INOUYE,
*Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington DC.*
Hon. TED STEVENS,
*Vice Chairman, Committee on Commerce Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington DC.*
Hon. JOHN DINGELL,
*Chairman, Committee on Energy and Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.*
Hon. JOE BARTON,
*Ranking Member, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN INOUYE, VICE CHAIRMAN STEVENS, CHAIRMAN DINGELL, AND RANKING MEMBER BARTON: The undersigned organizations wish to express strong support for including Senator Feinstein's amendment in the final version of the Consumer Product Safety Commission Reform Act (CPSCA). Senator Feinstein's amendment would prohibit the manufacture, sale, or distribution in commerce of certain children's products and child care articles that contain phthalates. By eliminating unnecessary exposure to phthalates in children's products, the United States would join the European Union and 14 separate countries in requiring the safest toys for its children.

Over the last several decades, children have faced an increasingly challenging time just making it through what should be normal stages of growth and development. Of particular concern are chemicals found to have negative health impacts that are in products children use every day. Of primary interest to the undersigned is the use of phthalates, present in a variety of children's products including soft plastic toys and teethers, which have been linked to developmental problems, such as premature breast development in girls, male genital defects, and reduced sperm quality.

Alternatives to phthalates already exist and are on the market. Some major manufacturers have already taken the responsible path toward eliminating these hazards from their products and major retail outlets such as Wal-Mart and Toys-R-Us are requiring that the products on their shelves be phthalate-free. Yet, there currently are no laws in the U.S. prohibiting the use of these chemicals, and no way for parents to know whether the products they buy will help—or hinder—their child's development.

States have already started taking action on this issue. California and Washington already prohibit the use of phthalates in children's products and almost a dozen states have introduced similar measures. It is time for the federal government to ensure that children in all 50 states receive protection from unsafe chemical exposures in the toys they chew on and play with everyday. Several states have also taken the lead on protecting the health of their citizens from unsafe chemical exposures in other consumer products. The undersigned organizations are especially appreciative of Senator Feinstein's inclusion of a ''savings clause'' in her amendment that would prevent the federal preemption of state efforts to enact stricter toy protections and regulate phthalates more strictly in other product categories.

The undersigned organizations strongly urge the CPSC Conference Committee to include the Feinstein Amendment prohibiting the use of phthalates in children's toys and childcare articles in the reconciled version of the House/Senate Consumer Product Safety Commission Reform Act.

Sincerely,

AAIDD (American Association on Intellectual and Developmental Disabilities).
Alaska Community Action on Toxics.
Association of Reproductive Health Professionals.
AWHONN (Association of Women's Health, Obstetric & Neonatal Nurses).
Breast Cancer Action.
Breast Cancer Fund.
Center for Environmental Health.
Center for Health, Environment and Justice.
Citizens for a Healthy Bay
Clean New York.
Clean Water Action Alliance of Massachusetts.
Coalition for Clean Air.
Commonweal.
Consumer Federation of America.
Consumers Union.
CREHM (Chicago Consortium for Reproductive Environmental Health in Minority Communities).
EarthJustice.
Endometriosis Association.
Environment California.
Environmental Health Fund.
Environmental Working Group.
Greenpeace.
Health Education and Resources.
Healthy Building Network.
Healthy Child Healthy World.
Healthy Children Organizing Project.
Illinois Maternal and Child Health Coalition.
Illinois PIRG.
INCIID (InterNational Council on Infertility Information Dissemination, Inc.).
INND (Institute of Neurotoxicology & Neurological Disorders).
Institute for Agriculture and Trade Policy.
Institute for Children's Environmental Health.
Kids in Danger.
Learning Disabilities Association of America.
Maternal and Child Health Access.
Minnesota PIRG.
MOMS (Making Our Milk Safe).
MomsRising.
Natural Resources Defense Council.
Olympic Environmental Council.
Oregon Center for Environmental Health.
Oregon Environmental Council.
Physicians for Social Responsibility- San Francisco Bay Area Chapter.
Planned Parenthood Affiliates of California.
Planned Parenthood Golden Gate.
Planned Parenthood of Mar Monte.
Planned Parenthood of the Rocky Mountains.
PODER (People Organized in Defense of Earth & her Resources).
Project IRENE.
Public Citizen's Congress Watch.
RESOLVE: The National Infertility Association.
Safe Food and Fertilizer.
SisterSong Women of Color Reproductive Health Collective.
Sources for Sustainable Communities.
The American Fertility Association.
The Annie Appleseed Project.
US PIRG.

Washington Toxics Coalition.
WashPIRG.
WHEN (Women's Health & Environmental Network).

WHISTLEBLOWER PROTECTION

Mrs. MCCASKILL. Mr. President, I would like to engage in a colloquy with the Senator from Arkansas. The whistleblower protection provision is an enforcement cornerstone of this legislation because it creates a legal right for private employees to help enforce consumer protection laws. It is important to underscore the Senate's intent that this provision builds upon ''best practices'' in whistleblower laws.

Mr. PRYOR. That is correct. The whistleblower provision should be interpreted broadly and consistent with ''best practices'' to achieve the law's purpose. For instance, ''employee'' is defined broadly to include individuals in any dimension of the employment concept: incumbent or former employees. It protects all individuals who have received compensation to engage in activities for which the corporation is responsible. The law's purpose may not be circumvented by hair-splitting interpretations that plug safe channels for witnesses to disclose relevant evidence of safety hazards.

Mrs. MCCASKILL. Furthermore, it is not Congress's intent to substitute these whistleblower protections for other preexisting rights and remedies against unfair employment practices.

Mr. PRYOR. Yes. Consistent with long-established Supreme Court case law see e.g., English v. General Electric, 496 U.S. 270, 1990—these rights do not cancel or replace preexisting remedies, whether under other overlapping congressional statutes, State laws, State tort claims or collective bargaining agreements.

Mrs. MCCASKILL. Companies should also not look to override the whistleblower protections through nondisclosure policies or agreements such as company manuals, prerequisites for employment or exit agreements.

Mr. PRYOR. There should be no confusion that the rights for protected activity created by this statute are the law of the land. They supersede and cannot be canceled or overridden by any conflicting restrictions in company manuals, employment contracts, or exit or nondisclosure agreements.

Mrs. MCCASKILL. Thank you for engaging in this colloquy with me to reaffirm the rights conveyed in the whistleblower provision. This provision is one of many in this legislation that reflects on the skill you have demonstrated in guiding this bill through the Congress.

PREEMPTION

Mrs. BOXER. I rise to discuss with Senator PRYOR, the distinguished chairman of the Subcommittee on Consumer Affairs, Insurance, and Automotive Safety, and lead sponsor of the Senate legislation, the preemptive effect of certain provisions in H.R. 4040.

I am pleased that the bill protects State warning laws related to consumer products or substances, such as California's Proposition 65. The conference report clarifies that any such warning laws in effect as of August 31, 2003, are not preempted by this act or the Federal Hazardous Substances Act. This important clarification effectively harmonizes the four statutes that are enforced by the Commission. Other laws enforced by CPSC, including the Consumer Product Safety Act, clearly do not preempt or affect State warning requirements like Proposition 65. The Federal Hazardous Substances Act, however, is arguably ambiguous as to its effect on State warning requirements. I am pleased that we have eliminated this ambiguity with this conference report and harmonized all of the Commission's statutes on this point.

I yield to Senator PRYOR, and ask: Is it also your understanding that nothing in this legislation or any of the laws enforced by the Consumer Product Safety Commission will preempt or affect Proposition 65 in any way?

Mr. PRYOR. Yes, that is my understanding.

Mrs. BOXER. My second inquiry relates to the bill's provisions on phthalates. I am pleased that the language preserves the ability of States to regulate phthalates in product classes that are not regulated under this legislation, as well as States' ability to regulate alternatives to phthalates, such as other chemical plasticizers that might be used as substitutes to the phthalates that will be removed from toys under this law. I yield to Senator PRYOR and ask, is it your understanding this law does not preempt or affect States' authority to regulate any alternatives to phthalates that are not specifically regulated by the Commission in a consumer product safety standard?

Mr. PRYOR. Yes, that is my understanding.

Mrs. BOXER. I also ask the distinguished floor manager Senator PRYOR to confirm my understanding that the third-party testing provisions of the conference report have no preemptive effect on State or local testing related requirements. Is my understanding correct?

Mr. PRYOR. Yes, the bill leaves such authority to impose testing requirements in place without preemption.

Mrs. BOXER. Finally, I wanted to confirm my understanding that the conference report makes it clear in section 106(h)(2) that State or local toy and children's product requirements in effect prior to enactment of this bill are not preempted by this legislation or by the Consumer Product Safety Act. Is my understanding correct?

Mr. PRYOR. My colleague is correct. The legislation does not preempt or otherwise affect State or political subdivision requirements applicable to a toy or other children's product that is designed to deal with the same risk of injury as the consumer product safety standard, if such State or political subdivision has filed such requirement with the Commission within 90 days after the date of enactment of this act.

Mr. INOUYE. Mr. President, I yield now to the author of the measure, Senator PRYOR of Arkansas, the balance of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, the first thing I want to say is this is a great bill. It is something every Senator should be proud of, because what we saw in 2007 was a record number of product recalls. In fact, last year, there were 45 million toys that were recalled. Every single toy was made in China that was recalled last year.

Unfortunately, it doesn't stop there. In 2008, we are 29 percent ahead of the schedule we set back in 2007. So this problem is not going away. This is a great bill, and this is a classic example that bipartisanship works.

We did this bill the way bills ought to be done. We worked it out in committee. I see that Senator STEVENS walked onto the floor. He played a vital and important role in the committee process and afterward. We worked together with Democrats and Republicans, and the House worked with the Senate. It has been a great example of how things can and should work around here.

We added third-party testing for toys. We added a new database for people to search to look at complaints about products. We give the Attorney General the ability to follow what the CPSC has done and get dangerous products off the shelves. We add whistleblower protection, so if people in the private sector know about a dangerous problem and reveal that, they don't lose their jobs. We increase civil penalties to make sure these companies—especially the ones who are repeat offenders—will know the CPSC has the authority to enforce what they do and make them feel the pain of that. We ban lead in children's products.

We move the commission, which used to be a five-member commission and is now down to three, back to a five-member commission.

We change the rulemaking process so that the authority rests with the CPSC again and not with the industry.

I could go on and on about the great things in this legislation. I know my time is short. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes.

Mr. PRYOR. Mr. President, I want to make sure I thank the people who deserve the lion's share of the credit. Senator STEVENS was critical. He came in at a very important time, early in the process, and helped shape the bill and helped to get us from a Democratic bill to a bipartisan bill that got us to where we are today. In fact, the House voted last night 424 to 1 to pass this.

I also thank Senators SUNUNU and HUTCHISON. Senator INOUYE, chairman of the Commerce Committee, was fantastic. Senator BOXER was great; she

was very focused on several issues. Senator KLOBUCHAR, although a new Senator, had a positive impact on the process. It was an honor to work with them. Also I thank several House Members, of course, including Chairman DINGELL and Congressman BARTON, fantastic partners over there, who worked hard to get this done. And also Speaker PELOSI weighed in at the end to make sure we got it done.

Maybe more important than all of us is the staff. We have a lot of staff sitting on the back benches. They have spent countless hours on this bill. They have been here weekends, in the evenings, and they have been haggling over every word, comma, and paragraph. I am so grateful to all of them.

The people on my staff include Andy York and Price Feland. When you look at the Commerce Committee, there is David Strickland, Alex Hoehn-Saric, Jana Fong Swamidoss, Mia Petrini, and Jared Bomberg. They were great. Of course, on the Republican side are Paul Nagle and his team, including Megan Beechener, Becky Hooks, Bridget Petruczok, Erik Olson, Kate Nilan, Tamara Fucile, Brian Hendricks, and Peter Phipps.

Also, I thank the CPSC commission. They helped as did their staff. Commissioner Moore, and Michael Gougisha and Pam Weller of his staff, as well as Jack Horner of the acting chairman's staff, all of these people played a key role in getting us to this very good bipartisan piece of legislation.

As I said, this is something of which the Senate and House can be very proud. Today, the White House announced they will sign the legislation. This is a major victory for the American people. Again, we followed the rules, we followed the correct process here. We got this done and we are going to make a big difference in the American marketplace.

Mr. President, I will turn it over to my colleague from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arkansas. First, I have to say he was dogged in his determination to work out this bill. It was a very long conference, with many issues. It was complicated. The importance of it was paramount in both of our minds.

I also want to say that on something this hard, the leadership of our committee was the driving force. Senator INOUYE and Senator STEVENS, the chairman and vice chairman of our committee, worked so hard, along with their staffs, to make sure the process kept going, that we never gave up. The conference lasted for months. I cannot say enough about Senator INOUYE and Senator STEVENS and the partnership on this committee that produced this great bill.

Then Senator PRYOR and Senator SUNUNU, chairman and ranking member of the subcommittee, also worked diligently and hard to make sure we took everyone's views into consideration. We tried to make compromises, even on some of the very toughest issues. That was just in the Senate. And then we also had the House. I feel very good about this result.

Again, the approval of this bill by very diverse groups shows this is a very good bill. The American Academy of Pediatrics, the Consumer Federation of America, and the Retail Industry Leaders Association all were at the table working with us to try to make sure we accommodated the safety needs of consumers—especially the parents of small children—and the needs of retailers and manufacturers to be able to produce products that consumers can safely purchase.

In this bill, we have a considerable emphasis on children's toys. That is what caused us to start looking at whether we had enough manpower in the Consumer Product Safety Commission. So I think children's toys are a very big part of the emphasis in this bill.

Let me talk about another few points in the bill. We authorize significant upgrading and modernization of the equipment and labs used by the commission to provide for more personnel, including more personnel at ports of entry and in foreign countries, to improve inspection of manufacturing facilities abroad and the products brought into our country from abroad.

We establish the most comprehensive lead safety standards that we have seen to date for toys and the paint manufacturers use on toys. These standards are implemented responsibly to give manufacturers time to adapt, without compromising safety. The standards also allow for use of alternative detection and measurement methods to improve the accuracy and efficiency of testing paint on small surfaces.

We also strengthen enforcement by increasing civil and criminal penalties and providing a limited role for State attorneys general to work in concert with the commission to enforce commission actions in the States. This is a huge improvement—one that Senator PRYOR, a former attorney general, was very aware that we could have better information, because the attorneys general in all of the States know, perhaps more urgently and more rapidly, when a product is deficient. So when they can step in and take an action based on the Consumer Product Safety Commission regulations, that is very helpful to expanding the reach.

We can also point to other areas where we made compromises. The bottom line is this is a very good bill. Maybe you don't like everything in it. I agree. I didn't get everything I wanted in the conference, nor did anyone else. But as I said, this was a months-long conference committee. It was a bill that passed the Senate with many amendments.

The Senate bill was vastly improved in the conference. We could not have done that without many hours—and weekend hours—of staff support. The Senator from Arkansas pointed out the number of staff who did such a great job. I want to say that on our side, Christine Kurth, Paul Nagle, Megan Beechener, Rebecca Hooks, and my own staffer, Bryan Hendricks, did a great job of working with the Democratic staff to forge the compromises.

On the Democratic side, I thank David Strickland, Andy York, Price Feland, and Jana Fong Swamidoss. I think we did a great job with the help of the experts on our staffs.

Mr. President, with that, I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, Senator HUTCHISON said something that is very important. We did focus on toys. Toys capture the imagination of the American public because no parent or grandparent wants to buy something and give it to a young child which could harm or, in some cases, kill them. That is the type of thing that grabs the headlines. Let me tell you, a couple of levels deeper, one of the ways we make toys safer for kids all over this country. What we did in this legislation is we established a statutory toy standard. Once we have that standard, and allow the CPSC to modify it over time, once that is in the statutes, that means we can test for that standard.

This bill has mandatory toy testing. For the first time ever, we are going to test these toys to make sure they meet the U.S. safety standards before they are ever sold in the marketplace.

If you think about a recall, a recall is a very uneconomical—I will use that term—and inefficient way to find a dangerous product. So the manufacturer comes over here with a product—many cases from overseas—and it is distributed, sold, and it injures someone, and the recall happens, and these products are all over America. We are streamlining it and making our marketplace more efficient and better for people all over this country.

I will end where I started. I see Senator SUNUNU here, who played a very key role. All of the Senators helped in some ways. Again, I will end where I started, and that is that this is a great piece of legislation. It really is. The American people will be so pleased with the work we have done to get this passed and get the President to sign it. It will make a big difference in everyone's lives all over this country. Again, it shows what we can do if we work together to solve our problems.

I am very honored and privileged to have Senator INOUYE designate me as the lead guy on our side to do this, and to watch Senators STEVENS and INOUYE work together. They set the pace on this legislation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. 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. INOUYE. 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. INOUYE. Mr. President, I ask for the yeas and nays on this measure.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the conference report to accompany H.R. 4040. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 89, nays 3, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—89

| | | |
|---|---|---|
| Akaka | Dorgan | Murkowski |
| Alexander | Durbin | Murray |
| Allard | Ensign | Nelson (FL) |
| Barrasso | Enzi | Nelson (NE) |
| Baucus | Feingold | Pryor |
| Bayh | Feinstein | Reed |
| Bennett | Graham | Reid |
| Biden | Grassley | Roberts |
| Bingaman | Gregg | Rockefeller |
| Bond | Harkin | Salazar |
| Boxer | Hatch | Sanders |
| Brown | Hutchison | Schumer |
| Brownback | Inhofe | Sessions |
| Bunning | Inouye | Shelby |
| Burr | Isakson | Smith |
| Byrd | Johnson | Snowe |
| Cantwell | Kerry | Specter |
| Cardin | Kohl | Stabenow |
| Carper | Landrieu | Stevens |
| Casey | Lautenberg | Sununu |
| Chambliss | Leahy | Tester |
| Cochran | Levin | Thune |
| Collins | Lieberman | Vitter |
| Conrad | Lincoln | Voinovich |
| Corker | Lugar | Warner |
| Cornyn | Martinez | Webb |
| Craig | McCaskill | Whitehouse |
| Crapo | McConnell | Wicker |
| Dodd | Menendez | Wyden |
| Dole | Mikulski | |

NAYS—3

| | | |
|---|---|---|
| Coburn | DeMint | Kyl |

NOT VOTING—8

| | | |
|---|---|---|
| Clinton | Hagel | McCain |
| Coleman | Kennedy | Obama |
| Domenici | Klobuchar | |

The conference report was agreed to.

Mr. DORGAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## HIGHER EDUCATION OPPORTUNITY ACT—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided.

Ms. MIKULSKI. Mr. President, we are about to vote on the Higher Education Act. It is an excellent bipartisan bill, led by the architect of the bill, Senator TED KENNEDY, working with Senator MIKE ENZI.

We bring to the Senate a bill that expands opportunity, expands the Pell grants, simplifies the process, gets rid of cronyism in lending, and at the same time deals with important shortages with teachers and with nurses.

I think when you review the whole content, you will know that tonight this Senate can pass a great bill. And we say to our friend, Senator KENNEDY, who is watching this vote, ''This one's for you, TED.''

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I just ask my colleagues to vote for this bill, and I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Ms. SNOWE (when her name was called). Present.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—83

| | | |
|---|---|---|
| Akaka | Conrad | Landrieu |
| Allard | Cornyn | Lautenberg |
| Barrasso | Craig | Leahy |
| Baucus | Crapo | Levin |
| Bayh | Dodd | Lieberman |
| Bennett | Dole | Lincoln |
| Biden | Dorgan | Lugar |
| Bingaman | Durbin | Martinez |
| Bond | Ensign | McCaskill |
| Boxer | Enzi | McConnell |
| Brown | Feingold | Menendez |
| Brownback | Feinstein | Mikulski |
| Bunning | Graham | Murkowski |
| Burr | Grassley | Murray |
| Byrd | Gregg | Nelson (FL) |
| Cantwell | Harkin | Nelson (NE) |
| Cardin | Hatch | Pryor |
| Carper | Hutchison | Reed |
| Casey | Inouye | Reid |
| Chambliss | Johnson | Roberts |
| Cochran | Kerry | Rockefeller |
| Collins | Kohl | Salazar |
| Sanders | Stevens | Warner |
| Schumer | Sununu | Webb |
| Shelby | Tester | Whitehouse |
| Smith | Thune | Wicker |
| Specter | Vitter | Wyden |
| Stabenow | Voinovich | |

NAYS—8

| | | |
|---|---|---|
| Alexander | DeMint | Kyl |
| Coburn | Inhofe | Sessions |
| Corker | Isakson | |

ANSWERED ''PRESENT''—1

Snowe

NOT VOTING—8

| | | |
|---|---|---|
| Clinton | Hagel | McCain |
| Coleman | Kennedy | Obama |
| Domenici | Klobuchar | |

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008—MOTION TO PROCEED

Mr. REID. Mr. President, the Republican leader and I have had a number of conversations today. We know the caucuses on his side and my side are tired. We have had a very difficult few weeks. We have a few more things to do this work period. That work period can be a matter of hours or it could be the next day.

Most would like to finish it tonight. If we could move up the cloture vote on the motion to proceed to the Defense authorization bill, we could do that tonight. The issue, it turns out now, is how long that debate would take. On our side we need 10 minutes. Senator LEVIN wanted a half-hour. He cut that back to 10 minutes.

If we could have some agreement on the other side that we could take 10, 5 minutes, whatever is appropriate, we could finish that tonight and basically finish the work of the Senate for this work period and come back, renew our struggles in September.

I ask unanimous consent that we move to the Defense authorization bill, that the motion to invoke cloture on that that was set for the morning, that we would do that following 10 minutes of debate controlled by the Senator from Michigan. The chairman of the committee would control 10 minutes, and whomever the Republican leader designates on his side would control whatever time they feel appropriate.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I would say to my friend, the majority leader, we are prepared to vote right now.

A number of Members are prepared to have a vote immediately. I think we all understand what we are voting on. I am not sure many of our Members think any further debate about the whole issue of whether to go to the Defense bill at this particular time would be enlightened by any additional debate.

We have a number of Members who have plans who know how to vote and would be happy to vote.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this bill is worth spending 10 minutes on tonight. This is the Defense authorization bill. For heavens' sake, can we not set aside the frustrations we all have on this other issue and at least support our troops and come together and unify behind our troops?

Can we not at least set a time to take up the Defense authorization bill, which is critically important? We cannot do this on the appropriations bill. It would be legislating on an appropriations bill. This is a pay increase, special benefits, the BRAC implementation. This has to do with whether families are going to get support, whether we are going to hire nurses. This is the men and women in uniform who are in harm's way.

The suggestion is, we cannot spend 10 minutes to debate on whether to take up an authorization bill. We have never not passed an authorization bill. By law, we must pass an authorization bill or else all the authorities which are critically important to the men and women in uniform are not going to be passed.

This cannot just be another vote, another vote which divides us Republicans from Democrats. We have to unify behind this bill. Senator WARNER and I and the members of the Armed Services Committee have worked month after month after month to get this bill up. This bill has been on the calendar for 3 months.

If we do not decide to take up this bill or have a place fixed to take up this bill when we get back, we are going to have 3 weeks of an ongoing debate on a critically important subject, I agree, energy, but then we will never get to the men and women in uniform.

This is not our bill. This is their bill. Let's vote to take it up and set a place, a firm place, where we can protect the men and women in uniform. They are overstretched. The equipment is running out. It is worn out. We owe them this. Set aside these differences for a few minutes, just a few minutes, and agree to take up this bill.

If we cannot take it up now, fix a time when we can take it up. That is my plea. I know Senator WARNER will join in this plea. This cannot be a partisan vote.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I do not know if the Senator took 10 minutes, but I think we heard the speech.

Mr. LEVIN. May Senator WARNER be recognized for a few minutes?

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I think the majority leader made a good point. I think we have heard the speech. Of course, we will not be passing the bill before recess. This vote will be about whether we stay on the No. 1 subject in America and whether we then do the Defense bill.

It appears to me as if we have had the suggestion, and I say to my good friend, the majority leader, why do we not now have the vote?

Mr. REID. Mr. President, I think that is appropriate, and I ask consent from everyone here that Senator WARNER have a few minutes.

Mr. WARNER. Mr. President, I thank the distinguished leader. I do hope I can say one word. To my leadership, I have explained to you I will soon conclude 30 years in this Chamber.

Having served with 264 Senators in that period of time, I say thanks to each and every one of them. But in that period, I think half my time has been devoted to issues relating to national security and the Armed Services. I checked the records of the committee. We have had 42 consecutive bills authorizing funds for the armed services of the United States. This will be the 30th of those bills that I have participated in, in bringing to the floor and, hopefully, getting a strong endorsement of this body.

I fully recognize the issues my colleagues have foremost in their mind at this moment. Not a one of them is against our national defense, not a one of them by their votes now could be challenged as to their patriotism and devotion to the men and women of the Armed Forces of this country.

But I will vote to go forth now, in an effort to support the cloture motion.

Mr. MCCONNELL. Mr. President, if I may, our good friend, Senator WARNER, has, of course, been a leader on this issue throughout his tenure in the Senate, and we respect his views. He has been a strong supporter of a strong national defense.

But the issue before us tonight is whether we are going to continue to try to solve the No. 1 issue in the country, and that is the price of gas at the pump. It is not whether we will do a Defense authorization bill.

The ranking member of the Armed Services Committee shares my view, that the first thing we ought to do is stay on the subject of energy, stay on the subject of getting the price of gas at the pump down, and then do the Defense authorization bill.

I am authorized to speak on behalf of the ranking member of the Armed Services Committee, our colleague, Senator MCCAIN, who shares my view that at this particular moment, the most important issue related to the national security of our country is to stay on the subject of energy, finish the job, and then, as Senator WARNER and Senator LEVIN have suggested, do the job of passing the Defense authorization bill.

Mr. REID. Mr. President, there is a unanimous consent pending.

The PRESIDING OFFICER. Is there objection to holding the cloture vote at this time?

Without objection, it is so ordered.

CLOTURE MOTION

Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

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 the motion to proceed to S. 3001, the National Defense Authorization Act for Fiscal Year 2009.

Carl Levin, Christopher J. Dodd, E. Benjamin Nelson, John F. Kerry, Claire McCaskill, Joseph R. Biden, Jr., Bill Nelson, Blanche L. Lincoln, Richard Durbin, Daniel K. Akaka, Robert Menendez, Kent Conrad, Sherrod Brown, Jack Reed, Jim Webb, Charles E. Schumer, and Harry Reid.

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

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military strengths for such fiscal year, and for other purposes, 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 New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KERRY), the Senator from Minnesota (Ms. KLOBUCHAR), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''nay.''

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

The yeas and nays resulted—yeas 51, nays 39, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—51

| | | |
|---|---|---|
| Akaka | Durbin | Murray |
| Baucus | Feingold | Nelson (FL) |
| Bayh | Feinstein | Nelson (NE) |
| Biden | Harkin | Pryor |
| Bingaman | Inouye | Reed |
| Boxer | Johnson | Rockefeller |
| Brown | Kerry | Salazar |
| Byrd | Kohl | Sanders |
| Cantwell | Landrieu | Schumer |
| Cardin | Lautenberg | Smith |
| Carper | Leahy | Snowe |
| Casey | Levin | Stabenow |
| Collins | Lieberman | Tester |
| Conrad | Lincoln | Warner |
| Dodd | McCaskill | Webb |
| Dole | Menendez | Whitehouse |
| Dorgan | Mikulski | Wyden |

NAYS—39

| | | |
|---|---|---|
| Alexander | Crapo | McConnell |
| Allard | DeMint | Murkowski |
| Barrasso | Ensign | Reid |
| Bennett | Enzi | Roberts |
| Bond | Graham | Sessions |
| Brownback | Grassley | Shelby |
| Burr | Gregg | Specter |
| Chambliss | Hatch | Stevens |
| Coburn | Inhofe | Sununu |
| Cochran | Isakson | Thune |
| Corker | Kyl | Vitter |
| Cornyn | Lugar | Voinovich |
| Craig | Martinez | Wicker |

NOT VOTING—10

| | | |
|---|---|---|
| Bunning | Hagel | McCain |
| Clinton | Hutchison | Obama |
| Coleman | Kennedy | |
| Domenici | Klobuchar | |

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider.

The PRESIDING OFFICER. The motion is entered.

The majority leader.

## CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to H. Con. Res. 398, a conditional adjournment resolution, and that the Senate vote immediately on adoption of H. Con. Res. 398; that if the adjournment resolution is agreed to, then it be in order for the Senate to convene for pro forma sessions on the following days: Tuesday, August 5; Friday, August 8; Tuesday, August 12; Friday, August 15; Tuesday, August 19; Friday, August 22; Tuesday, August 26; Friday, August 29; Tuesday, September 2; and Friday, September 5; that at the close of each pro forma session, the Senate would stand in recess, except for the pro forma session of Friday, September 5, at which time the Senate would adjourn; and that no business be conducted during the pro forma sessions.

Mr. President, I also note to all Members, we will likely have a late vote on the day we get back at 5:30—a 5:30 vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 398) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Minnesota (Mr. COLEMAN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nebraska (Mr. HAGEL), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''nay.''

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

The result was announced—yeas 48, nays 40, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—48

| | | |
|---|---|---|
| Akaka | Feingold | Mikulski |
| Baucus | Feinstein | Murray |
| Bayh | Harkin | Nelson (FL) |
| Biden | Inouye | Nelson (NE) |
| Bingaman | Johnson | Pryor |
| Boxer | Kerry | Reed |
| Brown | Kohl | Reid |
| Byrd | Landrieu | Rockefeller |
| Cantwell | Lautenberg | Salazar |
| Cardin | Leahy | Sanders |
| Carper | Levin | Schumer |
| Casey | Lieberman | Stabenow |
| Conrad | Lincoln | Tester |
| Dodd | Lugar | Webb |
| Dorgan | McCaskill | Whitehouse |
| Durbin | Menendez | Wyden |

NAYS—40

| | | |
|---|---|---|
| Alexander | DeMint | Sessions |
| Allard | Dole | Shelby |
| Barrasso | Ensign | Smith |
| Bennett | Enzi | Snowe |
| Brownback | Graham | Specter |
| Burr | Grassley | Stevens |
| Chambliss | Gregg | Sununu |
| Coburn | Hatch | Thune |
| Cochran | Isakson | Vitter |
| Collins | Kyl | Voinovich |
| Corker | Martinez | Warner |
| Cornyn | McConnell | Wicker |
| Craig | Murkowski | |
| Crapo | Roberts | |

NOT VOTING—12

| | | |
|---|---|---|
| Bond | Domenici | Kennedy |
| Bunning | Hagel | Klobuchar |
| Clinton | Hutchison | McCain |
| Coleman | Inhofe | Obama |

The concurrent resolution (H. Con. Res. 398) was agreed to, as follows:

H. CON. RES. 398

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on the legislative day of Thursday, July 31, 2008, Friday, August 1, 2008, or Saturday, August 2, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, September 8, 2008, 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 Friday, August 1, 2008, through Friday, September 5, 2008, 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, September 8, 2008, 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.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

## ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, before I speak, I have been asked to propound a unanimous consent request on speaking orders: 4 minutes for Senator GRASSLEY, 4 minutes for Senator COBURN, and whatever time Senator HARKIN would consume.

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

## MIDWESTERN FLOOD TAX RELIEF

Mr. GRASSLEY. Mr. President, I rise for the purpose of a unanimous consent request for the Midwestern flood tax relief bill sponsored by the Senators of several Midwestern States, including Senator HARKIN of my State, Senator DURBIN, Senator OBAMA of Illinois, and other midwestern Senators.

I rise to seek fairness and equity for people in the Midwest who have been hurt by floods, and I would say fairness and equity as measured by how Congress responded to the natural disaster of Katrina, New Orleans, et cetera.

I remember back in September of 2005, after that terrible catastrophe of August 29, what happened in New Orleans. Within the week after we were in session, after Labor Day, we had appropriated $60 billion. Within 3 weeks after that—I was chairman of the Finance Committee—we voted out of committee a tax equity bill that changed provisions of the Tax Code to encourage employers and businesses and people to stay there and weather it out.

What we did, we did without asking any questions. And now we seek the same tax relief for the States of the Midwest that have had the same type of catastrophe happen to them. I would measure catastrophe by a 500-year flood in the city of Cedar Rapids, IA, which won't be the same as it was prior to the flood.

So we have entered this legislation for consideration. We have worked it out with a lot of people who were involved in it. We worked closely with Senator BAUCUS's staff, with the staff of Ways and Means, trying to satisfy

everybody. We think we have a consensus.

Here it is, 6 weeks after the floods hit, and Congress has not acted. Congress should act. In other words, shouldn't the people hurt by the natural disaster of the Midwest have the same consideration as the people of New Orleans and those with other catastrophes? We are not getting it. It is very clear that when our disaster is not on television for 2 months in a row, like the disaster of New Orleans was on television for 2 months in a row, somehow Congress is absentminded about what happened in the Midwest.

So we face things like arguments from staff of some of the people in the other body that, well, this disaster wasn't anything like what happened in Katrina or you hear things like, well, we need to offset this bill. When I was chairman of the Senate Finance Committee and the people in New Orleans were hurting, we did not ask for offsets. We did not play political games with the legislation we eventually passed, like some efforts this Midwest Tax Flood Relief Act ought to be connected with extenders or with AMT or something like that. We got the job done. We didn't worry about it.

I come before this body tonight to ask for consideration of this legislation.

UNANIMOUS CONSENT REQUEST—S. 3322

At this point, I ask unanimous consent that the Committee on Finance be discharged from further consideration of S. 3322 and the Senate proceed to its immediate consideration. I ask unanimous consent that the Grassley amendment at the desk be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; and that the bill be held at the desk pending House action on the companion measure.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, I am speaking on behalf of Senator BAUCUS. I note that the Senator from Iowa realizes the bill that was before us yesterday, S. 3335, would not only have taken care of his State of Iowa, which truly deserves disaster assistance, but also my State of Illinois and all of the States that faced that disaster problem this year. Unfortunately, it did not pass; otherwise, it would have been on its way to the House yesterday. Had we received more than five Republican votes, it might have passed the House and be on its way to the President. But the decision was made on the Republican side of the aisle not to vote for that measure that would have helped Iowa, Illinois, and all of the States.

The measure Senator GRASSLEY brings before us leaves behind victims of disasters in States of Nevada, Colorado, Kentucky, Missouri, Mississippi, Tennessee, and Texas—to name a few—who would receive no relief under Senator GRASSLEY's bill but would have under the bill he opposed. So it is sad. I wish this could have been resolved yesterday with the vote if the Republicans would have joined us. Unfortunately, they did not. We will have to take this matter up when we return. I hope we can find a way to help all of the victims, not just in the Midwest but all across the country, which is the tradition of the Senate and the House. Regretfully, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRASSLEY. Mr. President, I ask unanimous consent for 1 minute.

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

Mr. GRASSLEY. Mr. President, I point out that what the Senator from Illinois described is an amendment that would not have responded to the Midwest in exactly the same way as we responded to Katrina. It would not have been as beneficial. It also did not contain the same 25 provisions we did for New Orleans, which were in that tax bill to help them.

I think we have a situation where we ought to respond the same way we did for Katrina. We are not doing it because the disaster in the Midwest is as bad. When we thought about Katrina, we didn't argue with other people about going back and taking care of disasters that previously happened. We took care of what was before us.

Right now, the flood of the Midwest is before us, and we ought to have the same equity and fairness that, when we had a Republican Congress, we gave to New Orleans. Whether we have a Democratic Congress or a Republican Congress, that should not make any difference. We are being treated differently when the Democrats control the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I ask unanimous consent that I may speak for about 7 minutes. I will try to do it in less time.

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

Mr. COBURN. Mr. President, I thank the majority whip for being on the floor tonight. I am one of the reasons why he is here, so I beg his indulgence at this time.

The Emmett Till Unsolved Civil Rights Crime Act was first introduced in the 109th Congress. The Republican sponsor at that time on our side of the aisle agreed to the offsets in that bill. That wasn't agreed to by the other side, so that bill wasn't passed. Although the offsets were accepted, it was still opposed.

Over the past 5 months, two press conferences have highlighted my ''obstruction'' of this bill and questioned my motives for holding it. I sent two letters to the prime sponsors of the bill and to the majority leader offering to negotiate a compromise on the bill. None of those were ever responded to. No sponsor ever contacted my office in the 110th Congress to try to work on this. Instead, I chose to work, because I couldn't get a response, with Alvin Sykes, a wonderfully incredible man, who is behind this bill. He has my utmost respect and admiration.

I will submit for the RECORD an article dealing with his incredible life story and his commitment and arduous work for this legislation.

Mr. President, I reached a compromise with Mr. Sykes and the Emmett Till Campaign for Justice, whose board of directors has endorsed our compromise language.

I ask unanimous consent that an e-mail we got from Mr. Sykes be printed in the RECORD.

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

From: Alvin Sykes.
To: Bacak, Brooke.
Sent: Thu July 31, 2008.

DEAR SENATOR COBURN:, First allow me to extend our appreciation and admiration for you and your staff's assistance and communication with us concerning S. 535 the Emmett Till Unsolved Civil Rights Crime Act. While we still believe that the hold that you placed on our bill was not the good way to effect the institutional change in the manner that the United States Senate does business we do appreciate the open lines of communications and respect that your staff, in particular Brooke Basak and Tim Tardibono, have shown us in negotiating with us on proposed language and conditions that would address your concern and minimize the loss we have suffered from going this route. Therefore our Board of Directors has voted to endorse a unanimous consent agreement that would include the latest draft language that rectifies the concerns with the controversy over the Attorney having authority to reprogram funds from one congressionally directed fund to another by elleviating all reference to reprogramming and replaced with prioritizing spending request if Congress does not fully fund the Till Bill. Furthermore we support you having the right to submit this language as amendment in the cloture vote process as long as the floor debate time is limited and that you would not replace your hold on our bill if your amendment fails. Nothing in this request is meant to criticize the Senate Leadership on the enormous work that they have done to craft and advocate for the passage of this bill especially the good work of Patrick Grant in Senator Dodd's office and Darrell Thompson in Senate Majority leader Harry Reid who has kept hope alive on this historic bill. However we firmly believe that truth and justice can be best achieved by opening and maintaining effective lines of communication and searching for a win-win justice seeking solution. We further believe that since you started this by placing your hold on our bill you should be the one to finish it.

Therefore the Emmett Till Justice Campaign, Inc. request that you make an overture to the Democratic Leadership and the sponsors of the Till Bill by introducing the Emmett Till Unsolved Civil Rights Crime Act, as proposed amended, under the unanimous consent agreement outlined above tonight in the interest of time, truth and justice.

Sincerely, in the pursuit of justice,
I am,

ALVIN SYKES,
*President,*
*Emmett Till Justice Campaign, Inc.*

UNANIMOUS-CONSENT REQUESTS

Mr. COBURN. Mr. President, at this time, I ask unanimous consent to call up and pass the modified Emmett Till Unresolved Civil Rights Crime Act, where it is paid for by taking money that is not appropriated. This is the problem everybody had, not offsetting. What this bill will do is, if we don't appropriate—and we won't this year, because we are going to have a continuing resolution—this will allow that money to be divided out in three categories in the Justice Department, which the Justice Department is accepting from both legal salaries, the FBI, and the U.S. Marshals—all the people working on these unresolved civil rights cases. I ask unanimous consent that it be called up and passed at this time.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, Mr. President, earlier this week, on Tuesday or Wednesday, we considered a package of bills, some 35 bills that had been held for a lengthy period of time—for months—which could have been considered, amended, changed, and brought forward. They were held with no chance for any kind of movement. This was one of them.

Sadly, this is a bill that has been considered and passed by the House of Representatives and has been out there for more than a year. I would like to see the bill passed—I would. But the fact that the Senator from Oklahoma worked out his differences with some person, as well intentioned as it may be, doesn't escape the reality that this bill has been the subject of hard work by a lot of Senators and Congressmen. Unfortunately, it was subjected to a hold by a Member on the Republican side. I hope that, in good faith, when we return, we can return to this bill. I would like to see this and all 35 bills in the package passed and taken as seriously as the Senator from Oklahoma is now taking this bill.

Unfortunately, at this moment, I must object.

Mr. COBURN. Mr. President, it is sad to note that this could not pass tonight. We could accomplish what everybody claims to want. The fact that nobody was willing to work on this bill, but held it without compromise and without offsets, it is the same issue again. We are going to grow the Government and not get rid of waste. There is $2 billion in waste a year in the Justice Department. Yet we are going to grow this program and not pay for it.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. I also note for the RECORD that I spoke with Senator DODD about the bill tonight. He had no objection whatsoever and he agreed with the compromise. He is the chief sponsor on that side of the aisle.

Mr. President, I call up and ask unanimous consent to pass a compromise bill on child exploitation. The bill, S. 3344, is the Protecting Children from Pornography and Internet Exploitation Act of 2008.

I had a conversation with Senator BIDEN this evening. He is in full agreement with this. He understands that others on his side of the aisle might not be in agreement. He is the chief sponsor of that bill. Our bill gives everything that was included, plus the SAFE Act, which everybody agrees needs to be a part of any approach we make. The authors on the other side of the aisle took a $1.3 billion authorization and compromised and lowered that. We compromised by accepting that spending on the basis that we would add the SAFE Act to it. This bill has been changed in substance in no way other than that.

I ask unanimous consent that it be called up and passed.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, This is another bill of the 35 that have been held for an indefinite period of time by the Republican side of the aisle. We offered a package which had included measures for medical research, which has been held for an indefinite period of time on the Republican side of the aisle.

This bill which, ironically, was reported out of the Judiciary Committee, which Senator COBURN and I both serve on—I believe it was reported unanimously—is a bill that deals with child exploitation. I believe it is a bill that deals with Internet pornography, if I am not mistaken. It is something which should have not only gone out of committee unanimously, but it should not have been subject to the holds on the Republican side of the aisle for reasons that are not explicit. In desperation, an effort was made to bring these to the floor and ask for a bipartisan response and to pass them in a timely way. The Senator from Oklahoma voted against that, as did most of the Senators on his side.

Many are now coming to the floor trying to revive the bills they voted against a couple days ago. I wish the same level of interest and effort would have been taken during the period when these bills languished subject to their hold. At the last minute, virtually right after the Senate has adjourned and left, it is not fair to bring these up. I hope we can do this as soon as we return.

At this moment, I have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. Mr. President, I ask unanimous consent for an extension of my time as I go through the rest of these. I will be as brief as possible.

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

Mr. COBURN. I also note, again, there were hard efforts to work this out. The fact is, the majority has decided that all the bills will be in one package, regardless of the efforts we have worked on.

I also make the statement that this came out by a voice vote from the Committee. I didn't vote ''yes'' on the bill in the committee. No. 2, there is no requirement that a Senator, even if he votes for a bill in committee and is assured he can work on the bill after the committee, is obligated to support a bill that comes out of his committee.

The next unanimous consent request I have is on this same bill, S. 3344, titles I and IV, which include the PROTECT Act and the SAFE Act.

I ask unanimous consent that those two sections be called up and passed. They are identical; nothing has changed and there is nothing controversial. Again, I ask unanimous consent that they be passed.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, I understand the embarrassment and pain the Senator feels having voted on these bills——

Mr. COBURN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COBURN. Mr. President, shouldn't an objection to the bill be stated?

The PRESIDING OFFICER. Does the Senator object?

Mr. DURBIN. I object.

Mr. COBURN. Mr. President, there is no embarrassment or any pain on my part to try to do this. I have worked on these bills to try to do what I thought was right. I reject any statement that I am embarrassed. I have no pain about this. I am proud of the work I have done in trying to stop excessive spending and when we have appropriate programs to favor that spending through offsets of other wasteful spending.

I ask unanimous consent to call up and pass subtitle D of S. 3297, the Effective Child Pornography Prosecution Act. This was never held by anybody on our side. It was never objected to by anybody on our side. There was never a hold and never an objection.

I ask unanimous consent right now that we pass that one bill. Even if you want to play politics, the point is, here is one we can do tonight. Nobody has ever objected to it in the Senate. We can pass and still have the 34 or 33 bills. Here is one we can make a difference with tonight.

I ask unanimous consent to call up and pass this item.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, this was part of the 34, 35 bills in a package that was held. For reasons I cannot explain, some Member on the Republican side did hold it. That is why it was put in the package.

The Senator voted against the package, and I object.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. Mr. President, I ask unanimous consent to call up and pass subtitle E of S. 3297, the Enhancing the

Effective Prosecution of Child Pornography Act. This is a bill that also was never held on our side of the aisle.

Again, I make the same argument that, in fact, we can do something tonight. There is no controversy surrounding this bill, no controversy about what we should be doing. I ask unanimous consent that we pass this item.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object, same argument, same objection.

The PRESIDING OFFICER. Objection is heard.

Mr. COBURN. Mr. President, I thank the majority whip for his patience in dealing with this business tonight.

I will end my remarks with the following: What we have had in the Senate this past week is an attempt to change the Senate to the House. The Senate's tradition is debate and amend. Every one of the bills I have had a hold on, I proudly hold those bills. I have notified everyone involved in the legislation on why I was holding those bills. The fact that we had no response to negotiate any sort of compromise whatsoever on those bills tells us there was no good intent in the first place to try to pass those bills.

Let the record show that the Emmett Till bill could have been passed tonight, supported by the very people who started this bill in the first place, who started the effort to get it passed, who endorsed our efforts and, in fact, it was denied.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, let me just say I do respect the Senator from Oklahoma. He and I have worked together. I do respect the fact that when he puts a hold on a bill, he is public about it. There are many people who sneak around here who hold legislation and hope they will never be discovered. Senator COBURN from Oklahoma does not take that position. I respect him for that. I may disagree with him on many substantive issues, and we do disagree, but I do respect him for his approach.

Let's be very honest about this situation. These 35 bills are bills we wanted to pass. They are bills passed out of committee. They are bills sponsored by Democrats and Republicans. They are bills we tried to bring up by unanimous consent that were held by the Republican side of the aisle. In our frustration over these holds, we packaged them together and asked Republicans to join us and pass them in a bipartisan way.

Each and every one of these bills had virtual unanimous affirmation in the committees to which they were referred, and most of them had passed overwhelmingly with bipartisan votes in the House.

But now we have a situation where individual Senators—and it is the right of every one of us as Senators—are deciding: I will just take a cluster of these bills and hang on to them. I will let my staffers look them over. We will get back to you in a few weeks, maybe a few months, maybe never. That abuses the process.

I believe if someone has a serious problem with a bill, has a misgiving, they should announce their hold and the reason for the hold, and, I guess, out of respect for the sponsor, to go forward and explain what the problem is. If it can be resolved, fine, and if it cannot be, so be it.

I also want to say this: What is wrong with calling up these bills and those who don't like them voting against them? That is their right to express their displeasure on the record. But to hold the bill—if I can't have it my way, no one gets a chance to vote—I think pushes it to the extreme. To do that occasionally in your senatorial career, I can understand. But to make that the business of the Senate is to guarantee total frustration.

Today in the Senate Judiciary Committee, I couldn't help but interrupt the proceedings and ask what the point was of deliberating on bills if some of the same Senators who were going to vote for those bills out of committee were going to hold them once they came to the floor and really make sure they never had a chance to be passed into law. That is fact. That is what has happened.

Because of the pain that has been caused by these earlier votes where Republicans have come to us privately and said: We are sorry we voted this way; some of these bills are bills we really wanted to vote for, now they have come to the floor and tried to pick them off one at a time and reduce the pain and—I will use the word ''embarrassment,'' although Senator COBURN says neither applies to him. I think for some of his colleagues there is embarrassment that they would vote against a bill to establish a national registry for victims of Lou Gehrig's disease, that they would put a hold on a bill that was designed to deal with paralysis, the Christopher Reeve bill, in an attempt to honor this man and all he did and try to help quadriplegics across the country; a bill cosponsored by Senator COCHRAN and Senator KENNEDY to deal with stroke victims, that they would put a hold on that; a hold on a bill in which I have a great interest dealing with postpartum depression.

The belief on that side of the aisle is, it is all right; we can hold them until they are exactly the way we want. That has gone on too long, for months and even longer.

When it comes to some of these bills relating to criminal sections, some of these should be passed in a hurry. I don't know any one of us who does not want to deal with Internet pornography that threatens our children and grandchildren, kids in our communities. We had this bill ready to go. This bill should have been passed quickly, and it was held on the Republican side of the aisle until we had to bring it up in this package and then voted against, voted not to bring it forward.

In their frustration, they have now tried to come out at the close of the week and have something to point to: I tried to come back on the floor, I tried to bring the bill up, but Democrats objected. The true story is those bills have been held up for months. They have been held up on the Republican side of the aisle.

I sure hope my colleagues will understand they cannot run the Senate the way each one wants to run it. We cannot let every single Senator decide the agenda of this Senate or it will be dysfunctional and chaotic and many good pieces of legislation will never see the light of day.

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. 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.

## MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

## CONGRATULATING TERRY SAUVAIN

Mr. BYRD. Mr. President, St. Ignatius High School is a private, Roman Catholic, Jesuit high school for young men located in Cleveland, OH. The school is renowned for its high standards of academic excellence, with nearly 100 percent of its graduates attending colleges and universities within one year of graduation.

Under the leadership of Rev. Tim Kesicki, S.J., and his predecessor, Fr. Robert J. Welsh, S.J., this high school works hard to produce students who are open to growth, intellectually competent, loving, religious, and committed to doing justice. In summary, a St. Ignatius student is a ''man for others.''

Each year, Saint Ignatius High School presents its annual John V. Corrigan '38 Distinguished Alumnus Award to a graduate with notable achievements who has used his talents and skills for those in need, consistent with the paramount objective of Jesuit education the formation of ''Men for Others.'' The award recognizes an accomplished graduate who serves as a positive role model for the students of St. Ignatius High School.

I am quite proud and most pleased to announce that the 2008 John V. Corrigan '38 Distinguished Alumnus Award was presented to the one of the Senate's very own, Mr. Terrence E. Sauvain, who currently serves in my office of the President pro tempore as a senior advisor.

I have been very fortunate to have had Terry as a member of my staff for so many years. In every task I have asked him to undertake, including 2 years of service as the secretary to the minority leader, Terry has performed his duties with courtesy, dedication, efficiency, and diligence. In every position, he has gone above and beyond the call of duty in performing the work of the Senate, assisting my representation of the people of West Virginia, and serving the best interests of the Nation, and for all this, I am truly grateful.

Terry Sauvain also served as the 14th staff director of the Senate Appropriations Committee, since the committee was formed in 1867. In this role, Terry directed a great team of professional analysts with a goal of ''sharpening the issues'' so that Senators were able to make bipartisan, responsible, and fiscally prudent decisions on Federal Government spending amounting to $1 trillion per year. Terry's outstanding service to the Senate has earned him a variety of honors, including the Nyumbani Medallion of Hope for his work supporting me in the humanitarian fight to bring relief to children with HIV/AIDS in Africa.

I heartily congratulate Terry Sauvain and his family on his receipt of this award.

I ask unanimous consent that an article appearing in the most recent issue of St. Ignatius Magazine concerning this award be printed in the RECORD.

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

TERRENCE SAUVAIN HONORED FOR DISTINGUISHED PUBLIC SERVICE

(By Paris Wolfe)

This past February, Terrence Sauvain '58 received The Honorable John V. Corrigan '38 Distinguished Alumnus Award for notable achievements in his profession.

During the selection process, the award committee asked former award recipient Fr. Thomas Acker, S.J., '47, about Sauvain. ''He was glowing about Terry, and all he's done,'' says Steve Gerba '89, committee chair.

Sauvain spoke to students during his visit to Cleveland. ''He shared insight into government,'' Gerba recalls. ''He couldn't say enough about good education as a career foundation.''

In August 2002, Wheeling Jesuit University recognized Sauvain's career achievements. The university conferred an honorary Doctor of Humane Letters degree on Sauvain in the presence of U.S. Sen. Robert Byrd, U.S. Rep. Alan Mollohan and Fr. Acker, president emeritus of Wheeling Jesuit University. The degree recognizes Sauvain's contributions to the United States through a distinguished career in public service under Byrd's leadership and mentoring.

Sauvain considers himself fortunate to have served Byrd, master of the appropriations process, as the Senate Appropriations committee staff director. He was only the 14th person to serve in that capacity since the committee was founded in 1867. As staff director, he was the senator's right arm in reviewing budgetary expenditures of $1 trillion annually. For his service to the senator in the humanitarian fight to bring relief to children with HIV/AIDS in Africa, he was awarded the Nyumbani Medallion of Hope.

Throughout his 43 years of public service, Sauvain has tried to live the lessons he learned at Saint Ignatius and the University of Notre Dame. He has always been impressed by the Prayer for Generosity that Saint Ignatius students recite, and he is convinced that those whom we most admire have demonstrated personal sacrifice and dedication to duty, which require a great measure of personal generosity.

Sauvain earned a master's in government from George Washington University in 1971. Capt. Sauvain, USCGR ret., served 30 years in the Coast Guard Reserve, his ''second job,'' where he specialized in joint Coast Guard and National Guard counter-drug operations. He is the recipient of the Coast Guard Meritorious Service Medal, the National Guard Eagle Award and the National Guard Association Patrick Henry Award.

In 2006, the University of Notre Dame honored him with The Reverend John J. Cavanaugh, C.S.C. Award for distinguished public service. In 2007, the U.S. Coast Guard's commandant presented him with a Distinguished Public Service Award.

He and his wife, Veronica, have three children: Marie Robertson (James), Catherine and Terrence Jr.—all lawyers.

## REMEMBERING SENATOR JESSE HELMS

Mr. WARNER. Mr. President, I rise today to pay tribute to a fellow Senator, a friend, and a true Southern gentleman, Senator Jesse Helms, who passed away on July 4, 2008. He was a man resolute in his beliefs. I have heard many say here in the Senate, as well as outside the Capitol Grounds, that regardless of what you thought about his position or opinion, you always respected Senator Helms for standing up for what he believed.

As a master of the Senate parliamentary procedures, he did not hesitate to use this knowledge as a tool when he thought it was necessary to get his point across. While inevitably these tactics might have frustrated some of his colleagues from time to time, Senators couldn't help but marvel at his courageous defense of his beliefs, and they never doubted that Senator Helms would treat them with respect. I have heard from those close to Senator Helms, and experienced it myself, that he was true to his belief that standing up and defending one's opinion was never to be confused with, or providing a reason for, animosity towards one's opponents.

His kindness and respect did not stop with his colleagues in the Senate. Senator Helms was a true advocate that Senators were here to represent and serve their constituents regardless of any party affiliation, and his office was known for its impeccable constituent services. His beliefs and service to his fellow citizens not only endeared him to those he served or those he served with, but also to those that had the privilege to serve on his staff. I don't think he even referred to them as his staff but as his Senate family—the Helms Senate family.

His dedication to his staff is exemplified by the number of his staffers that went on to serve in important positions in federal and state government and in the private sector, having been ''tutored and trained'' in the discipline of Senator Helms. An excellent example is Robert Wilkie, now serving in the Defense Department as Assistant Secretary for Legislative Affairs.

Respect for Senator Helms extends well beyond these Senate halls to across the globe. Senator Helms' experience with foreign policy started with his service in the U.S. Navy during World War II and continued with his efforts to reform the United Nations. His effect was no less prevalent when he was the first legislator to address the U.N. Security Council. I was privileged to witness his stalwart performance.

It goes without saying that the Senate, this Nation, and the State of North Carolina are better today because of Senator Helms. I extend my most heartfelt condolences to the Helms family and his friends.

Mr. GRAHAM. Mr. President, today I rise to speak about the contributions and service of one of the true giants of the U.S. Senate.

Senator Jesse Helms of North Carolina was one of the longest serving and most distinguished Senators in the history of our Nation. During his time in the Senate, he was known as a strong advocate for his causes and was one of the most tenacious fighters this body has ever seen. Senator Helms knew what he believed, why he believed it, and he was always prepared to fight strenuously for his cause.

On those occasions when the Senate was prepared to promote ideas with which he disagreed, Senator Helms proved to be one of the most adept at slowing the body to a crawl. It was a trait that endeared him to many of his supporters and was a source of much consternation for his detractors.

However, if there is one accomplishment for which Senator Helms will be long remembered and greatly admired, it is his steadfast warnings and commitment to fighting the scourge of communism. Not a day went by that Senator Helms was not concerned about the spread of communism around the globe.

Like President Reagan and South Carolina's own longstanding Senator Strom Thurmond, Senator Helms understood that communism was an evil ideology and, at its most basic form, a means of enslaving millions of people. As a nation of freedom-loving people, we had a responsibility to stop its spread.

The struggle against communism continued for decades with Senator Helms playing a leading role in encouraging our Nation to confront this evil. Eventually, the hard line he took

against communism, along with Reagan, Thurmond, and others, was vindicated. The Berlin Wall tumbled and the Soviet Union collapsed.

Today, communism has been discredited and millions of people have been freed from its bonds. Senator Helms, and the other strong anti-Communists, deserve our thanks for their steadfast fight and eventual victory over communism. It would not have been possible without their hard work.

In closing, I was saddened to hear of the passing of Senator Helms and I want to take this opportunity to send my condolences to his family and friends. I also want to express my sincere appreciation for his long service in the U.S. Senate and to the Nation he loved.

Mr. SPECTER. Mr. President, I have sought recognition to pay tribute to my late colleague from North Carolina, Senator Jesse Helms. I look back upon his career in the U.S. Senate and remember a true champion of conservative values; a Senator who stood by his convictions with a tenacity for which he will long be remembered.

Senator Helms was initially introduced to public service by his father, who served their North Carolina community as both the fire chief and the chief of police. After working in print, radio, and television journalism and serving on the Raleigh City Council, Jesse Helms decided to run for Senate in 1972 and proved his political mettle by defeating three opponents to win the seat.

Senator Helms spent the next 30 years serving five terms in the Senate, leaving behind a legacy of uncompromising and unapologetic conservatism. He could boast of many accomplishments during his career, including being dubbed ''Senator No,'' a moniker he earned for standing strong against issues he felt threatened the conservative agenda. Senator No chaired the Agriculture Committee from 1981–1987 and the Foreign Relations Committee from 1995–2001, where he had a hand in cultivating many important pieces of legislation. His firm stance against tyranny led to successful negotiations and passage of a bill to assist Cuban citizens, organized efforts to bring more countries into the NATO alliance, and supported the development of a missile defense system to defend our allies abroad.

Senator Helms also made his presence known on the national campaign trail where played a pivotal role in fostering the conservative agenda in Ronald Reagan's presidential campaign in 1976. His efforts were so effective he was asked to participate again in 1980. Clearly ''Senator No,'' a moniker he earned for standing strong against issues he felt threatened the conservative agenda, helped the future President shape his conservative message.

Senator Helms and I may have differed on many issues, but I respected his wide array of knowledge and the vigor with which he defended them. I am glad to say I served in this chamber with Jesse Helms and will always honor his passion for life and dedication to service in the Senate.

Mr. ENSIGN. Mr. President, President William McKinley once said, ''That's all a man can hope for during his lifetime—to set an example—and when he is dead, to be an inspiration for history.''

Of all his accomplishments during his lifetime, the example that Senator Jesse Helms set for treating others rises above everything else. During my first term in the Senate, I had the privilege of traveling to Mexico as part of a congressional delegation with Jesse Helms. I saw his kindness and sincerity in the way he treated everyone, regardless of position. The foreign dignitaries received the same respect and consideration as staff. Not enough Senators treat members of their staff like members of their family, but Jesse Helms did. And that gentleness extended to all who came into contact with him.

The kindness with which he touched so many lives stands in stark contrast to the harsh and tough image which many had of Jesse Helms. Seen as rough and hard-hitting, a more fitting description of Jesse Helms is that he was a steadfast believer in the principles of America. Jesse Helms was the voice, sometimes the lone voice, of a centuries' old vision of a sovereign United States committed to freedom, a strong national defense, and free enterprise. He was willing and able to stop business in the Senate when the strength of our Nation was threatened.

But to those whose lives were personally touched by Jesse Helms, progress was never paused. Instead, Jesse Helms was a conduit of democracy and opportunity. Generations of Cubans, Taiwanese, Iraqis, and Africans will always remember the support that a Senator from North Carolina dedicated to their causes.

And countless North Carolinians will remember the meaningful impact that Jesse Helms had on their lives as their advocate to a sometimes unyielding government bureaucracy. One constituent from Raleigh noted her Senator's efforts on behalf of her aging parents. She remembered her mother saying if there was a problem that couldn't be resolved, ''Call Jesse Helms. He won't stop until he gets it solved.''

His commitment to his constituents speaks volumes about Jesse Helms's passion for his job and the people who elected him. He always remembered who he represented and why. And he always remembered that we ensure the strength of our Nation by inspiring young people to continue the work of generations of patriots. He never turned away young men and women looking for advice and often engaged them in dialogue. Time and again he told them to stand up for their principles. And then he showed them by example.

Very few Americans in our Nation's history have risen to the level of accomplishment and reverence as Jesse Helms. During three decades in the Senate, he set an example for all Americans as he always stood by his principles and extended kindness to friend and foe. Now he is an inspiration for history.

## FORMER VICE PRESIDENT PROTECTION ACT OF 2008

Mr. LEAHY. Mr. President, I am pleased that, last night, the Senate unanimously passed the Former Vice President Protection Act, H.R. 5938, a bill to ensure that former Vice Presidents and their immediate family receive Secret Service protection for 6 months after they leave office. I am especially pleased that this important legislation includes key provisions of the Leahy-Specter Identity Theft Enforcement and Restitution Act, a critical cyber crime bill that unanimously passed the Senate last November. I urge the House of Representatives to promptly take up and enact this important criminal legislation.

Although the Secret Service has provided protection to former Vice Presidents over the last 30 years, through a variety of temporary grants of authority, this legislation will provide clear authority for the Secret Service to provide such protection for the first time. The men and women of the Secret Service perform the very difficult job of protecting our current and former leaders exceptionally well. I am pleased that this legislation will help the Secret Service to carry out this important mission.

This bipartisan legislation also includes important cyber crime provisions portions of the Identity Theft Enforcement and Restitution Act to protect the privacy rights of all Americans. The anti-cyber crime provisions in this bill are long overdue. A recent survey by the Federal Trade Commission found that that more than 8 million Americans fell victim to identity theft in 2005. In addition, a new report by the Organization for Economic Cooperation and Development encourages democratic governments around the world to more aggressively fight identity theft by enacting stronger cyber crime laws and stiffening the penalties to deter potential cyber-criminals.

The key anti-cyber crime provisions that are included in this legislation will close existing gaps in our criminal law to keep up with the cunning and ingenuity of today's identity thieves. First, to better protect American consumers, the legislation provides the victims of identity theft with the ability to seek restitution in Federal court for the loss of time and money spent restoring their credit and remedying the harms of identity theft, so that identity theft victims can be made whole.

Second, to address the increasing number of computer hacking crimes

that involve computers located within the same State, the cyber-crime amendment eliminates the jurisdictional requirement that a computer's information must be stolen through an interstate or foreign communication in order to federally prosecute this crime.

Third, this legislation also addresses the growing problem of the malicious use of spyware to steal sensitive personal information, by eliminating the requirement that the loss resulting from the damage to a victim's computer must exceed $5,000 in order to federally prosecute the offense. The bill carefully balances this necessary change with the legitimate need to protect innocent actors from frivolous prosecutions and clarifies that the elimination of the $5,000 threshold applies only to criminal cases.

In addition, the amendment addresses the increasing number of cyber attacks on multiple computers by making it a felony to employ spyware or keyloggers to damage 10 or more computers, regardless of the aggregate amount of damage caused. By making this crime a felony, the amendment ensures that the most egregious identity thieves will not escape with minimal punishment under Federal cyber-crime laws. The legislation also strengthens the protections for American businesses, which are more and more becoming the focus of identity thieves, by adding two new causes of action under the cyber-extortion statute—threatening to obtain or release information from a protected computer and demanding money in relation to a protected computer—so that this bad conduct can be federally prosecuted.

Lastly, the legislation adds the remedy of civil and criminal forfeiture to the arsenal of tools to combat cyber crime, and our amendment directs the U.S. Sentencing Commission to review its guidelines for identity theft and cyber crime offenses.

Senator SPECTER and I have worked closely with the Department of Justice and the Secret Service in crafting these updates to our cyber-crime laws, and the legislation we add as an amendment to the Former Vice President Protection Act has the strong support of these Federal agencies and the support of a broad coalition of business, high-tech and consumer groups. The bill as amended to include these critical cyber-crime provisions is a good, bipartisan bill that will help to better protect our Nation's leaders and to better protect all Americans from the growing threat of identity theft and other cyber crimes.

Again, I thank the bipartisan coalition of Senators who have joined Senator SPECTER and me in supporting this important bill. I urge the House of Representatives to promptly enact this important criminal legislation.

## HABEAS CORPUS

Mr. LEAHY. Mr. President, last month's 5–4 Supreme Court decision in Boumediene v. Bush reaffirmed our core American values, and served as a stinging rebuke to the Bush administration's flawed power grabs over the last 6 years. The Bush administration's repeated attempts to eliminate meaningful review of its actions by the Federal judiciary have again failed to withstand Supreme Court review. This decision is a vindication for those of us who have maintained from the beginning that the administration's detention policies were not only unwise, but were also unconstitutional.

In the wake of the tragic attacks on September 11, 2001, toward the beginning of President Bush's first term in office, this country had an opportunity to come together to show that we could bring the perpetrators of heinous acts to justice, consistent with our history and our most deeply valued principles. I and others reached out to the White House to try to craft a thoughtful and effective bipartisan solution.

Instead, this White House, supported by the Republican leadership in Congress, pursued its goal of increasing executive power at the expense of the other branches. In so doing, they chose a path that disregarded basic rights, lessened our standing in the world, trampled some of our most deeply held values, and brought us no closer to delivering justice to those who have injured us.

At a recent Senate Judiciary Committee hearing, which explored the mistakes and missed opportunities of the past few years, we heard from Will Gunn, a retired U.S. Air Force colonel and the former chief defense counsel of the Military Commissions. He believes that ''many of our detention policies and actions in creating the Guantanamo military commissions have seriously eroded fundamental American principles of the rule of law in the eyes of Americans and in the eyes of the rest of the world.'' Kate Martin, the Director of the Center for National Security Studies, said that the administration's decision to ignore the law of war and constitutional requirements had proved to be ''disastrous,'' and that ''[d]isrespect for the law has harmed, not enhanced, our national security.''

I agree with these sobering assessments. I think that we are less safe as a result of the Bush administration's policies.

Some of us have tried in vain for years to move this country away from this destructive course, but, ironically, it has taken a conservative Supreme Court to remind this administration that the President's claim to unlimited power to override our laws is wrong. Boumediene is only the latest example of the Supreme Court decisively rejecting the administration's illegal and misguided policies.

In 2004, the Supreme Court decided two habeas-related cases Rasul and Hamdi. In those cases, the Court rejected the Bush administration's reckless and ill-advised attempts to deprive citizens and noncitizens of their right to challenge their indefinite detention in Federal court. I said at the time that these decisions ''reaffirm the judiciary's role as a check and a balance, as the Constitution intends, on power grabs by other branches.'' I also called on the Republican-led Congress to ''stop acting as a wholly owned subsidiary of this administration and to exercise its constitutional responsibility to rein in White House unilateralism and overreaching.''

The following year the Republican-led Congress attempted to overrule the Supreme Court's Rasul decision by passing the Detainee Treatment Act, DTA. I spoke out against the habeas-stripping provisions contained in the DTA. I warned that ''in order to uphold our commitment to the rule of law, we must allow detainees the right to challenge their detention in Federal court.''

This effort to prevent people from using habeas procedures to challenge the basis for their detention in Federal court backfired. In a later decision in the Hamdan case the Supreme Court rejected the view that the DTA stripped the courts of jurisdiction over pending habeas cases. I applauded the Hamdan decision at the time as a ''triumph for our constitutional system of checks and balances.''

But once again, instead of following the Supreme Court's repeated reminders that our Government must respect our Constitution and laws, within weeks of the Hamdan decision, the last Congress, acting in complicity with the Bush administration, hastily passed the Military Commissions Act in the run-up to the 2006 mid-term elections. That bill sought, once again, to strip access to Federal courts for noncitizens determined to be enemy combatants or who were merely ''awaiting determination.'' It aimed to take away habeas rights not just for detainees held at Guantanamo Bay, but also potentially for millions of lawful permanent residents working and paying taxes in this country.

I voted no. These were my words then:

> Over 200 years of jurisprudence in this country, and following an hour of debate, we get rid of it. My God, have the Members of this Senate gone back and read their oath of office upholding the Constitution? [W]e are about to put the darkest blot possible on this Nation's conscience.

Regrettably, the Federal appellate court in Washington, DC the same court whose limited review was supposed to serve as a substitute for the Great Writ fumbled its opportunity to set things right. It held that the jurisdiction-stripping provisions did not violate the Constitution.

Those of us who recognized that Congress had committed a historic error when it recklessly eliminated the Great Writ of habeas corpus tried to reverse what had been done. But even with the support of several Republican Members of this body, Senator SPECTER and I fell 4 votes short of the 60 votes

required to overcome a Republican filibuster of our effort last year to restore habeas rights by adding the Habeas Corpus Restoration Act as an amendment to the Department of Defense authorization bill.

In its Boumediene decision, the U.S. Supreme Court fulfilled its constitutional responsibility—a responsibility in which so many others had failed and upheld the Constitution and our core American values. After Boumediene, the administration's record in the Supreme Court on habeas is now 0 for 4. Four times it has sought to erode the time-honored habeas right that protects the liberties our forebears fought and died for. And four times the Supreme Court has repudiated these ill-advised efforts.

One cannot help but wonder where we would be in the fight against terrorism today had the Bush administration spent more time trying to catch and try terrorists, and less time trying to erode our time-honored constitutional traditions.

What did a majority of the conservative Supreme Court actually say in Boumediene? First, it reiterated that the Constitution extends to Guantanamo Bay, Cuba. So the Bush administration's cynical gambit to house detainees just miles from the Florida coast to avoid judicial scrutiny and accountability for its conduct has failed as a matter of constitutional law. As the opinion of the Supreme Court correctly recognizes, the basic protections represented by the Great Writ ''must not be subject to manipulation by those whose power it is designed to restrain.''

Second, the Supreme Court held that the administration's detention procedures put in place back in 2005 are a constitutionally inadequate substitute for habeas corpus. The Court found that the so-called combatant status review tribunals established to determine if detainees held at Guantanamo Bay have correctly been identified as enemy combatants are hopelessly flawed. I have maintained all along that it is unfair and un-American to detain anyone without judicial recourse based on proceedings that do not allow those held even the most basic due process rights.

Third, the Supreme Court held that the provisions of the Military Commissions Act that strip away all habeas rights for the Guantanamo detainees and others are unconstitutional.

The Supreme Court's opinion written by Justice Kennedy is quite eloquent and moving. While recognizing the executive authority and responsibility to apprehend and detain those who pose a real danger to our security, Justice Kennedy went on to note:

> Security subsists, too, in fidelity to freedom's first principles. Chief among those are freedom from arbitrary and unlawful restraint and the personal liberty that is secured by adherence to the separation of powers.

He wisely counsels that the Constitution is fundamental, that ''[o]ur basic charter cannot be contracted away,'' and that the Constitution is not something the administration is able ''to switch on and off at will.'' He rightly concludes:

> The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law. The Framers decided that habeas corpus, a right of first importance, must be a part of that framework, a part of that law.

The Supreme Court reaffirmed American values, our fundamental adherence to our Constitution and the rule of law, and our great strength in so doing.

What is surprising is not that the U.S. Supreme Court would follow through on the earlier holdings of its opinions by Justice O'Connor and Justice Stevens, himself a decorated combat veteran, but that the decision was not unanimous.

Justice Scalia's dissent reads like a threatening partisan statement from Vice President CHENEY's office rather than an independent judicial review of the case. He uses language about Islam that was rightly condemned as wrong and counterproductive by this administration's own intelligence community, and he repeats the administration's tragically mistaken mantra by lumping the various factions of Islam, including those in Iraq, as a monolithic ''enemy'' collectively responsible for the attacks on the United States on September 11. Most disappointing is that his hyperbolic rhetoric is hard to square with his own acknowledgement in the 2004 Hamdi case that habeas corpus is ''the very core of our liberty secured in our Anglo-Saxon system of separation of powers'' and that ''indefinite imprisonment on reasonable suspicion is not an available option of treatment for those accused of aiding the enemy, absent a suspension of the writ.''

What role should Congress play as the Federal judiciary begins to implement the Boumediene decision? According to Attorney General Mukasey in his recent remarks on the future of habeas, Congress should jump in the fray again in an election year. Although he does not even have legislation to propose, he asks Congress to act hastily to minimize judicial oversight and maximize executive power. The Attorney General seems to have adopted the Bush administration's mantra: ''Don't trust the courts.''

The Attorney General has it exactly wrong. Congress made a mistake in 2005 when it bent to the will of the Bush administration by passing the Detainee Treatment Act, which created the detainee review process that the Supreme Court has now determined is hopelessly inadequate. Congress made a mistake in 2006 when it bent to the will of the Bush administration by passing the Military Commission Act, which, as we now know, violated the U.S. Constitution in its efforts to stop the Federal courts from reviewing executive detention decisions.

It would be foolish to bend to the will of the Bush administration once again to try to weaken or circumvent the Boumediene decision. Worse, by hastily legislating now, we would risk perpetuating the terrible policy judgments of years past that have led us so far astray in the fight against terrorism.

I trust our Federal courts to get it right. Had we relied on them to dispense American justice, perhaps we would have accomplished more in the fight against terrorism over the last several years. Our courts have proven themselves up to the task of trying the likes of Zacarias Moussaoui and Jose Padilla in difficult, complex and sensitive federal proceedings where unlike the restricted rights available in habeas proceedings these defendants enjoyed the full panoply of constitutional protections. These men now stand convicted of terrorism-related offenses and they will spend the rest of their lives in prison, as they should. Just as I would not have questioned Attorney General Mukasey's ability to deal with terrorism-related prosecutions when he was a judge in Manhattan, I do not question the ability of the Federal judges in Washington, DC, to handle the habeas petitions from the detainees in Guantanamo Bay, Cuba responsibly and diligently—particularly where our courts have proved up to the task in so many actual criminal trials.

I was particularly disappointed to hear the Attorney General attempt to play on Americans' fears by suggesting that, in the wake of a Supreme Court decision affirming our core values, our national security will be somehow jeopardized if Congress does not act. He knows that no detainee has been set free as a result of the Boumediene decision, and that the government will have ample opportunity to justify its detention decisions on favorable standard of proof. He knows that Federal courts have successfully conducted terrorism cases using procedures derived from the Classified Information Procedures Act to ensure that classified information is safeguarded, and there have been no leaks of information where those procedures have been employed. And he knows that the federal court in Washington, DC, is taking steps to streamline and consolidate habeas proceedings to avoid unnecessary litigation.

In fact, the Federal bench in Washington, DC, is working hard to follow the rule of the Supreme Court by ensuring a prompt, safe and orderly disposition of the 250 or so detainee habeas petitions. The judges, the Department of Justice, and lawyers for the detainees are now working to resolve key issues that will allow the cases to proceed in the months ahead.

The court has also taken steps on its own to consolidate common issues before one judge former Chief Judge Thomas F. Hogan—to streamline the review process as much as possible. In the meantime, for those detainees who have been charged under the law of

war, the district court has ruled that the military commissions may proceed as planned, and that the right to habeas corpus will crystallize only once there is a final judgment.

The Bush administration can hardly complain if it takes the Federal district judges presiding over these habeas cases some time to resolve them. After all, it was the Bush administration that tried to avoid court scrutiny at all costs for the last 7 years. The Supreme Court having rejected this effort, the courts must now be permitted to do their jobs.

Is there anything that Congress should do at this time? One thing that Congress could and in my view should do is to pass the Habeas Corpus Restoration Act that Senator SPECTER and I introduced in the wake of the passage of the Detainee Treatment Act, and with which we sought to modify the Military Commissions Act. A bipartisan majority of the Senate voted with us last year when we were seeking to add it to the Department of Defense authorization bill, but we were forestalled by a filibuster. I trust that those who said they were not ready to join us last year because of the pendency of the Supreme Court case will join us now and do the right thing. It was Congress's mistake to pass the habeas stripping provisions of the Detainee Treatment Act and the Military Commissions Act, and we should correct it by passing our bill to amend the law. The Supreme Court has already declared those provisions unconstitutional and ineffective. In my view, it is a shame that the Supreme Court had to step in before we corrected our mistake.

These unconstitutional habeas-stripping provisions are a blot on the Senate, and on the Congress, and should not reside in our laws. We should reverse the Senate's action and correct its error. I do not want to see another Senate apologize years down the road for passing laws designed to strip habeas rights, as we have seen belated apologies for America's treatment of Native Americans, the internment of Japanese Americans, and other grievous errors in our past. I do not want a future Senate to look back with shame or have to issue an apology for unconstitutional legislation coming from this great body. Congress should pass the provisions of the Habeas Corpus Restoration Act.

Thereafter we will need to join together in the weeks and months ahead to rethink the misconceived legal framework that has been devised by this administration. We will need to work together—with each other, with the House and with the new administration—to supplement our laws, consistent with our Constitution and core values, and to restore our leadership in the world and more effectively defend our Nation. We can recapture the bipartisanship that we demonstrated in the days immediately following 9/11 and move forward, not as Democrats or Republicans, but as Americans.

The Supreme Court was explicit that its decision in Boumediene only reached the unconstitutional attempt to strip habeas corpus review from these detainees and that the Detainee Treatment Act and combatant status review tribunal process remain intact.

Likewise, the Attorney General and Department of Justice have said that the military commissions will continue, and a federal judge in Washington, DC, recently ruled against a detainee's effort to secure habeas review before his military commission was to commence.

I think we will need to review both processes. The military commission system is so deeply flawed that after close to seven years it has only just started its first trial. The world will never view those proceedings as fair or consistent with the rule of law. We are too strong and confident a nation to seek vengeance or be driven by fear. America is great in part because it does not shirk from its legal obligations but embraces them and lives by them. When America acts, as it did, to circumvent the law by holding prisoners off shore, to contract out torture to third parties, or to suspend the Great Writ, we are not the America envisioned by our Founders and preserved by every previous generation of Americans.

I look forward to working in the next session with Senator FEINSTEIN on her initiative to close the Guantanamo Bay facility, and begin to erase the damage it has done to the United States' reputation around the world. She has sponsored legislation to move us in that direction. I want to commend Senator WHITEHOUSE for his legislative proposal to establish a congressional commission to make nonpartisan recommendations to Congress on how best to proceed in the future. I know that Senators DURBIN and SPECTER introduced military commission bills back in 2002, around the same time that I did. We will need to work across committee lines and across the aisle, to involve not only the reconstituted Department of Justice, but also the Departments of Defense and State as we go forward. We will need to reconsider where else we went wrong and how to set the entire system on better, stronger foundations.

## AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

Mr. SPECTER. Mr. President, I have sought recognition to recognize the Air Force Office of Special Investigations on its 60th anniversary, August 1, 2008.

The Office of Special Investigations was created in 1948 at the suggestion of the 80th Congress. The secretary of the Air Force, Stuart Symington, consolidated and centralized the investigative services of the U.S. Air Force to create an organization that would conduct independent and objective criminal investigations. Since 1948, the Office of Special Investigations has evolved to meet the changing needs of the Air Force. It has matured into a highly effective war-fighting unit while maintaining the standards of a greatly respected Federal law enforcement agency. The Office of Special Investigations has truly adapted to fulfill the needs of the U.S. Air Force in the 21st century.

At present, 3,200 men and women serve in the Air Force Office of Special Investigations. In more than 220 offices around the globe, these men and women perform the investigative work of the U.S. Air Force wherever and whenever they are needed. I am proud to be counted among the alumni of the Air Force Office of Special Investigations. I served as a young lieutenant in the Office of Special Investigations from 1951 through 1953 and was assigned to the Pennsylvania, West Virginia, and Delaware District. My experience allowed me to serve my country, hone my investigative skills, and prepare for a career in law and in Government.

It gives me great pleasure, to recognize and salute the Air Force Office of Special Investigations on the occasion of its 60th anniversary. In a time of unprecedented change and challenges, the Air Force Office of Special Investigations has answered the call of the Air Force, the Department of Defense, and the Nation.

## JOBS, ENERGY, FAMILIES AND DISASTER RELIEF ACT

Mr. SPECTER. Mr. President, I have sought recognition to discuss my vote on July 28 against cloture—to end debate—on the motion to proceed to S. 3297, the so-called Reid omnibus bill or ''Coburn package.'' As I stated on the Senate floor Monday, July 28, it is my inclination that the majority leader called for a vote on cloture on proceeding to this bill in order to dislodge the pending legislation on oil speculation. By using his position of power, he seeks to force the Senate to prematurely move away from the No. 1 issue facing the people from my State and the Nation namely energy legislation.

I did not support cloture to move to the Reid omnibus bill not because I do not support many of its provisions, rather because I believe we should complete work on energy legislation before moving on to other matters. Further, I am seeking my right as a U.S. Senator to offer amendments to a bill in a fair and balanced legislative process.

For instance, Senator KOHL and I had a bipartisan amendment prepared to offer to the speculation bill that would have brought OPEC nations under U.S. antitrust laws to prohibit them from meeting in a room, lowering production and supply, and thus raising prices. Unfortunately, this effort was denied by the majority leader's blocking of amendments by filling the so-called amendment tree, disallowing mine and a number of other amendments that ought to be considered.

This procedure is nothing new for this majority leader who has filled the amendment tree on 15 occasions in the current 110th Congress, surpassing all other majority leaders in modern history. As a result of the majority leader's curtailing Senate procedure and amendments, I have been faced with voting against cloture on measures I would have ordinarily supported including this past Saturday's vote on LIHEAP. I have also opposed cloture in instances such as the Lieberman-Warner global warming bill which was considered the first week of June—2 to 6. In that case, the majority leader filled the amendment tree at the first opportunity and filed cloture on the bill without ever allowing consideration of amendments. The 5-day debate culminated in a fait accompli cloture vote that failed on June 6.

Most recently, I voted against cloture to move to the Reid omnibus bill that was a conglomeration of legislation that has been described as noncontroversial and may benefit a wide variety of interests. As I stated on the Senate floor on Monday, July 28, I am supportive of most, if not all of the substance in this bill. In fact, I am a cosponsor of six of the items.

I support and have worked to pass a number of the Judiciary Committee-related bills in the proposed omnibus. For example, I am an original cosponsor of the Runaway and Homeless Youth Protection Act, S. 2982, which makes changes in the grant program for centers for runaway youths. I am also a cosponsor of the Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008, S. 2304, which would provide grants for the improved mental health treatment and services provided to offenders with mental illness. In addition, I am a cosponsor of the Emmett Till Unsolved Civil Rights Crime Act, S. 535, which authorizes funding to solve pre-1970 civil rights crimes. Moreover, in committee, I supported a Federal commission to commemorate the bicentennial of the writing of the Star-Spangled Banner and the War of 1812, S. 1079.

Additionally, I voted in favor of the following child protection bills which were passed by the Judiciary Committee: The Combating Child Exploitation Act of 2008, S. 1738, which authorizes grants to combat child exploitation; and the Drug Endangered Children Act of 2007, S. 1210, which extends a grant program directed at drug-endangered children.

I directed my staff to work to clear the child exploitation bills from the omnibus package in the same manner I worked to pass the Adam Walsh Act without extraneous add-ons during the 109th Congress. To that end, my staff worked with Senator COBURN's staff to draft a proposed compromise child exploitation bill that includes the key provisions of the child pornography and exploitation legislation in the proposed omnibus, as well as important legislation to strengthen the powers of the National Center for Missing and Exploited Children, the SAFE Act, which was omitted from the omnibus bill.

My support is also invested in efforts to maintain the natural beauty of the Chesapeake Bay Watershed while simultaneously preserving its resources for the communities it serves. S. 2707, The Chesapeake Bay Gateways and Water Trails Network Continuing Authorization Act, will permanently authorize appropriations for these vital programs. I cosponsored this legislation because I believe it is a critical organization whose mission to protect the bay is vital for the communities affected by this watershed.

Another environmental act I have fervently supported and of which I am an original cosponsor, is S. 496, the Appalachian Regional Development Act Amendments of 2008. The bill renews the Appalachian Regional Commission for 5 years—2007–2011—and authorizes $510 million to be appropriated over that timeframe for the Commission's economic development activities in distressed rural counties.

Numerous health care provisions I have worked hard for can also be found in this package, including S. 1382, which establishes a registry of those suffering from amyotrophic lateral sclerosis, ALS, better known as Lou Gehrig's disease. The registry will gather data about those who are diagnosed with the disease to better understand and research the illness. As Ranking Member of the Labor, Health and Human Services and Education—LHHS—Appropriations Subcommittee, I support research and an ALS registry. I worked to provide $39 million for NIH research of ALS in 2008 and $2.8 million to plan the ALS registry.

I am also a cosponsor of S. 1183, the Christopher and Dana Reeve Paralysis Act, to expand paralysis research at the National Institutes of Health, NIH, and set up a network to allow patients and their families to quickly learn the result of clinical trials on paralysis rehabilitation drugs. The LHHS fiscal year 2008 appropriations bill provided $64 million for NIH spinal cord research.

The package also included bills, H.R. 3112, S. 1810 intended to create a new Federal grant program to pay for information and support services regarding Down syndrome and other prenatally or postnatally diagnosed conditions. While awaiting these authorization bills, I have worked with Senator HARKIN to get a jump start on these muchneeded activities by including $1 million to establish the congenital disabilities program in the fiscal year 2009 Labor, HHS, and Education Appropriations bill. In addition, the Labor-HHS Subcommittee provided almost $1 million to the CDC in fiscal year 2009 for awareness activities related to Down syndrome.

One of the bills, H.R. 477, would permit the issuing of grants to states for stroke care systems. As ranking member of the Labor-HHS Appropriations Subcommittee, I have worked to increase CDC funding for heart disease and stroke activities in the States to over $50 million and NIH funding for stroke research to over $340 million in fiscal year 2008.

Another bill, S 1375, would establish a grant program for services to mothers suffering from postpartum depression. As ranking member of the Labor-HHS Appropriations Subcommittee, I have worked with Chairman HARKIN to include $4.9 million for a first-time motherhood initiative within the maternal and child health block grant.

I also support S. 675, the Training for Realtime Writers Act of 2007. The Telecommunications Act of 1996 requires 100 percent closed captioning for all new English broadcast programming by January 1, 2006. That deadline has come and gone. There are not enough real time writers and captioners to meet this unfunded mandate out in the workforce. Furthermore, the Telecommunications Act of 1996 requires 100 percent closed captioning for all new Spanish broadcast programming by January 1, 2010. America is very far from achieving this goal. S. 675 will assist with training the workforce to provide closed captioning for the 30 million Americans who are deaf or hard-of-hearing.

I support H.R. 3320, the Support for the Museum of the History of Polish Jews Act of 2007, which requires assistance from the Department of State to support the development of a permanent collection at the Museum of the History of Polish Jews in Warsaw, Poland. It is in the national interest of the United States to encourage the preservation and protection of artifacts associated with the heritage of U.S. citizens who trace their forbearers to other countries and to encourage the collection and dissemination of knowledge about that heritage. Most recently, I traveled to Poland on August 27, 2007, and observed fist hand the importance of museums that examine Poland in WW II, specifically the Polish uprising and the Home Army. The Museum of the History of Polish Jews will complement the current museum facilities in Warsaw by preserving and presenting the history of the Jewish people in Poland, which had the largest Jewish population in Europe at the beginning of World War II.

Having outlined a number of priorities and areas of support I have with this omnibus bill, let the record show that I support the package as a whole. However, as evidenced by my vote against cloture on the motion to proceed to the bill, I believe the energy situation is too important to set aside until we have completed or frankly even started our work on it by allowing amendments to be considered. It has been said on this floor that explaining opposition to this omnibus bill to our constituents will be difficult. While this premonition may have some merit,

I trust that the people of Pennsylvania and the Nation will support efforts to deal with high energy prices and encouraging the kind of open and fair debate that leads to better policies across the board.

I reinitiate my suggestion that the Senate stay in session during the month of August, if the majority leader would hold a legitimate session that provides the kind of deliberation that has led many to call the U.S. Senate ''the greatest deliberative body in the world.'' Members of this body should be prepared to work as long and hard as necessary in order to reach a solution to the energy crisis not based upon political appeasement, but results. It is time we allow debate and compromise to reverberate through this chamber as we find areas of agreement in the best tradition of the Senate.

## NOMINATION OF JAMES A. WILLIAMS

Mr. GRASSLEY. Mr. President, I, Senator CHUCK GRASSLEY of Iowa, intend to object to proceeding to any unanimous consent agreement pertaining to the nomination of Mr. James A. Williams to be the Administrator of the General Services Administration.

The Committee on Homeland Security and Governmental Affairs voted to report the Williams nomination favorably to the full Senate on July 30, 2008.

I oppose this nomination because of Mr. Williams's actions in connection with the renegotiation of a contract with Sun Microsystems in August–September 2006. I have outlined my concerns about this matter in detail in a speech on the floor on July 24, 2008. That statement appears on pages S7272–S7274 of the RECORD.

Mr. President, I would like to inform my colleagues that I have requested to be notified of any unanimous consent agreement that would allow for the consideration of the nomination of Mr. James A. Williams to be the Administrator of the General Services Administration, GSA.

I intend to reserve my right to object to any such request.

I expressed my opposition to this nomination in a floor statement on July 24, 2008, and in a letter to the chairman of the Committee on Homeland Security and Governmental Affairs on the same date. My letter to Chairman LIEBERMAN appears in the RECORD on page S7273 at the conclusion of my speech.

My opposition to this nomination is based on the results of an in-depth oversight investigation conducted by my staff in 2006–2007. This investigation examined the actions of Mr. Williams, former Administrator Doan, and several other senior agency officials in the contract negotiations with Sun Microsystems, Inc. in May–September 2006. There were: No. 1. allegations of fraud on the Sun contract that was being renegotiated; No. 2. Mr. Williams and Ms. Doan had knowledge of the alleged fraud; and No. 3. allegations that Mr. Williams and Ms. Doan had improperly interfered in the ongoing negotiations and put pressure on the contracting officer to sign what was considered a bad contract. I presented the findings of this investigation in a floor statement on October 17, 2007, which appears on pages S12952–12954 of the RECORD.

At Mr. Williams's hearing on July 25, the committee did ask him some tough questions about his knowledge of the alleged fraud and his role in the Sun contract negotiations. However, Mr. Williams's response was less than complete, and there was little or no followup by the committee. I am preparing followup questions for Mr. Williams, asking him for more details.

All the evidence developed in my oversight investigation points to the existence of serious unresolved issues involving Mr. Williams role in this matter. Based on what I know today, I do not believe that Mr. Williams should be promoted to high office. He placed the well-being of the GSA before the interests of all the hard-working American taxpayers, who he was sworn to protect. There needs to be some accountability in the Federal contracting system for blunders and missteps during the Sun contract negotiations.

I may have more to say on this subject at a later date.

## PAYMENTS TO PHYSICIANS

Mr. GRASSLEY. Mr. President, I have been examining several doctors at universities across the country to see if they are complying with the financial disclosure policies of the National Institutes of Health. I ask unanimous consent to have my latest letters to Stanford University and to the National Institutes of Health printed in the RECORD.

I yield the floor.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC, July 30, 2008.*

Dr. JOHN L. HENNESSY,
*President, Stanford University, Office of the President, Stanford, CA.*

DEAR DR. HENNESSY: First, I would like to thank you for your prompt attention to the matter involving payments made by pharmaceutical companies to Dr. Alan Schatzberg, Chairman of the Department of Psychiatry at Stanford University (Stanford/University). Investigators with the Senate Finance Committee (Committee) believe that the following chart provides a better representation of Dr. Schatzberg's disclosures to Stanford and company reports to the Committee.

Committee investigators understand that differences in reporting requirements and accounting methods may result in differences between Dr. Schatzberg's reports and reports from companies that can only be explained in writing. The Committee understands that Stanford will provide a comprehensive response to the initial letter sometime soon, which will include these details. Stanford has notified the Committee that any discrepancies in the chart are most likely due to differences in accounting between Stanford and the various companies contacted by the Committee.

As Stanford pointed out in a public statement, there was an error in the chart that the Committee sent to you regarding payments from Eli Lilly to Dr. Schatzberg in 2007. That chart stated that Dr. Schatzberg had ''not reported'' this money when in fact he had. Therefore, this letter is being placed in the congressional record to correct the official record.

Stanford also noted that Dr. Schatzberg's reports on payments from Eli Lilly in 2004 include compensation of less than $10,000 for advisory board activities and $10,000 to $50,000 for honoraria for papers, lectures and consulting. This also matches the footnote in the Committee's chart and appears to capture all the monies reported by Eli Lilly ($52,134) for that year.

However, Committee investigators still have concerns regarding Johnson & Johnson's report of paying Dr. Schatzberg $22,000 in 2002. According to Stanford's statement, ''Dr. Schatzberg did disclose this payment to the university and also reported it to the Committee. He disclosed the $22,000 payment from Jannsen, the wholly-owned subsidiary of Johnson & Johnson that made the payment.'' The reason that we continue to be concerned is because Dr. Schatzberg reported less than $10,000 from Jannsen for academic year 2002 (September 2, 2001 through August 31, 2002) and less than $10,000 for academic year 2003 (September 1, 2002 through August 31, 2003). Johnson & Johnson did not delineate payments from subsidiaries such as Jannsen when it reported the information to the Committee. Johnson & Johnson reported a payment of ''fee for services'' of $22,000 to Dr. Schatzberg on August 19, 2002. Even noting differences in accounting methods, Dr. Schatzberg's reports on Jannsen do not appear to fully explain the discrepancy.

Inconsistencies also appear among the payments reported to us by Eli Lilly in 2002. Eli Lilly reported paying Dr. Schatzberg $19,788 that calendar year. However, Dr. Schatzberg reported that he received less than $10,000 from Eli Lilly for academic year 2002 (September 2, 2001 through August 31, 2002) and more than $10,000 for academic year 2003 (September 1, 2002 through August 31, 2003). Noting possible differences in accounting methods, Dr. Schatzberg's reports on Eli Lilly may explain the discrepancy, but only if one combined the 2002 and 2003 academic years.

Further, based on documents in our possession, it appears that Wyeth paid Dr. Schatzberg for testifying as an expert witness in 2006. This work was in response to lawsuits brought against Wyeth regarding its antidepressant, Effexor. As Dr. Schatzberg wrote in an undated expert report on behalf of Wyeth, ''My hourly rate for review of materials or for testimony is $500.'' Dr. Schatzberg was apparently an expert witness in at least two cases for Wyeth, but payments for this work cannot be found in his reports of outside income to Stanford. Therefore, I would appreciate your clarification of Dr. Schatzberg's expert witness fees and how they are recorded on Stanford's financial disclosure forms.

Thank you again for your continued cooperation and assistance in this matter. I look forward to a complete response to outstanding questions in the near future. If you have any questions, please do not hesitate to contact Paul Thacker at (202) 224–4515.

Sincerely,

CHARLES E. GRASSLEY,
*Ranking Member.*

Attachment.

SELECTED DISCLOSURES BY DR. SCHATZBERG AND RELATED INFORMATION REPORTED BY PHARMACEUTICAL COMPANIES AND DEVICE MANUFACTURERS

| Year | Company | Disclosure filed with institution (academic year) | Amount company reported (calendar year) |
|---|---|---|---|
| 2000 | Bristol Myers Squibb | No amount provided | $1,000 |
| | Eli Lilly | No amount provided | $10,070 |
| 2001 | Bristol Myers Squibb | No amount provided | $4,147 |
| | Corcept Therapeutics | >$10,000<$50,000 [1] | n/a |
| | Eli Lilly | <$10,000 [2] | $10,788 |
| 2002 | Bristol-Myers Squibb | No amount provided | $2,134 |
| | Corcept Therapeutics | >$100,000 [3] | n/a |
| | Corcept Therapeutics | <$10,000 [1] | n/a |
| | Corcept Therapeutics | <$10,000 [4] | n/a |
| | Eli Lilly | <$10,000 | $19,788 |
| | Johnson & Johnson (Jannsen). | <$20,000 [5] | $22,000 |
| 2003 | | | |
| | Bristol-Myers Squibb | No amount provided | $4,000 |
| Corcept Therapeutics | <$10,000 [4] | n/a. | |
| | Corcept Therapeutics | >$10,000<$50,000 [1] | n/a |
| | Corcept Therapeutics | >$100,000 [3] | n/a |
| | Eli Lilly | >$10,000 | $18,157 |
| 2004 | Bristol-Myers Squibb | <$10,000 | $0 |
| | Corcept Therapeutics | >$10,000<$50,000 [1] | n/a |
| | Corcept Therapeutics | $100,000 [3] | n/a |
| | Eli Lilly | <$110,000 | $52,134 |
| | Pfizer | Not reported | $2,500 |
| **Reporting by Calendar Year** | | | |
| 2005 | Bristol-Myers Squibb | <$10,000 | $0 |
| | Corcept Therapeutics | >$10,000<$50,000 [1] | n/a |
| | Corcept Therapeutics | >$100,000 [3] | n/a |
| | Eli Lilly | >$10,000<$50,000 | $9,500 |
| | Pfizer | No amount provided | $2,000 |
| 2006 | Bristol-Myers Squibb | Not reported | [6] $6,000 |
| | Corcept Therapeutics | <$10,000 [4] | n/a |
| | Corcept Therapeutics | >$10,000<$50,000 [1] | n/a |
| | Corcept Therapeutics | >$100,000 [3] | n/a |
| | Eli Lilly | >$10,000<$50,000 | $20,500 |
| | Pfizer | Not reported | $300 |
| 2007 | Eli Lilly | <$60,000 | $10,063 |

[1] Physician disclosed payment for a variety services including Advisory Board Membership, Board of Directors, and consulting.

[2] Physician disclosed <$10,000 for academic year 2001. No amount provided for prior academic year.

[3] Physician disclosed equity value.

[4] Physician disclosed payment for royalties from Stanford's licensing agreement with Corcept Therapeutics.

[5] This sum combines two academic years.

[6] Bristol-Myers Squibb stated that Stanford intended to pay Dr. Schatzberg $6,000 for conducting an annual course for which the company provides a grant.

Note 1: When a Physician named a company in a disclosure but did not provide an amount, the text reads ''no amount reported.'' Stanford has noted that amounts were not required in each specific case. When a Physician did not list the company in the disclosure, the column reads ''not reported.'' The Committee contacted several companies for payment information and the notation n/a (not available) reflects that a company was not contacted.

Note 2: The Committee was not able to estimate the total amount of payments disclosed by Dr. Schatzberg during the period January 2000 through June 2007 due to the fact that some amounts were not provided and in other instances ranges were used. Information reported by the pharmaceutical companies indicate that their reports do not match Dr. Schatzberg's disclosures.

U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC, July 31, 2008.*

Dr. JOHN L. HENNESSY,
*President, Stanford University, Office of the President, Stanford, CA.*

DEAR DR. HENNESSY: The Senate Finance Committee (Committee) recently sent you a letter attempting to clarify discrepancies in a chart comparing reports of payments made by several pharmaceutical companies against disclosures of outside income filed by Dr. Alan Schatzberg, a psychiatrist at Stanford (Stanford/University). As Committee investigators explained to Stanford officials, we have further questions regarding Dr. Schatzberg's grants from the National Institutes of Health and his relationship with Corcept Therapeutics (Corcept/Company). Corcept was founded in part by Dr. Schatzberg, who has several million dollars of equity in that company.

In addition, I am interested in understanding Stanford's involvement with Dr. Schatzberg and Corcept. Dr. Schatzberg received grants from the National Institutes of Health (NIH) to study mifepristone and major depression. At the same time, Dr. Schatzberg received compensation from Corcept and had a large equity interest in the Company. This equity could grow dramatically if the results of Dr. Schatzberg's government sponsored research find that mifepristone could be used to treat psychotic major depression.

I have come to understand, based on documents provided to me by Stanford, that your institution had and may still have a financial relationship with Corcept. This agreement has resulted in Stanford paying Dr. Schatzberg royalties. For instance, Dr. Schatzberg reported in his Stanford disclosures that he received payments of less than $10,000 for royalties from Stanford's licensing agreement with Corcept Therapeutics. These payments were made in 2002, 2003, and 2006.

As is well established, the NIH relies on universities to manage the conflicts that exist between a grantee and any outside financial interests. However, not only does Dr. Schatzberg have a financial interest in Corcept, but Stanford also had a relationship with Corcept and may still at this time. These facts raise multiple questions and concerns. For example, how can Stanford manage Dr. Schatzberg's conflicts of interest with Corcept, when Stanford apparently has a similar conflict of interest? Furthermore, when did Stanford notify the NIH of this conflict?

Additionally, I have many questions and concerns about Stanford's recent press statement regarding how it managed Dr. Schatzberg's conflicts of interest with Corcept. In that statement, Stanford claimed that steps to manage this conflict ''included his not participating in any human subjects research involving mifepristone. . . .'' However, based upon a search of published literature, Dr. Schatzberg's name appears as the author of several published studies involving human subjects research and mifepristone. Most of these studies were funded by NIH although one study was funded by Corcept and another one was funded by both the NIH and Corcept. These studies include:

2002—Dr. Schatzberg was the final author on a paper in Biological Psychiatry that reported on a trial to study mifepristone to treat psychotic major depression in 30 patients. The study listed support by Corcept along with two grants from the National Institute of Mental Health (MH50604 and T–32MH19983), which is one of the NIH's institutes. Dr. Schatzberg is the primary investigator for grant MH50604.

2006—Dr. Schatzberg published a study involving human subjects treated with mifepristone for psychotic major depression. This study was supported by several NIH grants. Dr. Schatzberg is the primary investigator for three of these grants (R01 MH50604, R01 MH47573, T32 MH019938). In the acknowledgements section of the paper, Dr. Schatzberg disclosed that he had a financial interest in Corcept which has a licensing agreement for mifepristone. Dr. Schatzberg also disclosed that he *''played no direct role in the recruitment, assessment, or follow-up of subjects enrolled in this study,'' and ''was not directly involved in the analysis of data stemming from this research.'' (emphasis added)*

I am not in a position to interpret the disclosures and apparent recusals from research involvement made by Dr. Schatzberg in the 2006 study, however, I am seeking guidance from Stanford regarding its duties to ''manage'' conflicts in light of a possible contradiction. According to the ''NIH Grants Policy Statement,'' the primary investigator of an NIH grant is ''responsible for the scientific or technical aspects of the grant and for day-to-day management of the project or program.'' So, the question arises: how could Dr. Schatzberg monitor the research funded with his NIH grants if he was not involved closely in the study?

I also would appreciate your guidance on how Dr. Schatzberg could have been recused from involvement in research when he is listed as the primary investigator for several trials. For instance, Stanford's website has a clinical trials directory, which lists Dr. Schatzberg as a co-investigator for a trial seeking to enroll 20 patients in a study using mifepristone to treat patients with psychotic major depression. The anticipated start of the trial was January 1, 2003 and the listed collaborator for the trial is the NIH.

Dr. Schatzberg is also listed as the primary investigator on ClinicalTrials.gov for another study that began in 2005 to treat depressed patients with mifepristone. This NIH funded trial is listed as active, but not recruiting patients. The estimated enrollment was 100 patients in this randomized, double-blind, placebo-controlled study. In addition, Dr. Schatzberg is listed on ClinicalTrials.gov as the ''study director'' for a phase III clinical trial to ''evaluate the effectiveness of mifepristone to treat adults with psychotic major depression.'' This trial is also funded by the NIH and is now actively recruiting patients.

Further, Stanford acknowledges in its press statement that it ''received a small amount of equity in Corcept under a technology license.'' However, Stanford did not explain when this relationship began or ended. And according to Dr. Schatzberg's 2006 study, Stanford's Institutional Review Board (IRB), which is responsible for approving study protocols, approved his research plan. This raises even more questions regarding how Stanford's IRB could remain independent, especially since Stanford had a financial stake in ensuring that the study protocol was approved. I seek your thoughts on this issue as well.

Finally, last February the Association of American Medical Colleges (AAMC) released guidelines governing conflicts of interest. The AAMC advised that institutions report conflicts of interest ''in any substantive public communication of the research results.'' However, when Stanford issued a press release regarding the results of Dr. Schatzberg's research on mifepristone, the statement did not note if Dr. Schatzberg and/or Stanford had a financial interests in the research findings. Stanford missed another opportunity to disclose financial interests in a story that ran in the Stanford Report which reported on Dr. Schatzberg's mifepristone research.

I would also like to better understand Stanford's current and past financial relationship with Corcept. Accordingly, please respond to the following questions and requests for information. The time span for this request covers 1995 to the present. For each response, please repeat the enumerated request and follow with the appropriate answer.

(1) Please explain Stanford's previous and current financial relationship with Corcept Therapeutics. This response should include the date when Stanford first established a relationship with Corcept Therapeutics, the nature of that relationship, and the date when Stanford divested itself of any financial relationship(s) with Corcept. Also, detail any financial transactions between Stanford and Corcept Therapeutics (i.e. has Stanford invested in Corcept or has Corcept paid a licensing fee to Stanford).

(2) Please provide a list of all patents and licenses held by Dr. Schatzberg. For each patent and/or license, please provide the following:

(a) Provide a summary of the patent/license.

(b) When was the patent/license first issued?

(c) For each patent/license, please list any companies that have a financial interest in the success of that patent/license.

(d) Please provide an accounting of any compensation paid to Dr. Schatzberg for any patent/license, detailed by dollar amount and year.

(3) Please provide a list of all studies published by Dr. Schatzberg that involve mifepristone or major depression. For each study, please provide the following:

(a) Please list the grant(s) which funded each study, in whole or in part.

(b) If an author listed on the study was at Stanford, please list their department, supervisor, and financial support, at that time.

(4) For each study identified above, please provide the name of each member of the Institutional Review Board (IRB) that approved the study protocol. For each IRB, please provide the following information:

(a) Please provide minutes of the IRB meeting when that study was discussed.

(b) Please explain if the IRB considered financial interests of study investigators and/or Stanford in approving the study protocols.

(c) Please explain if the IRB required reporting of conflicts of interests to human subjects participating in the study.

(d) Please provide a point of contact for the IRB.

(5) According to federal regulations, ''prior to the Institution's expenditure of any funds under the award, the Institution will report to the [Public Health Service] Awarding Component the existence of a conflicting interest (but not the nature of the interest or other details) found by the institution and assure that the interest has been managed, reduced or eliminated.'' Please provide the date and supporting documents that show when Stanford determined that Dr. Schatzberg had a conflict of interest regarding his federal funding of mifespristone research.

(6) Please provide the date and supporting documents that show when Stanford reported this conflict to the NIH.

(7) Please provide the following information on Corcept:

(a) When did Dr. Schatzberg create Corcept?

(b) When did Corcept apply to the FDA for approval of mifepristone to treat psychotic major depression?

(c) When did Dr. Schatzberg first become vested in the company?

(8) Please explain how Stanford manages a conflict of interest with NIH funded researchers if Stanford has a financial interest in the outcome of the study.

(9) According to Stanford's press statement, ''In addition, NIH reviews its data through its Data Safety and Monitoring Board structures.'' Please provide documentation that a Data Safety Monitoring Board (DSMB) at the NIH has been apprised of Dr. Schatzberg's and/or Stanford's financial interests in Corcept.

(10) The AAMC advises institutions to report conflicts of interest ''in any substantive public communication of the research results.'' Please explain Stanford's policies for reporting conflicts of interest in press releases and other publications controlled by Stanford.

(11) Dr. Schatzberg has reported in a 2006 publication that he ''played no direct role in the recruitment, assessment, or follow-up of subjects enrolled in this study,'' and ''was not directly involved in the analysis of data stemming from this research.'' Please explain how, with such constraints, Dr. Schatzberg was able to monitor the spending of his NIH grants.

Thank you again for your continued cooperation and assistance in this matter. As you know, in cooperating with the Committee's review, no documents, records, data or information related to these matters shall be destroyed, modified, removed or otherwise made inaccessible to the Committee.

I look forward to hearing from you by no later than August 14, 2008. All documents responsive to this request should be sent electronically in PDF format to Brian_Downey@finance-rep.senate.gov. If you have any questions, please do not hesitate to contact Paul Thacker.

Sincerely,

CHARLES E. GRASSLEY,
*Ranking Member.*

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U.S. SENATE,
COMMITTEE ON FINANCE,
*Washington, DC, July 31, 2008.*

ELIAS A. ZERHOUNI, M.D.,
*Director, National Institutes of Health, Bethesda, MD*

DEAR DIRECTOR ZERHOUNI: As a senior member of the United States Senate and the Ranking Member of the Committee on Finance (Committee), I have a duty under the Constitution to conduct oversight into the actions of executive branch agencies, including the activities of the National Institutes of Health (NIH/Agency). In this capacity, I must ensure that NIH properly fulfills its mission to advance the public's welfare and makes responsible use of the public funding provided for medical studies. This research often forms the basis for action taken by the Medicare and Medicaid programs.

I would like to follow up with you on my concerns about the lack of oversight regarding conflicts of interest relating to the almost $24 billion in annual extramural funds that are distributed by the NIH. I appreciate the comments you made recently during the NIH appropriations hearing where you mentioned several times that we need more ''sunshine.'' I could not agree more.

I recently sent several letters to Stanford University (Stanford/University) regarding Dr. Alan Schatzberg, chair of Stanford's department of psychiatry. I am attaching those letters for your review and consideration.

According to information found on the NIH's CRISP database of extramural grants, Dr. Schatzberg has/had NIH grants to study mifepristone as well as major depression. At the same time it appears that he has also had an ongoing financial relationship with Corcept Therapeutics (Corcept/Company). Corcept is seeking approval from the Food and Drug Administration for mifepristone to treat psychotic major depression. Corcept was founded (in part) by Dr. Schatzberg and he has several million dollars of equity in the company. Dr. Schatzberg has also received payments over several years from Corcept and has received payments directly from Stanford because of its licensing agreement with Corcept for mifepristone.

The intertwined relationship between Stanford, Dr. Schatzberg, and Corcept was first reported in 2006 in a two-part series that ran in the San Jose Mercury News. In light of this article, I am interested in understanding if the NIH investigated potential conflicts of interest after this series appeared. I would also like to know when Stanford first notified the NIH that Dr. Schatzberg had a conflict of interest regarding his large equity interest in Corcept.

Stanford's attempts to manage Dr. Schatzberg's conflicts of interest and his NIH grants raise several questions. According to Stanford's recent press statement, this management ''included his not participating in any human subjects research involving mifepristone. . . .'' However, Dr. Schatzberg's name appears as the author of several published studies involving human subjects research and mifepristone. One of these studies was funded by Corcept, some were funded by the NIH, and one was funded by both Corcept and the NIH.

For instance, in 2006, Dr. Schatzberg published a study involving human subjects treated with mifepristone for psychotic major depression. This study was supported by several NIH grants. In the acknowledgements section of the paper, Dr. Schatzberg disclosed that he had a financial interest in Corcept Therapeutics, which has a licensing agreement for mifepristone. Dr. Schatzberg also disclosed that he ''played no direct role in the recruitment, assessment, or follow-up of subjects enrolled in this study,'' and ''was not directly involved in the analysis of data stemming from this research.'' This disclosure raises some interesting questions regarding Dr. Schatzberg's involvement in the study. Specifically, how could Dr. Schatzberg monitor the research funded with his NIH grants if he was not involved closely in the study?

Dr. Schatzberg was also a lead investigator in a study on mifepristone for treating psychotic major depression back in 2002. This study was supported by a grant from Corcept along with related support from the National Institute of Mental Health (NIMH), one of the NIH's institutes. I am wondering how such grants are provided and how the possible conflict of interests are managed and by whom.

Furthermore, Dr. Schatzberg is listed as the primary investigator on ClinicalTrials.gov for another study to treat patients with depression with mifepristone, which began in 2005. This NIH funded trial is listed as active but is not recruiting patients. The estimated enrollment was for 100 patients in this randomized, double-blind, placebo-controlled study. Also, Dr. Schatzberg is listed on ClinicalTrials.gov as the ''study director'' for a phase III clinical trial to ''evaluate the effectiveness of mifepristone to treat adults with psychotic major depression.'' This trial is also funded by the NIH and is now actively recruiting patients.

According to the ''NIH Grants Policy Statement'' the primary investigator of an NIH grant is ''responsible for the scientific or technical aspects of the grant and for day-to-day management of the project or program.'' So the question arises: how could Dr. Schatzberg monitor the research funded with his NIH grants if he was not involved closely in the study?

I also understand that Stanford had a licensing agreement with Corcept and was paying royalties to Dr. Schatzberg for several years. Again, I am wondering how Stanford could manage Dr. Schatzberg's conflicts when it also has a financial interest in the company and the research outcome.

I would appreciate a greater understanding of Stanford's role in ''managing'' Dr. Schatzberg's conflicts of interest regarding his NIH grants to study mifepristone. Accordingly, please respond to the following questions and requests for information. The time span of this request covers 1995 to the present. For each response, please repeat the enumerated request and follow with the appropriate answer.

1. Following the series by the San Jose Mercury News, did the NIH examine Stanford's management of Dr. Schatzberg's conflicts of interest? If yes, please provide me with copies of all pertinent documents and communications. If not, why not?

2. According to the ''NIH Grants Policy Statement,'' Dr. Schatzberg's role as the primary investigator of his NIH grants is to be ''responsible for the scientific or technical aspects of the grant and for day-to-day management of the project or program.'' How can Dr. Schatzberg live up to these obligations when Stanford's press statement claims that he ''played no direct role in the recruitment, assessment, or follow-up of subjects enrolled in this study,'' and ''was not directly involved in the analysis of data stemming from this research''?

3. Does the NIH allow researchers to recuse themselves from involvement in the research funded by their own NIH grants? If yes, did the NIH allow Dr. Schatzberg to recuse himself from any of the grants made to him by the NIH?

4. Please provide a list of all NIH grants received by Dr. Schatzberg. For each grant, please provide the following: a. Name of grant; b. Topic of grant; and c. Amount of funding for grant.

5. Please provide a list of any other interactions that Dr. Schatzberg has had with the NIH to include membership on advisory boards, peer review on grants, or the like. The span of this request covers 1998 to the present.

6. Stanford has claimed that Dr. Schatzberg's research has been monitored by an NIH Data Safety Monitoring Board (DSMB). Does the NIH DSMB provide oversight of conflicts of interest for a study? If so, please explain. If not, why not?

I look forward to hearing from you by no later than August 14, 2008. If you have any questions, please contact my Committee staff, Paul Thacker at (202) 224–4515. Any formal correspondence should be sent electronically in PDF searchable format to Brian_Downey@finance-rep.senate.gov.

Sincerely,

CHARLES E. GRASSLEY,
*Ranking Member.*

## CHANGES TO S. CON. RES. 70

Mr. CONRAD. Mr. President, section 222 of S. Con. Res. 70, the 2009 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other levels in the resolution for legislation improving education, including legislation that makes higher education more accessible or more affordable. The revisions are contingent on certain conditions being met, including that such legislation not worsen the deficit over the period of the total of fiscal years 2008 through 2013 or the period of the total of fiscal years 2008 through 2018.

I find that the conference report to accompany H.R. 4137, the Higher Education Opportunity Act, satisfies the conditions of the reserve fund for improving education. Therefore, pursuant to section 222, I am adjusting the aggregates in the 2009 budget resolution, as well as the allocation provided to the Senate Health, Education, Labor, and Pensions Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 70 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 222 DEFICIT-NEUTRAL RESERVE FUND FOR IMPROVING EDUCATION

[In billions of dollars]

| Section 101 | |
|---|---|
| (1)(A) Federal Revenues: | |
| FY 2008 | 1,875.401 |
| FY 2009 | 2,029.653 |
| FY 2010 | 2,204.695 |
| FY 2011 | 2,413.285 |
| FY 2012 | 2,506.063 |
| FY 2013 | 2,626.571 |
| (1)(B) Change in Federal Revenues: | |
| FY 2008 | −3.999 |
| FY 2009 | −67.746 |
| FY 2010 | 21.297 |
| FY 2011 | −14.785 |
| FY 2012 | −151.532 |
| FY 2013 | −123.648 |
| (2) New Budget Authority: | |
| FY 2008 | 2,564.237 |
| FY 2009 | 2,538.292 |
| FY 2010 | 2,566.671 |
| FY 2011 | 2,692.511 |
| FY 2012 | 2,734.155 |
| FY 2013 | 2,858.894 |
| (3) Budget Outlays: | |
| FY 2008 | 2,466.678 |
| FY 2009 | 2,573.270 |
| FY 2010 | 2,625.593 |
| FY 2011 | 2,711.470 |
| FY 2012 | 2,719.582 |
| FY 2013 | 2,852.035 |

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2009—S. CON. RES. 70; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 222 DEFICIT-NEUTRAL RESERVE FUND FOR IMPROVING EDUCATION

In millions of dollars

| | |
|---|---|
| Current Allocation to Senate Health, Education, Labor, and Pensions Committee: | |
| FY 2008 Budget Authority | 9,874 |
| FY 2008 Outlays | 9,745 |
| FY 2009 Budget Authority | 9,349 |
| FY 2009 Outlays | 8,088 |
| FY 2009–2013 Budget Authority | 62,263 |
| FY 2009–2013 Outlays | 60,084 |
| Adjustments: | |
| FY 2008 Budget Authority | −10 |
| FY 2008 Outlays | * |
| FY 2009 Budget Authority | −9 |
| FY 2009 Outlays | −114 |
| FY 2009–2013 Budget Authority | 36 |
| FY 2009–2013 Outlays | −60 |
| Revised Allocation to Senate Health, Education, Labor, and Pensions Committee: | |
| FY 2008 Budget Authority | 9,864 |
| FY 2008 Outlays | 9,745 |
| FY 2009 Budget Authority | 9,340 |
| FY 2009 Outlays | 7,974 |
| FY 2009–2013 Budget Authority | 62,299 |
| FY 2009–2013 Outlays | 60,024 |

*less than $500,000.

## CHILDREN'S DEATHS BY FIREARMS

Mr. LEVIN. Mr. President, after more than a decade of decline, the number of children and teens killed by firearms is again increasing. I would like to take a moment to break down some of the statistics that contribute to this alarming fact. An analysis of firearm violence data by the Children's Defense Fund found that 3,006 children and teens were killed by guns in 2005. This marked the first time that more than 3,000 kids were killed by firearms in many years and the first yearly increase in the number of children's deaths since 1994. Broken down, this amounts to 1 child or teen dying every 3 hours in America, 8 children a day, or 58 children every week.

Firearms are the cause of death of more children between the ages of 10 and 19 than any other cause except car accidents. In 2005 alone, a shocking 69 preschoolers were killed by firearms. Between 1979 and 2005, gun violence took the lives of over 104,000 children and teens.

A closer look at these 3,006 tragedies show 1,972 children and teens were homicide victims, 822 children and teens committed suicide, and 212 children and teens died in accidental or undetermined circumstances; 2,654 were boys and 352 were girls; 404 were under the age of 15, 131 were under the age of 10, and 69 were under the age of 5.

More than five times as many children and teens suffered nonfatal gun injuries during the same period.

Mr. President, these staggering statistics cannot and must not be ignored. We must strengthen our gun laws to limit children's assess to guns. As a father and a grandfather, I urge my colleagues to take up and pass sensible gun safety legislation so that this frightening trend will not continue.

## IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, In mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I have a 2001 Hyundai Elantra, well maintained, until lately—I can no longer afford much [periodic maintenance]. In any case, it gets approximately 35 mpg. It now costs me over $50 to fill the tank. My wife works 32–35 hours per week at [Walmart] in Ontario, Oregon. She makes $10 per hour, since it's in Oregon. [She drives more than] 18 miles each way to work.

My doctor at [the Veterans Administration hospital] is 86 miles one way. My wife's orthopedic doctor is in Nampa—roughly 50 miles. [She has another doctor] in Meridian—roughly 68 miles each way. I am disabled on Social Security disability. I receive army retirement and VA disability, partially offset by my retired pay.

Thank God and Walmart, I get a slight discount on household expenses at Walmart.

We're talking $200 per month, or more, for gasoline. Do something besides talk! Drill Here—Drill Now—Pay Less!

TARO.

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I doubt you will use this story because it will not help support the corporate energy giants or their lobbyists and it will not reaffirm the status quo as I believe Washington wants to continue to do.

We are paying more for energy at our house, just like everyone else. It costs us more to drive to work, to visit family, to

take a vacation and to keep our home because of high gasoline, electricity, and natural gas costs. Food costs us much more, too.

But we are taking action ourselves to reduce the costs and contribute helping solve the larger question about global warming and what we are doing to our own environment. We bought a hybrid car to reduce gas consumption. We bicycle to work. We turn off lights when we leave the room. We turn down the temperature of our water heater. We contribute to our utilities green energy program. We recycle, reuse, and restore. We invest in only green energy and companies that are forwarding a future that is not dependent on fossil fuels and that gives back to the people and resources they depend on. And we buy only food that is grown in as sustainable way as possible to support the best farmers and the practices they use. We support farmers who are stewards of the land.

And I know high fuel prices are making Americans use less gas, drive less, and think more before they get in the car and take a trip. The same is happening all across America, even previously unresponsive corporations like Walmart and Chevrolet and Ford and General Motors are taking actions to curb fuel costs, use less fuel, make more efficient cars, and save energy because the rising prices and changing energy markets affect their bottom line. The only ones who are not taking any action are those who are making a profit from high energy prices.

The fact is, changes in the world of energy prices and changes in our perspective on how humans are affecting the environment we live in are changing too. And people are taking action rather than wait for our unresponsive and partisan public officials to do something.

If you do anything or want to take any action, promote energy conservation in any and all ways and renewable energy production in all its forms. Under no circumstances should we further exploit the fossil fuel resources this country has. We will need them in the long term so they are investment in our future and best kept where they are and their exploitation now would only speed the further decline of this country and our global environment.

If you want to promote nuclear energy, then any proposal and supporter of such a bill should also volunteer their land and the land of their family for the storage of nuclear waste (the Idaho National Lab does not count). . . Or such proponents should volunteer to move next to the site that will store such waste. If you or anyone else can pass that red face test, then I would support moving ahead with such legislation.

I think, first and foremost, you should pass a cap and trade bill on carbon. It is the only way in which we can develop a viable economy and take advantage of the new opportunities offered by the challenges of energy in the future and preserve the planet in which we live.

I also think that the profits being afforded to energy companies as a result of increasing costs to citizens should be taxed. No one wants to remove corporate profits but record profits and changes in markets to provide for this are opportunities for providing funding for new and important initiatives without undue loss of corporate profitability or returns on investments to shareholders.

The ''problem'' with America is that we do not want to sacrifice our future for the short term economic gain of a few short years and the short term political gains one party or the other can make. We are not like China in that way and if we stoop to competing with them at that level, we not only destroy the environment but lose our values and what we stand for. This has been the approach of the current administration and its party and it is something we need to excrete out of our system as soon as possible so that we can once again embrace the democratic principles and public trusts this country was founded on.

I wish you luck and I hope you can see your way to what needs to be done. We all will be doing what we can out here, in the land of the free and home of the brave.

Respectfully,

GREGG.

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I work at the site and drive 100 miles roundtrip. Our union per diem has not [increased] in years to stay current with the outrageous gas prices. It has also affected my being able to go to Island Park to the lot my parents bought in 1970 and has since been willed to me. I used to make weekend trips every week but cannot even afford to buy gas to pull the trailer up to the lot, let alone pull the boat up and buy gas for it. I am the Job Supervisor for Construction on the Tank Farm Closure Project and have received several recognition awards for my work and just won the Eagle Award for the Tank Farm. Maybe I can sell them and get money for gas to continue going to work. We need to build Generation IV reactors and start getting our own oil and not depend on foreign countries that can't stand us to begin with.

LARRY, *Blackfoot*.

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Like many Americans, my husband and I have tried to support the American economy by buying U.S. branded products; but as we are getting to within seven years of retirement we need to make our retirement savings a top priority. We calculated the cost of owning our Ford vehicles and compared them to the overall cost of a Toyota Prius using $3.20 a gallon gas cost. The Prius won by a nose, so we bought one last year. This year we traded in our last Ford for another Prius. We have been able to keep our retirement savings at the same level because of these purchases. This, of course, means we can no longer haul the larger loads or go into the back country on the unimproved roads like we did before the cost of gas became unreasonable. We have made accommodations; but the changes have limited our recreation choices. These are minor issues compared to the families who cannot make these changes because they have mortgages that are now close to the value of the property due to the falling real estate market and their other costs have risen with the price of gas. These people are being squeezed from all sides.

KATHLEEN.

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[Thank you for not passing the climate change bill] that was one of the stupidest bills I have seen. It is no wonder the approval rating is so low. Keep up the good work—and keep those [other Members] in line—It will take some time, but they will be out [of office soon].

UNSIGNED.

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We have seen the prices of not only gas, but groceries, going up and up. Because we need to continue to buy gas in order to keep doctors' appointments, get our son to work, go to church and the grocery store, etc., we have had to purchase less food. The fruits and vegetables are now priced so high, we are unable to include them in our diet. As you know, these are essential for our health! We live on Social Security—and that does not go up!! It is becoming more and more of a struggle just to pay our utilities, prescriptions, and insurances. We would love to be able to drive out of state to visit our children, but cannot afford to drive that far. On top of all of that, our property taxes are going up! We pay our bills, then wonder just what we will eat for our next meals! It is almost to the point that one of us (both in our 70s) will have to find a job.

Thanks for listening to people like us.

KAROL, *Nampa*.

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We need to look for alternative fuel. Perhaps now since it is hitting our pocket books we will be more willing. Please stay out of the environmentally-sensitive areas; no need to destroy our environment for short term gain.

Thank You,

ASA.

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I was retired and had to go back to work due to the higher energy prices and increases in the cost of food.

ALBERT.

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While you sit high and mighty in your posh and air-conditioned jobs, listen in on how two teachers in Idaho have to get by so we can pay our taxes to pay your well-padded salaries . . .

Both my wife and I are State Certified Teachers. Both of us are highly-educated (myself with a Master's in Education from University of Idaho and my wife with a Bachelor's in Special Education from Boise State University). Neither of us can find jobs teaching here in the Treasure Valley because school districts are cutting FTE's in order to spread their already overly-inflated budgets in multiple directions. We have a baby on the way with no medical insurance and no way to qualify for aid as we are considered too wealthy, because we both were teaching last year.

Life is getting interesting for us as we have cut all of our spending in our budgets to buy gas for our little VW bug. We no longer can afford to drive to the movies, as that is gas we need to look for work. We no longer spend money on luxury items, as that is money set aside to buy gas to get to work. We no longer eat out, as all restaurants are rising their prices in order to keep up with their own costs. That is also money we need for gas to get back and forth to work. We work to feed the car now, not each other. We eat Top Ramen, macaroni & cheese, and salads (fine, yes, but it gets old after a while), because we can no longer afford to eat the healthier foods because all of the stores have raised those prices to just outside of our reach. For us, it is now about survival . . . not living.

You politicians need to understand just whose money you are spending when you schedule your flights and eat your meals and then bill it to the people. You need to look at your own waistlines and paychecks and consider taking a pay-cut like we do. You are not there to get rich! You are not there to build your career! You are there to represent us! That is it!

Consider cutting your own spending by brown bagging lunch from your own home budgets and kitchens, instead of ordering and charging it as a tax write-off. Consider video conferencing more often instead of bouncing back and forth across the nation in an airplane for your meetings. Conference call like the rest of us! Ride a bike when you can or a motorcycle or scooter and become the leading example you originally set out to be!

Please understand, from where we are you are an unnecessary expense on our taxes. If the government cannot afford to pay its bills, it should stop spending! Not raise more revenue by raising more taxes.

We the People are looking at a government out of control. As stated in the Declaration of Independence:

'' . . . that to secure these rights, Governments are instituted among Men, deriving their just powers from those governed,—That

whenever any Form of Government becomes destructive of these ends, it is the right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.''

This government is bent on overburdening its citizens. According to the Declaration of Independence, such government should be ''altered or abolished.''

Please do not get me wrong and think I'm anything but a patriotic American. Indeed, I spilled my own blood for this country of mine! I fought a war of bone cancer in the U.S. Navy, causing me to lose my right tibia. I have been fighting for twenty years for a right knee replacement, but I am told I cannot have one because of Veterans Administration policy and budgets. I received a Purple Heart at Balboa Naval Hospital, but it does not show on my DD–214. Am I bitter, yes! But, I still love my country!

There are countless millions of people out here (outside of your 3-piece suits and luxury cars—outside your sphere of influence) who feel just as I do, but there seems to be nothing we can do about it. Vote yes, sure, but ultimately it is you who make the decisions right, wrong, indifferent, fair or not fair. How you make your decisions personally and politically makes the determining factors of whether you stand for us or against us . . . the People of these great United States of America.

You must choose whether or not you get to keep your jobs gentlemen. I now have a Master's Degree, a chip on my shoulder for politicians, a loud voice, and a lot of free time! Shall I work with you or against you?

Here are our requests:

Cut Foreign Oil Purchasing!

Cut All Big Oil Subsidies . . . on all fronts!

Cut your paychecks in half, even for three months to show good faith!

Make 100 percent BioDiesel a priority!

Make diesel vehicles and electric vehicles a priority now!

End gasoline vehicle production now, not 20 years from now!

Make Alternative fuels vehicles a priority now not 20 years from now!

Electrical power can be harnessed all day long in the desert, why isn't it?

Wind energy can be harnessed in the desert, why isn't it?

Why burn coal to make electricity when you can burn Brown's Gas (HHO) for half the cost and zero percent emissions released into the air?

JONATHAN-DAVID, *Meridian.*

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Your thinking is not unique . . . it is rhetoric we have heard for the past 30 years. Jimmy Carter and his lies about a shortage are still around. It is you and our Congress that has caused this problem. You allowed the Environmental Protection Agency and Department of Environmental Quality and all the environmentalist to control your thinking and votes. I do not think I am wrong in my facts, am I? Your fuel taxes and so-called regulations are taking the U.S. economy down. We will soon be controlled by foreign economies if we do not take our own resources and begin using them. You know we are the 3rd largest oil producer in the world yet we use so much foreign oil that it has become a joke? We had over 500 years of oil and natural gas reserves in the 70's. Can you tell me what happened to them? Do not answer me unless you have the facts about the info from the 70's. I hope you will stand up and be counted when it comes to the controlling liberal environmentalists' whining and crying. I truly believe you can get this done and soon. Tell Congress we need to open up our reserves. We have plenty for the next few centuries and by then we will have a new energy source. Thanks for listening.

RON.

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In your e-mail, you have said that you support wind energy. I was disappointed to see that you voted against the Production Tax Credit that would help the wind industry to continue to grow.

STEPHEN.

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I will be 67 this October; my wife is 58. I am still working, at a [lower] salary than I once commanded. This fiasco on gasoline and diesel prices has caused me to wonder if I will ever be able to retire.

I own a motor-home; having traded in my one-ton diesel pickup and a 5th wheel trailer due to the screaming increases in diesel fuel. Now I cannot travel at all the way we had planned and hoped. All of my immediate family is in the Mississippi, Louisiana and Texas areas—it may be that for some of my family I may never see them again. Selling the motor home is foolish at this juncture in that I can never hope to even almost recoup my investment.

It is essential that Congress immediately find and drill for oil anywhere in our own territories. At the same time, there should be major tax breaks given to those that can provide a) sensible alternative fuels or b) major improvements in the internal combustion engine. Nuclear energy has been stupidly legislated out of the future as well.

My concern is that when we had the majority and the President, we did not seem to have the leadership that could provide the increase in oil search, production and refinement. Now it seems that we may no longer have the Presidency and for sure will not regain the majority in the legislature. It is my firm belief that the opposition will choke our economy to death with continued pressures on ethanol or taxation on larger vehicles—all under the wing of left-wing partisanship.

Substantial increases in the supply, while changing the demand via alternative fuels, seem to be the only sensible way to go.

AL, *Hayden.*

## REMEMBERING GOVERNOR ANNE ARMSTRONG

Mr. CORNYN. Mr. President, I rise today with a heavy heart for the loss of one of Texas' strongest, most influential women, Anne Armstrong. More importantly, I rise today to honor and commemorate her incredible service to Texas and the Nation as a whole.

To understand what kind of a woman Anne Armstrong was, you first need to understand where she came from. A valedictorian graduate of Vassar in 1949, Anne's career started out, not in politics, but on a ranch in southern Texas' Kenedy County with her husband Tobin.

Although she was born in Louisiana, Anne quickly took to Texas life, and enjoyed working on one of Texas' historic ranches, settled in the 19th century. Owning a ranch taught Anne to be tough when necessary, and always polite. She also learned how to talk politics with her husband and his friends, and quickly proved to have a sharp insight into the issues facing our country.

Although her family always came first, Anne's passion for politics led her to become the Kenedy County Republican Party chair. From there she took off, serving next as Texas Republican Party chair, and eventually as the first woman ever to cochair the Republican National Committee.

One year later Anne made history again when she became the first woman ever to deliver a keynote address to a national party convention.

But Anne's service was never about the notoriety, it was about improving the government of America. In a time when a woman in politics was almost unheard of, Anne Armstrong forced herself into the game, and proved that she belonged there. She became the first ever woman to hold a Presidential Cabinet Position, serving as an adviser to Nixon and to Ford.

When President Ford joked at her swearing-in that his wife was ''always needling'' him to appoint women to higher positions, Anne quickly retorted ''I have the feeling Abigail Adams would have been just as excited as Betty Ford and I.''

In her role Anne worked to further advance the roles of women in America. She established the White House Office of Women's Programs, an office dedicated to recruiting and assisting females in obtaining political appointments and high level government employment. Her work, as well as her example, helped lay the groundwork for countless women who have followed her. I know that my colleague, Senator HUTCHISON, attributes much of her success to Anne's example and mentorship.

After serving in the White House, Anne again made history as the first female Ambassador to the United Kingdom. During that time, Anne Armstrong nearly became the first woman on a Presidential ticket, as she was considered by President Ford for the vice presidency.

In what would be her last national position, Anne served at the request of President Reagan on the President's Foreign Intelligence Advisory Board. She served as the first and only female chair to that board, and served under both Presidents Reagan and Bush.

Utimately, Anne Armstrong was an adviser to four different presidents, a mentor to many of today's prominent politicians, and a beloved friend to all who had the pleasure of working with her. In 1987, recognizing her distinguished service, President Reagan awarded Anne with the Presidential Medal of Freedom.

But as passionately as Anne Armstrong worked in politics, nothing could take priority over her family. After serving in national politics for roughly 20 years, Anne returned home to her ranch and her family in Kenedy County.

Even after such a remarkable career in politics, Anne Armstrong could not resist the call to serve her community. When she passed away on Wednesday, Anne Armstrong was still serving as the county commissioner. At the age of

80, battling cancer, Anne Armstrong continued to serve her beloved community, her home of Texas.

Whether as a mother, a wife, a rancher or a politician, Anne Armstrong's commitment and dedication was unmatched. Without a doubt, Texas, and the Nation as a whole, is richer for her service.

Anne's legacy is survived by her 5 children and 13 grandchildren—as well as the countless others whose lives she touched. That is why I have come today to introduce a resolution honoring the life and service of a pioneer of women in politics, and a great Texan, Mrs. Anne Armstrong.

## RECOGNIZING DAY OF THE AMERICAN COWBOY

Mr. ALLARD. Mr. President, today I rise to pay tribute to the American Cowboy. This distinguished body saw fit to designate July 26 as the Day of the American Cowboy. I cosponsored this resolution and would like to take this opportunity to recognize this iconic figure.

Around the globe, the American Wild West is known. To many it means cowboys, ranchers, cattle, horses, outlaws, and gunfights. But it was also homesteading and pioneering. These folks helped establish the American West, expanding our territories while creating a lasting culture and way of life, passing down the traditions of honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism from generation to generation. The cowboy spirit is the backbone of our great Nation, exemplifying strength of character, sound family values, and good old-fashioned common sense.

The enduring lessons and virtues of the American cowboy are as prevalent as ever in towns all across America. As a young boy growing up in northern Colorado, agriculture and livestock were an integral part of everyday life. Coming from a community where I saw the strong moral character and drive to succeed that modern ranchers exhibit, I can speak to how vibrant the cowboy spirit still is today in America's heartland.

In many ways, it is the unexpected places where you find the influence of cowboys that amaze us and show the true breadth of their impact. Originally known for their tough and rugged way of life on the Great Plains, the American cowboy has a magnetism that has drawn some of this Nation's most talented writers, architects, artists, and poets to devote their work to the tradition of the cowboy.

I am pleased to be a part of continuing this tradition with the designation of July 26 as the Day of the American Cowboy and hope we will honor the legend of these American heroes with our continued steadfast, hard work and dedication to this great country.

## TRIBUTE TO WAYSIDE RESTAURANT

Mr. LEAHY. Mr. President, I would like to pay tribute to one of central Vermont's finest community gathering spaces, the Wayside Restaurant. Over the past 90 years, the Wayside has built its reputation around the State of Vermont as a quality establishment where neighbors enjoy a country style breakfast, a quick business lunch, or a well-rounded family dinner. The Wayside represents the needs of the community with affordable and diversely pleasant fare.

In 1918, when Effie Ballou opened the small soup and sandwich restaurant, she never expected it would become what it is today. The Wayside serves around 1,000 customers a day, and with 160 seats, is always filled with loyal customers. Vermonters from all walks of life frequent the Wayside for authentic Vermont cooking. Politicians, professionals, farmers, elderly people, and families all gather here to eat, mingle and enjoy where they can choose a booth or saddle up to the horse shoe diner top.

The Wayside's menu offers more than 200 items, plus an additional list of specials, all new every day. These daily specials are memorized by the true blue patrons who line up at the doors before 6:30 a.m. Unique delights such as fresh native perch, only served in season, is breaded and fried. Traditional Yankee entrees are always accompanied by freshly baked pies, breads and donuts.

One of Vermont's landmark eateries, the Wayside Restaurant sparks community admiration through its history of public service. A major part of the Wayside's success is its history of family ownership. Karen Galfetti and Brian Zecchinelli are second-generation owners and operators. The couple's dedication and hands on approach are what sets the tone of the establishment, aided by their home's location right next to the restaurant. Working together as a family, the Zecchinellis strive to create a comfortable atmosphere and affordable service for the community; as such they represent the heart of working America. Providing excellent benefits for employees, most of whom have been there for decades, the philosophy behind the Wayside reflects the kind of values that strengthen our country. The Zecchinellis' dedication was recognized in 2005, when the U.S. Small Business Administration named them best Family-Owned Small Business of the Year.

Without the Wayside, to invite folks into Vermont, we would be missing not only the chance to connect with our next door neighbors, but the opportunity to support a long-time establishment that has always kept the interests of its customers at the heart of its expansion.

Mr. President, I ask unanimous consent that an article from the Times Argus detailing their 90 years of success be printed in the RECORD.

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

[From the Times Argus]

WAYSIDE TURNING 90

(By Susan Allen)

MONTPELIER/BERLIN (literally).—In 1918, the Armistice was signed, ending World War I.

A legend—Ella Fitzgerald—was born.

A first class postage stamp cost 3 cents.

And, of course, the Boston Red Sox won the World Series.

That same year, Effie Ballou opened The Wayside Restaurant, straddling the Montpelier/Berlin town line—not the 160-seat local institution that has become something of a landmark in Central Vermont, but a small, take-out joint that more closely resembled a snack bar.

''In the early days, there were no seats inside the restaurant,'' said Brian Zecchinelli, who married into the restaurant business in 1994 when he tied the knot with Karen Galfetti—whose family bought The Wayside in 1966 from the Fishes (who bought it from Effie Ballou in 1945).

''Mrs. Ballou would make some soup at the house, donuts, bring them down and reheat them,'' Zecchinelli said.

Today's Wayside serves around 1,000 customers a day—more in the summer, fewer in the winter. Most are locals and many are regulars who eat there so often they know the day of the week by the restaurant's regular daily special.

But The Wayside has become more than a place local Vermonters go for a good, affordable meal (Zecchinelli recently mailed a letter to lawmakers reminding them they can eat three meals a day there for about $20).

Many statewide and local politicians make sure there's at least one Wayside stop on the campaign tour. Zecchinelli said that's because so many Vermonters from all walks of life can be found there—plenty of votes to woo.

''It's just such a cross section of the community eating here,'' Zecchinelli said. ''Plumbers, lawyers, teachers, bank presidents . . . the whole mix of customers. You've got rusty old trucks and shining Mercedes in the parking lot.''

The Wayside was also a hot spot for state workers until some years ago. That was due, in part, to the employee meal reimbursement plan that allowed workers to expense meals eaten outside Montpelier. So, Zecchinelli said, some would eat at tables on the Berlin side of the restaurant so they could expense their meal—until an auditor discovered that while the town line passed through the property, the entire restaurant was inside the Montpelier city limits. No more expensing.

Asked what makes the restaurant so special, ''You always say you have good employees and good customers,'' Zecchinelli said.

But, he said, the reality is something different. It's the house. Ballou lived in a house on the hill just behind The Wayside. When she sold the restaurant to Joseph and Amy Fish (their son George and his wife Vivian took it over in 1954), the house went with the deal.

And when the Galfettis bought the restaurant in 1966, they, in turn, got the house, as did Karen and Brian when they took over.

''Since Day One, the house was always with the restaurant,'' said Brian Zecchinelli. ''So the owners have always been very hands-on. . . . The fact that the owner has always been able to skip down to The Wayside to give folks a hand, be there during hours when you're busiest.

''If other businesses want to put a house on the property, go for it,'' he advised.

Brian, who previously worked at Milne Travel and Rock of Ages, never expected to go into the restaurant business. Although Karen had also worked elsewhere—E.F. Hutton and Co. and Smith Barney in Burlington—she knew The Wayside was probably in her future.

''It was something I tried and I liked. We've enjoyed it,'' Brian Zecchinelli said. ''We're been so active in this business that we can tag team each other.''

The Galfettis and Zecchinellis have put seven additions on the restaurant over the years, and although customers have urged him to expand, Brian said the current size of 120 tables feels like the number to stay with, ''a comfortable size.''

He said the best thing about owning The Wayside has been the customers, who truly respond to good food. ''You're only as good as your last meal,'' he quipped.

The toughest thing, he noted, has been meeting the bottom line.

''The challenge is keeping costs in line so we can continue to be an affordable place for people to gather,'' he said. Almost everything is made on site. The kitchen is large and the smells of freshly baking bread (almost all bread, except English muffins and rye, are made at the restaurant). Daily specials include full turkey meals, roast beef, maple-cured McKenzie ham and more.

On virtually any day of the week, any time of the day, the parking lot is packed, most of the cars, trucks and motorcycles carrying Vermont license plates.

Zecchinelli said his favorite moment during his years as Wayside owner was the Red Sox rally he hosted after the Sox won the 2004 World Series, noting the last time his team had won was the year The Wayside opened—1918.

''We argued whether The Wayside has been the curse or the Bambino,'' he joked.

The restaurant rolled back prices that day, and more than 3,000 people came in to celebrate, ''mostly Red Sox fans, but some employees were in Yankee jerseys. That's OK because we're baseball fans.''

What will happen to The Wayside in the future, one wonders? It's impossible to know for sure.

But, Zecchinelli pointed out, his son Jay has been working the register since he was 4.

## VOTE EXPLANATION

● Ms. KLOBUCHAR. Mr. President, I rise today because I am proud to see the Senate pass two strong, bipartisan bills that will provide much needed relief to families across the country; the College Opportunities and Affordability Act of 2008 and the Consumer Product Safety Improvement Act of 2008.

Congress first passed the Higher Education Act more than 40 years ago, guided by the principle that no qualified student should be denied the opportunity to attend college because of the cost. Today, the cost of college has more than tripled. Tuition at 4-year public colleges in Minnesota has increased 100 percent in just the past 10 years.

I believe that investing in higher education pays extraordinary dividends, I am proud to provide real help for students and their families to make college more affordable. By passing this legislation we continue our fight to gain stronger Federal support for higher education opportunities—because our future success as a State and a nation depends on making sure that quality education is accessible and affordable.

I am also so happy to see Congress pass comprehensive product safety legislation. Inspired by the story of Jarnell Brown—a 4-year-old boy in Minnesota who died after ingesting a charm that was 99 percent lead—I have worked for the past year on authoring and promoting the lead provision of the Consumer Product Safety Improvement Act of 2008. In the past year and a half, over 13 million toys have been recalled because they contained harmful lead, and I am proud to say that this bill finally gets that substance out of children's toys.

As one of the conferees of this legislation, I signed the final conference report that was sent to the floor today, and I have been a strong supporter of this legislation since the beginning. This legislation is the most sweeping consumer product safety reform in decades, and I am glad that we have finally voted this evening to protect our children and protect our public.

On August 1, 2007, the Minneapolis I–35W bridge spanning the Mississippi River collapsed. The 1-year anniversary of this tragedy will be recognized across my State tomorrow. I am traveling home to honor the victims and their families, and to recognize our heroic first responders. By returning to Minnesota, I will not be in Washington, DC, to vote on the adoption of either the College Opportunities and Affordability Act of 2008 or the Consumer Product Safety Improvement Act of 2008 conference reports. Had I not returned to Minnesota, I would have voted in favor of both of these important pieces of legislation.●

## ADDITIONAL STATEMENTS

### HONORING HOOSIER OLYMPIC ATHLETES

● Mr. BAYH. Mr. President, today I pay tribute to the eight outstanding Hoosier athletes representing the State of Indiana and all of the United States in the Games of the XXIX Olympiad in Beijing, China.

Lloy Ball, a volleyball player from Fort Wayne; David Boudia, a diver from Noblesville; Tamika Catchings, a basketball player from Indianapolis; Lauren Cheney, a soccer player from Indianapolis; Richard Clayton, a baseball player from Lafayette; Mary Dunnichay, a diver from Elwood; Thomas Finchum, a diver from Indianapolis; and Bridget Sloan, a gymnast from Pittsboro, will all represent the Hoosier State as members of Team USA.

These Hoosiers have shown superior abilities, extraordinary work ethics, and unflappable determination in their quests to become Olympic athletes. The road to the pinnacle of athletic success has required thousands of hours of demanding training over years of preparation, yet these athletes show us that commitment to excellence truly has its rewards. For some, the spoils of their sacrifice may even come in the form of an Olympic medal.

This Olympiad is the first for many of the Hoosier athletes; others have donned the colors of Team USA before. This year, Lloy Ball, a member of the U.S. men's volleyball team, will become the first male athlete from the United States to compete in four Olympic Games. Lloy's incredible feat will forever be part of Indiana and Olympic sports history, and I know our entire state is immensely proud to count him among our own.

As these eight athletes travel halfway around the globe to compete against the world's finest, they will bring with them the unwavering support of their fellow Hoosiers. The people of Indiana are fortunate to have such an exceptional group representing us at the Olympic Games.

Team USA represents the best America has to offer, and these Hoosiers will make our State and our country proud.●

### HONORING JACK W. AEBY

● Mr. BINGAMAN. Mr. President, this month marks the 63rd year since scientists at Los Alamos National Laboratory tested the world's first nuclear weapon at the Trinity Test Site in southern New Mexico. While much has been written about this test, which has changed the course of the world as we know it today, little has been written about the famous color photograph of this test the only color photograph that survived the test.

Jack W. Aeby, then 23, was assigned to Emilio Segre in the Gamma Radiation group as a technician and was permitted to bring his own 35 mm camera to take color pictures of the radiation measuring equipment. When the detonation occurred, Mr. Aeby took 3 pictures of the detonation before running out of film. Of those three pictures, one turned out to be good. Today that picture is used around the world and is found on the cover of such famous publications as Time magazine and Richard Rhodes' ''The Making of the Atomic Bomb.'' In some cases he is given credit for this photo but never consistently due to the complications associated with our copyright law.

Mr. Aeby still lives in Espanola, NM. As he turns 85 next month, I would like to honor him and the contribution he has made to society in taking this photo to remind us of the way this test has changed the course of modern history.●

### TRIBUTE TO DR. MICHAEL C. MORGAN

● Mr. CARDIN. Mr. President, Dr. Michael Morgan is a professor of atmospheric sciences at the University of Wisconsin, Madison, and a Congressional Science Fellow sponsored by the

American Association for the Advancement of Science.

As a native of Baltimore, Dr. Morgan earned his undergraduate degree as well as his doctorate from the Massachusetts Institute of Technology. He has also completed post-doctoral studies at Texas A&M University. Dr. Morgan has been an invaluable member of my staff since October, 2007. His fellowship ends in late August and he will return to his teaching duties then.

The AAAS Fellows Program has been the source of skilled science advisers for many years here on Capitol Hill. Rarely, however, has the program made such a timely placement. With his expertise in atmospheric sciences, Dr. Morgan was especially well-equipped to advise me on global climate change issues.

As the Environment and Public Works Committee held a number of oversight hearings on climate change last year, Dr. Morgan provided careful analysis of witness testimony as well as probing questions. When Mr. LIEBERMAN and Mr. WARNER advanced their landmark legislation, America's Climate Security Act, few offices could rely on the expertise that Dr. Morgan lent this Senator. And when Ms. BOXER brought the legislation to the floor, Dr. Morgan had convinced me that a broad-based science program of monitoring and analysis was needed. Although blocked from offering my scientific monitoring amendment on the floor, Dr. Morgan has provided us with a solid framework that I intend to see as part of climate change legislation considered next year.

In addition to his expertise on atmospheric science issues, Dr. Morgan provided comprehensive support to me on the full range of issues that came before the Environment and Public Works Committee. Of special note has been his work on bills to control harmful mercury emission and another bill to simplify and automate the tracking system for hazardous wastes in this country.

Dr. Morgan has been an integral part of the Projects Team in my office and a valued friend and colleague to my permanent staff.

As he prepares to return to his academic duties, Dr. Morgan goes with my sincere thanks and best wishes.●

## IN RECOGNITION OF RAY JOHNSON

● Mr. CARPER. Mr. President, I wish to recognize Ray Johnson who is retiring on September 1, 2008, from the Delaware State Pension Office after an amazing 39 years and 10 months of service to the people of Delaware. Ray literally has dedicated his life to helping tens of thousands of State employees, educators, and others prepare for their retirement. It is now my privilege to thank him for his dedication to them, to commend him for a life well lived, and to wish him the very best of luck throughout his own retirement.

I met Ray on my first day as State treasurer in November of 1976 at a time when the State Pension Office was part of the State Treasurer's Office. He was one of the original Pension Office employees, having served for the office since its creation. Because of his long tenure with the office, Ray has served as the go-to person for just about any issue that ever arose within the office. His deep understanding and knowledge of the workings of the office, whether it be in the investment sector or the calculation of retirement benefits, made him a valuable resource for not only the people he served but to his coworkers, as well.

Ray began his career in public service on November 1, 1968, as the first senior accountant for the State Budget Commission. There, he developed the initial accounting system to track and recoup previous advancements made from something called the Advanced Land Acquisition and Advanced Planning Funds. His efforts recouped millions of dollars, resulting in additional interest earnings that were used to make advanced purchase deposits on many of the State's public park lands that are enjoyed by our residents and visitors today.

In 1971, Ray was selected to be the fiscal administrative officer for the newly created State Pension Office. In that role, he developed many of the rules, regulations, and procedures that are still used there some 35 years later.

In the late 1980s, Ray helped lead the effort to computerize the State Pension Office, enabling its staff to become more productive and to provide better service to 25,000 employees, as well as to 5,000 pensioners and their families. Many of the administrative policies developed by Ray are still in place today and continue to make a positive difference in the lives of one generation of retirees after another.

It was not just Ray's depth of knowledge and his years of experience that attracted people to him in the Pension Office. It was his giving and caring personality, as well. He always brought a ready smile to the workplace each day. Ray was hard pressed ever to refuse help to anyone who requested it. He would answer calls and questions at all times of day and mentored new workers in his free time. Ray served as a father-figure to many employees, too, dispensing advice to those who asked for it or, sometimes, just lending a sympathetic ear. His compassion for and loyalty to his work, to his colleagues, and to those they served made him an especially worthy recipient of the Pension Administration Award—the highest award given in the Pension Office and an award bestowed upon him by the vote of his peers.

Ray continually worked to better the retirement system for the people he served as well as the people with whom he worked. For example, when Ray moved to the State Pension Office in 1971, all calculations for retirement benefits were done by hand—a long, tedious process for the employees. Ray recognized the inefficiency of this system and took it upon himself to automate the calculation of benefits, a step that would reduce the workload for many of his coworkers, as well as provide the people they served with a more accurate method of determining benefits.

One of the special things about Ray was that he was not only interested in helping any person he could, but he strove to help every person who had a concern or issue. If he did not have the answer—which was rare—he would search tirelessly for one from any resource he could and would never allow anyone in need to go without some form of assistance. If a person had questions about retirement and his call was answered by Ray, he or she was sure to complete that conversation with a solution or, at the very least, a direction of where to go to find a solution.

In addition to his extensive knowledge of State pension law and of the workings of the State Pension Office, Ray's success in his career can largely be attributed to his genuine love for his work. He was always truly interested in the workings of the State Pension Office and found it both challenging and satisfying. Ray embraced and took full advantage of the opportunity to develop the State Pension Office from the ground up. A very humble human being, he took pride in his tireless efforts to make the office what it is today. He worked diligently to make Delaware's retirement system a model for the Nation, not just because it was his job, but because he genuinely cared about every person who contacted that office with questions and concerns about their retirement.

Of all of these accolades, Ray says:

> Although I have been involved in recommending, developing, or implementing many enhancements in policies and processes during my tenure, I am most satisfied in knowing that I have been able to serve the Office, fellow staff members, and the taxpayers of the state to the best of my ability and have helped make the retirement process more efficient, effective, and easier for all involved.

Ray Johnson is one of the most dedicated and hard-working people with whom I have ever had the honor of working. He has earned every day the admiration and affection of his colleagues and the gratitude of the people they have served for four decades. His loyalty and his sense of service have been and remain a source of inspiration to me and to those around him. It is with a genuine sense of honor and joy that I extend my heartfelt congratulations to Ray. I wish him a long and happy retirement to share and enjoy with his equally accomplished wife Claudia and their children, Randy and Donna. On behalf of the people of Delaware, let me thank the three of you for sharing with the people of the First State your husband and your father.

Let me close by saying that I envy—just a little bit—all of the free time he will now have for fishing and relaxing with long walks on the beach with those he loves. It is my hope that he

will enjoy his own retirement as much as those whom he helped now enjoy their own.●

## TRIBUTE TO STEVE THOMPSON

● Mrs. FEINSTEIN. Mr. President, I wish to honor Steve Thompson, his stellar career with the U.S. Fish and Wildlife Service, and the dedication to solving our most difficult natural resources problems that he has demonstrated time and again throughout his career. Thompson is retiring on August 4 after 32 years with the Service.

I know Steve as the regional director of Region 8, formerly the California and Nevada Operations Office, CNO, a job he assumed in 2002. From the regional headquarters in Sacramento, CA, he oversaw Service programs in California, Nevada, and Klamath Basin that administer the Endangered Species Act and Migratory Bird Treaty Act and managed 51 national wildlife refuges and 3 national fish hatcheries.

His many honors include being chosen in 1994 as the first ''Refuge Manager of the Year'' by the National Audubon Society and the National Wildlife Refuge Association. Even more notably, in September 2007, Thompson earned the Distinguished Executive Award, the highest Presidential Rank Award given to career senior executive service employees and the first time a Service employee has been so recognized.

I have worked now with Steve on many issues, including the Cargill salt ponds purchase and ongoing restoration, efforts to restore the Klamath River, habitat conservation planning, and CALFED. For his dedication to help find a way to purchase the Cargill salt ponds, Steve can feel pride at the migratory birds that now have a place to rest in San Francisco Bay on their long journeys along the Pacific flyway.

For his utterly tireless work to find a way to restore the Klamath River, we do not yet know what result will ensue. But thanks to Steve's leadership, we perhaps have a once in a generation opportunity to restore the River and its fisheries while providing certainty to farmers.

What I always found with Steve is that he is completely dedicated to finding that straight and narrow path through the bureaucracy to actually solve our biggest natural resource problems.

Others might find reasons why a solution can't be found or why it might be imperfect from some idealized perspective. Steve just dedicates himself to finding that solution.

He is a straight shooter. He tells you what he is going to do to solve a problem, and then he gets the job done.

All of us who care about California's natural resources will miss him.

Steve, I want to congratulate you on your years of remarkable service to our Nation's fish and wildlife and the people who value them. I hope you can now enjoy a little fishing and a few quiet moments to contemplate what you have so honorably protected.●

## RETIREMENT OF IOWA STATE SENATOR MICHAEL CONNOLLY

● Mr. HARKIN. Mr. President, I wish to pay homage to Senator Michael Connolly on his retirement from the Iowa Senate after 30 years of distinguished public service. Mike admirably represented the citizens of Dubuque, IA, for 10 years in the Iowa House and 20 years in the Iowa Senate. He combined a passionate love for his community with progressive politics and a strong work ethic.

When Dubuque fell on hard times after the farm crisis of the 1980s and a loss of manufacturing jobs, Mike Connolly was there to ensure that the State of Iowa was a partner in the economic and cultural renaissance of the city. If you visit Dubuque today, you will find one of the most beautiful and vibrant cities in the Midwest. That did not happen by accident. Senator Connolly and other community leaders formed the Greater Dubuque Development Corporation, emphasizing the attitude that everyone would have to pull together to move the city forward. As they say, the proof is in the pudding, and I encourage you, Mr. President, and all of my Senate colleagues, to visit this jewel of a city on the Upper Mississippi.

Senator Connolly is an educator by training, and although his influence has been feld in most of the education legislation of the past three decades, his interests and work have been broad and diverse.

As chairman of the Transportation Committee, Senator Connolly boosted funding to make roads and bridges safer, and developed a new funding formula that recognized the need to enhance the transportation network linking the State's urban population centers. The construction of four-lane roads between Dubuque and Waterloo, Cedar Rapids and the Quad Cities, has led to economic growth throughout the northeast and east-central portion of Iowa.

Senator Connolly also spurred an effort to beautify Iowa's roadways through promotion of the Resource Enhancement and Protection—REAP—program, which included ongoing funding for the Integrated Roadside Vegetation Management Program, a partnership between the University of Northern Iowa and Iowa counties to plant prairie grasses and flowers along the State's thoroughfares. The program pays homage to Senator Connolly's father, who was a road laborer with a sixth-grade education who worked and saved so his children could receive a college education.

Senator Connolly also helped modernize Iowa's election laws as chairman of the State Government Committee, including passing election day voter registration legislation and requiring that paper trails be included with electronic voting machines. He used his position on the Ways and Means Committee to give working Iowans a tax break by removing the sales tax from utility bills.

He was also a leader in the legislature helping to pass antibullying and civil rights legislation that will help protect generations of Iowans to come. It would be difficult, indeed, to catalog all of Senator Mike Connolly's legislative achievements; suffice it to say he has been one of the most dedicated, hard-working and productive members in the history of the Iowa General Assembly.

Iowans, especially those in the greater Dubuque community, will miss Mike's leadership. But I know he will continue to be involved in the civic life of our State and nation. His wonderful wife Martha has been a true partner with him these many years, and his accomplishments are hers as well.

I wish Senator Connolly a long and happy retirement, with plenty of time to spend with his accomplished children, Maureen and John. Thank you, Mike, and Godspeed.●

## HONORING THE WINNER SCHOOL DISTRICT

● Mr. JOHNSON. Mr. President, today I pay tribute to the Winner School District for its exceptional support to their National Guard and Reserve Employees. The Winner School District is one of 15 employers selected from across the Nation to receive top honors as a 2008 Secretary of Defense Freedom Award. The Freedom Award is the highest recognition given by the Department of Defense under the auspices of the Employer Support of the Guard and Reserve to an employer for their outstanding support to their National Guard and Reserve employees.

The school district was nominated by 2LT Derris Buus of the 155th Engineer Company, South Dakota Army National Guard. Buus had glowing remarks for his employer, ''The School District has always supported me and my family during times of deployment or training. Mary Fischer and Jim Drake have all made it a point to ensure that my family had everything they needed during my absence. They always made it very easy for me to pursue my career in the SDARNG as well as my career as an educator.''

The Winner School District provides a pay supplement for the entire length of deployment for its Guard and Reserve employees. Deployed employees received numerous care packages from the school board and the students. Daily e-mails were sent to deployed employees from students, teachers, principals, and the superintendent. Returning servicemembers teach the same grade and in the same classroom as they did prior to a deployment.

School board members also aid the families of deployed employees. School board members mowed lawns, took children to athletic events, and in one

instance, tended to an expectant mother throughout her pregnancy.

The Winner School District is a shining example of patriotism, and it sets a golden example for all employers to follow. I hope we all may take to heart the excellence and dedication of the Winner School District.●

## IN RECOGNITION OF BRIAN BEAMAN

● Mr. JOHNSON. Mr. President, I wish today to recognize and congratulate Brian Beaman of Selby, SD. As part of the 2008 U.S. Olympic team, Brian will be travelling to Beijing to compete in the Men's 10M Air Pistol competition.

Brian represents Selby and the citizens of South Dakota in an extraordinary fashion. Spending 2 years at South Dakota State University and finishing at Jacksonville State University, Brian has continued to exemplify the work ethic and integrity that originate in his South Dakotan roots. Brian is currently ranked second in the United States in the Men's 10M Air Pistol competition, and placed second at Nationals in 2007.

This prestigious honor is a reflection of Brian's extraordinary talent and commitment to shooting. It is wonderful that he is so motivated to enjoy athletic competition at such a high level. Again, congratulations to Brian Beaman on fighting his way to the 2008 Olympics in Beijing, and I eagerly look forward to following his story of success throughout the games.●

## IN RECOGNITION OF DEREK MILES

● Mr. JOHNSON. Mr. President, I wish to recognize and congratulate Derek Miles, assistant coach of track and field at the University of South Dakota. As part of the 2008 U.S. Olympic team, Derek will be traveling to Beijing to compete in the Men's Pole Vaulting Competition.

Derek leads the students at the University of South Dakota in an extraordinary fashion. After graduating from USD, Derek has continued to exemplify and instill his work ethic and integrity in those he coaches. Derek has an amazing record in the pole vaulting community, finishing seventh at the 2004 Olympic games in Greece.

It is wonderful that Derek is so motivated to enjoy athletic competition at such a high level. His positive attitude and strong motivation serve as a model for talented young athletes throughout South Dakota and the Nation to emulate. As a fellow University of South Dakota alum, I want to wish Derek congratulations and the best of luck in the upcoming 2008 Olympics.●

## OSTRWSS

● Mr. JOHNSON. Mr. President, today I recognize a very important and historical event in South Dakota: the Missouri River reaching the Pine Ridge Reservation. On August 20, 2008, a celebration will be held in Wanblee, SD, to commemorate such a monumental milestone in the history of Pine Ridge.

It has been nearly 20 years since Congress adopted the Mni Wiconi Act to bring clean water sources to the Pine Ridge Reservation. Bringing the Missouri River to the people of Pine Ridge will have an enormous impact in the overall quality of life of tribes and residents in the area. I have been pleased to work on this project with tribal leaders and residents during my tenure in Congress.

I commend the Oglala Sioux Tribe Rural Water Supply System, the concerned tribal officials, and residents who have worked tirelessly, some since the 1960s, to bring a clean drinking water source to the people of the Pine Ridge Reservation. The event on August 20 is an opportunity for everyone to celebrate the hard work and commitment involved in making this dream a reality, while looking forward to the great results that Missouri River water will bring to future generations. The impacts will be positive, they will be far-reaching, and they will be impressive.

Again, congratulations to the Oglala Sioux Tribe and the Oglala Sioux Tribe Rural Water Supply System on this historic event. People have waited a long time for this day to come, and I am glad it is finally a reality.●

## 90TH BIRTHDAY OF DR. MAURICE ALBERTSON

● Mr. SALAZAR. Mr. President, I wish today to make a statement celebrating the 90th birthday of Dr. Maurice Albertson, a Colorado citizen whose compassion for his fellow human beings is evident in his every accomplishment.

Dr. Albertson has dedicated his career to enhancing the quality of life of people all over the world. The success he has had in reaching this goal is not just a matter of personal pride, but of global triumph. It is with great pleasure that I wish him a happy birthday.

Dr. Albertson began his career as a professor of civil engineering at Colorado State University in 1947. He is responsible for the development of CSU's large and prestigious water resources management program and was named as director of the Colorado State University Research Foundation.

Dr. Albertson's accomplishments outside of the university are even more impressive. At the request of the Southeast Asia Treaty Organization, he established a graduate school of engineering in Bangkok, Thailand. Known today as the Asian Institute of Technology, Dr. Albertson's creation still thrives.

Dr. Albertson and two colleagues, Ed and Miriam Shinn, convened an international conference at CSU on the subject of sustainable village-based development in the developing world. The conference was attended by over 350 persons from 34 nations. Following the conference, Dr. Albertson and the Shinns founded Village Earth, an international nongovernmental organization that provides training to communities and organizations in the methods of sustainable participatory development. To date, Village Earth has helped hundreds of people in 15 countries to lift themselves out of poverty.

And perhaps most impressively, Dr. Albertson played a pivotal role in the formation of the Peace Corps. In 1960, Dr. Albertson and his team won a contract from the U.S. State Department to undertake a congressional study of the feasibility of creating a Point Four International Youth Corps. The following year, Dr. Albertson coauthored New Frontiers for American Youth: Perspective on the Peace Corps with Pauline Birky and Andrew Rice. This work was embraced by Sergeant Shriver and the Kennedy administration as the concept paper for creation of the Peace Corps. Dr. Albertson continued to work closely with the Kennedy administration in launching the Peace Corps, which has benefited countless volunteers and residents of developing countries worldwide.

Dr. Albertson has served as a consultant to the World Bank, the United Nations Development Program, the U.S. Agency for International Development, and many other agencies dealing with development issues. He has been awarded the Lifetime Achievement Award from the American Society of Civil Engineers, the Colorado Governor's Award of Merit for Science and Technology, and an honorary Doctor of Humane Letters from Colorado State University in 2006 in recognition of his exceptional contributions to industry and developing nations.

From such an extensive list of achievements, it is abundantly clear that Dr. Albertson has had an industrious and meaningful 90 years.

Dr. Albertson, I am inspired by the life that you have led. Our State and our Nation are blessed to have you as a citizen. I wish you a very happy birthday.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 4:54 p.m., a message from the House of Representatives, delivered by

Mrs. Cole, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4137) to amend and extend the Higher Education Act of 1965, and for other purposes.

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At 5:13 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. R. 6432. An act to amend the Federal Food, Drug, and Cosmetic Act to revise and extend the animal drug user fee program, to establish a program of fees relating to generic new animal drugs, to make certain technical corrections to the Food and Drug Administration Amendments Act of 2007, and for other purposes.

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At 6:17 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1108. An act to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

H.R. 2339. An act to encourage research, development, and demonstration of technologies to facilitate the utilization of water produced in connection with the development of domestic energy resources, and for other purposes.

H.R. 2851. An act to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

H.R. 3815. An act to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to make full and efficient use of open source information to develop and disseminate open source homeland security information products, and for other purposes.

H.R. 3957. An act to increase research, development, education, and technology transfer activities related to water use efficiency and conservation technologies and practices at the Environmental Protection Agency.

H.R. 4806. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes.

H.R. 5170. An act to amend the Homeland Security Act of 2002 to provide for a privacy official within each component of the Department of Homeland Security, and for other purposes.

H.R. 5531. An act to amend the Homeland Security Act of 2002 to clarify criteria for certification relating to Advanced Spectroscopic Portal monitors, and for other purposes.

H.R. 5892. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate and timely delivery of compensation to veterans and their families and survivors, and for other purposes.

H.R. 5983. An act to amend the Homeland Security Act of 2002 to enhance the information security of the Department of Homeland Security, and for other purposes.

H.R. 6073. An act to provide that Federal employees receiving their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically.

H.R. 6193. An act to require the Secretary of Homeland Security to develop and administer policies, procedures, and programs to promote the implementation of the Controlled Unclassified Information Framework applicable to unclassified information that is homeland security information, terrorism information, weapons of mass destruction information and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and for other purposes.

H.R. 6445. An act to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from collecting certain copayments from veterans who are catastrophically disabled, and for other purposes.

H.R. 6456. An act to provide for extensions of certain authorities of the Department of State, and for other purposes.

H.R. 6576. An act to require the Archivist of the United States to promulgate regulations regarding the use of information control designations, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 296. Concurrent resolution expressing support for the designation of August 2008 as ''National Heat Stroke Awareness Month'' to raise awareness and encourage prevention of heat stroke.

H. Con. Res. 358. Concurrent resolution commending the members of the Nevada Army and Air National Guard and the Nevada Reserve members of the Armed Forces for their dedicated, unselfish, and professional service, commitment, and sacrifices to the State of Nevada and the United States during more than five years of deployments to and in support of Operation Iraqi Freedom and Operation Enduring Freedom.

H. Con. Res. 361. Concurrent resolution commemorating Irena Sendler, a woman whose bravery saved the lives of thousands during the Holocaust and remembering her legacy of courage, selflessness, and hope.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2339. An act to encourage research, development, and demonstration of technologies to facilitate the utilization of water produced in connection with the development of domestic energy resources, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2851. An act to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3815. An act to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to make full and efficient use of open source information to develop and disseminate open source homeland security information products, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3957. An act to increase research, development, education, and technology transfer activities related to water use efficiency and conservation technologies and practices at the Environmental Protection Agency; to the Committee on Environment and Public Works.

H.R. 4806. An act to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5170. An act to amend the Homeland Security Act of 2002 to provide for a privacy official within each component of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5531. An act to amend the Homeland Security Act of 2002 to clarify criteria for certification relating to Advanced Spectroscopic Portal monitors, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5892. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate and timely delivery of compensation to veterans and their families and survivors, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 5983. An act to amend the Homeland Security Act of 2002 to enhance the information security of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6073. An act to provide that Federal employees receiving their pay by electronic funds transfer shall be given the option of receiving their pay stubs electronically; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6193. An act to require the Secretary of Homeland Security to develop and administer policies, procedures, and programs to promote the implementation of the Controlled Unclassified Information Framework applicable to unclassified information that is homeland security information, terrorism information, weapons of mass destruction information and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6445. An act to amend title 38, United States Code, to prohibit the Secretary of Veterans Affairs from collecting certain copayments from veterans who are catastrophically disabled, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 6576. An act to require the Archivist of the United States to promulgate regulations regarding the use of information control designations, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 361. Concurrent resolution commemorating Irena Sendler, a woman whose bravery saved the lives of thousands during the Holocaust and remembering her legacy of courage, selflessness, and hope; to the Committee on the Judiciary.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3406. A bill to restore the intent and protections of the Americans with Disabilities Act of 1990.

## 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–7322. A communication from the Assistant Inspector General for Communications and Congressional Liaison, Office of Inspector General, Department of Defense, transmitting, pursuant to law, the report of a vacancy and designation of acting officer in the position of Inspector General, Department of Defense received on July 30, 2008; to the Committee on Armed Services.

EC–7323. A communication from the Assistant to the Secretary and White House Liaison, Department of Housing and Urban Development, transmitting, pursuant to law, the report of an action on a nomination in the position of President, Government National Mortgage Association received on July 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7324. A communication from the Assistant to the Secretary and White House Liaison, Department of Housing and Urban Development, transmitting, pursuant to law, the report of an action on a nomination in the position of Assistant Secretary for Congressional and Intergovernmental Relations received on July 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7325. A communication from the Assistant to the Secretary and White House Liaison, Department of Housing and Urban Development, transmitting, pursuant to law, the report of the discontinuation of service in an acting role in the position of President, Government National Mortgage Association received on July 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7326. A communication from the Assistant to the Secretary and White House Liaison, Department of Housing and Urban Development, transmitting, pursuant to law, the report of an action on a nomination in the position of Assistant Secretary for Community Planning and Development received on July 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7327. A communication from the Assistant Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, a report entitled, ''The 2007 Annual Homeless Assessment Report (AHAR)''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7328. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled, ''Periodic Report to Congress on the National Emergency Regarding Proliferation of Weapons of Mass Destruction''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7329. A communication from the Secretary, Department of the Treasury, transmitting, pursuant to law, a report entitled, ''Periodic Report on the National Emergency with respect to Côte d'Ivoire''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7330. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska'' (RIN0648–XJ17) received on July 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7331. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska'' (RIN0648-XJ16) received on July 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7332. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648-XJ19) received on July 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7333. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Office of Energy Efficiency and Renewable Energy, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnaces and Boilers'' (RIN1904-AA78) received on July 30, 2008; to the Committee on Energy and Natural Resources.

EC–7334. 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 ''Medicare and State Health Care Programs; Fraud and Abuse; Issuance of Advisory Opinions by the Office of Inspector General'' (42 CFR part 1008) received on July 30, 2008; to the Committee on Finance.

EC–7335. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled ''A New Transportation Approach for America''; to the Committee on Environment and Public Works.

EC–7336. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Fiscal Year 2007 Superfund Five-Year Review Report to Congress''; to the Committee on Environment and Public Works.

EC–7337. A communication from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Rules for Administrative Review of Agency Decisions'' (RIN1212-AB15) received on July 30, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7338. A communication from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR parts 4022 and 4044) received on July 30, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7339. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''New Animal Drugs; Cephalosporin Drugs; Extralabel Animal Drug Use; Order of Prohibition'' (Docket No. FDA–2008–N–0326) received on July 30, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7340. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a nomination in the position of Assistant Secretary for Employment and Training received on July 30, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7341. A communication from the Director, Office of Management, Department of Energy, transmitting, pursuant to law, a report entitled ''Federal Activities Inventory Reform Act of 1998''; to the Committee on Homeland Security and Governmental Affairs.

EC–7342. A communication from the Assistant Inspector General, Communications and Congressional Liaison, Department of Defense, transmitting, pursuant to law, a report entitled ''Federal Activities Inventory Reform Act of 1998''; to the Committee on Homeland Security and Governmental Affairs.

EC–7343. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report entitled, ''Federal Appointment Authorities, Cutting through the Confusion''; to the Committee on Homeland Security and Governmental Affairs.

EC–7344. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-441 , ''Priority Employment for Economically Disadvantaged Youth in the Youth Employment Program Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7345. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-442 , ''Marriage Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7346. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-443 , ''Access to Youth Employment Programs Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7347. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-444, ''Metropolitan Police Department Retirement Options Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7348. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-445 , ''Closing of a Public Alley in Square 127, S.O. 07-1209, Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7349. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-446 , ''Closing of Public Alleys in Squares 564, 566, and 568, S.O. 07-122, Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7350. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-447, ''Downtown BID Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7351. A communication from the Chairman, Council of the District of Columbia,

transmitting, pursuant to law, a report on D.C. Act 17-448 , ''New Convention Center Hotel Technical Amendments Temporary Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7352. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-449 , ''Adams Morgan Taxicab Zone Enforcement Temporary Amendment Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7353. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 17-450 , ''Spam Deterrence Act of 2008'' received on July 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

## PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–435. A message from the National Assembly of Kuwait to the President pro tempore of the Senate expressing congratulations on the occasion of the National Day of the United States of America; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Indian Affairs, without amendment:

S. 1193. A bill to direct the Secretary of the Interior to take into trust 2 parcels of Federal land for the benefit of certain Indian Pueblos in the State of New Mexico (Rept. No. 110–434).

By Mr. DORGAN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.J. Res. 62. A joint resolution to honor the achievements and contributions of Native Americans to the United States, and for other purposes (Rept. No. 110–435).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 620. A resolution designating the week of September 14–20, 2008, as National Polycystic Kidney Disease Awareness Week, to raise public awareness and understanding of polycystic kidney disease, and to foster understanding of the impact polycystic kidney disease has on patients and future generations of their families.

S. Res. 622. A resolution designating the week beginning September 7, 2008, as ''National Historically Black Colleges and Universities Week''.

S. Res. 624. A resolution designating August 2008 as ''National Truancy Prevention Month''.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Air Force nomination of Gen. Norton A. Schwartz, to be General.

*Air Force nomination of Gen. Duncan J. McNabb, to be General.

Air Force nomination of Lt. Gen. William L. Shelton, to be Lieutenant General.

Air Force nomination of Maj. Gen. Larry D. James, to be Lieutenant General.

Air Force nominations beginning with Brigadier General William S. Busby III and ending with Colonel Delilah R. Works, which nominations were received by the Senate and appeared in the Congressional Record on July 23, 2008.

Air Force nomination of Brig. Gen. Lawrence A. Stutzriem, to be Major General.

Army nomination of Col. James R. Anderson, to be Brigadier General.

Army nominations beginning with Brigadier General Lie-Ping Chang and ending with Colonel Eugene R. Woolridge III, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with Colonel Heidi V. Brown and ending with Colonel Mark W. Yenter, which nominations were received by the Senate and appeared in the Congressional Record on July 15, 2008.

Marine Corps nomination of Lt. Gen. John M. Paxton, Jr., to be Lieutenant General.

Navy nominations beginning with Capt. Christopher J. Paul and ending with Capt. Michael J. Yurina, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2008. (minus 1 nominee: Capt. George W. Ballance)

Navy nomination of Captain Terry B. Kraft, to be Rear Admiral (Lower Half).

Navy nomination of Rear Adm. Bruce W. Clingan, to be Vice Admiral.

Navy nomination of Vice Adm. James A. Winnefeld, Jr., to be Vice Admiral.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning with Christian L. Biscotti and ending with Barry K. Wells, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2008.

Air Force nominations beginning with Timothy M. French and ending with Rachelle M. Nowlin, which nominations were received by the Senate and appeared in the Congressional Record on July 23, 2008.

Air Force nomination of Jeffrey T. Butler, to be Colonel.

Army nominations beginning with Robert S. Dempster and ending with Fred A. Karnik, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with Thomas G. Norbie and ending with David K. Rhinehart, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with Anne M. Andrews and ending with Kim N. Thomsen, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with David E. Bentzel and ending with Shannon M. Wallace, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with Carlos C. Amaya and ending with Selina G. Williams, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nominations beginning with Kimberlee A. Aiello and ending with D060789, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Army nomination of Deborah J. McDonald, to be Colonel.

Army nomination of Lemuel H. Clement, to be Colonel.

Army nomination of Marco E. Harris, to be Colonel.

Army nominations beginning with Robert J. Howell, Jr. and ending with Stanley R. Jones, Jr., which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

Army nomination of Francis B. Magurn II, to be Colonel.

Army nomination of Joseph W. Brown, to be Major.

Army nomination of Victor Ursua, to be Major.

Army nomination of Yvonne M. Beale, to be Major.

Army nomination of Gerald P. Johnson, to be Lieutenant Colonel.

Army nominations beginning with Mauel Laborde and ending with Anthony Wojcik, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

Army nominations beginning with George J. Jicha and ending with William H. Smithson, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

Army nominations beginning with Christopher M. Hartley and ending with Lajohnne A. White, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

Army nominations beginning with Samuel M. Ruben and ending with George D. Horn, which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

Navy nominations beginning with Timothy J. Mccullough and ending with Jae Woo Chung, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Navy nominations beginning with Phillip J. Bachand and ending with Gilbert L. Williams, which nominations were received by the Senate and appeared in the Congressional Record on July 22, 2008.

Navy nomination of Eric D. Seeland, to be Captain.

Navy nominations beginning with William L. Hendrickson and ending with Orlando Gallardo, Jr., which nominations were received by the Senate and appeared in the Congressional Record on July 24, 2008.

*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 Mr. BIDEN (for himself, Mr. LUGAR, Mr. LAUTENBERG, Mr. WARNER, Mr. LEAHY, Mr. LEVIN, and Mr. VOINOVICH):

S. 3370. A bill to resolve pending claims against Libya by United States nationals,

and for other purposes; considered and passed.

By Ms. SNOWE (for herself and Mr. CONRAD):

S. 3371. A bill to amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction; to the Committee on Finance.

By Mr. MENENDEZ:

S. 3372. A bill to promote savings by providing a match for eligible taxpayers who contribute to savings products and to facilitate taxpayers receiving this match and open a bank account when they file their Federal income tax returns; to the Committee on Finance.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3373. A bill to reauthorize and expand the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 3374. A bill to establish a commission on veterans and members of the Armed Forces with post traumatic stress disorder, traumatic brain injury, or other mental health disorders, to enhance the capacity of mental health providers to assist such veterans and members, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WYDEN (for himself, Ms. COLLINS, and Mr. DODD):

S. 3375. A bill to prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SALAZAR:

S. 3376. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide assistance to the Paralympic Program of the United States Olympic Committee, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. COLEMAN (for himself, Ms. COLLINS, and Mr. LIEBERMAN):

S. 3377. A bill to amend title 46, United States Code, to waive the biometric transportation security card requirement for certain small business merchant mariners, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER:

S. 3378. A bill to require all public school employees and those employed in connection with a public school to receive FBI background checks prior to being hired, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself, Ms. MURKOWSKI, and Mr. DURBIN):

S. 3379. A bill to provide grants to establish veteran's treatment courts; to the Committee on the Judiciary.

By Mr. REID (for Mrs. CLINTON):

S. 3380. A bill to promote increased public transportation use, to promote increased use of alternative fuels in providing public transportation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 3381. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, Tesuque, and Taos; to the Committee on Indian Affairs.

By Mrs. FEINSTEIN:

S. 3382. A bill for the relief of Guy Privat Tape and Lou Nazie Raymonde Toto; to the Committee on the Judiciary.

By Mr. CARDIN (for himself, Mrs. CLINTON, Ms. MIKULSKI, and Mr. SCHUMER):

S. 3383. A bill to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, and Mrs. MCCASKILL):

S. 3384. A bill to amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DURBIN (for himself, Mr. GREGG, Mr. DODD, Mr. BURR, Mr. HARKIN, and Mr. ALEXANDER):

S. 3385. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND (for himself, Mr. HATCH, Mr. CHAMBLISS, Mr. WARNER, and Mr. BURR):

S. 3386. A bill to prohibit the use of certain interrogation techniques and for other purposes; to the Select Committee on Intelligence .

By Mr. HATCH (for himself and Mr. DODD):

S. 3387. A bill to amend the Public Health Service Act with respect to pain care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BARRASSO:

S. 3388. A bill to amend title 38, United States Code, to authorize the assignment of pre-stabilization disability ratings to certain veterans for purposes of the payment of disability compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SCHUMER (for himself and Ms. CANTWELL):

S. 3389. A bill to require, for the benefit of shareholders, the disclosure of payments to foreign governments for the extraction of natural resources, to allow such shareholders more appropriately to determine associated risks; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DURBIN:

S. 3390. 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 Mrs. FEINSTEIN (for herself and Mr. BENNETT):

S. 3391. A bill to make technical corrections to the laws affecting certain administrative authorities of the United States Capitol Police, and for other purposes; to the Committee on Rules and Administration.

By Ms. KLOBUCHAR (for herself, Mr. THUNE, Mr. LEAHY, Mrs. MCCASKILL, and Mr. VOINOVICH):

S. 3392. A bill to amend Homeland Security Act of 2002 to establish an appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight, or denied a right, benefit, or privilege, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID (for himself and Mr. ENSIGN):

S. 3393. A bill to promote conservation and provide for sensible development in Carson City, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SUNUNU (for himself and Mr. GREGG):

S. 3394. A bill to prevent the undermining of the judgments of courts of the United States by foreign courts, and for other purposes; to the Committee on Finance.

By Mr. INHOFE:

S. 3395. A bill to provide for marginal well production preservation and enhancement; to the Committee on Finance.

By Mr. KOHL (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. CASEY):

S. 3396. A bill to amend the Public Health Service Act to provide grants or contracts for prescription drug education and outreach for healthcare providers and their parents; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 3397. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide adequate benefits for public safety officers injured or killed in the line of duty, and for other purposes; to the Committee on Finance.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, and Mr. WHITEHOUSE)):

S. 3398. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mr. SMITH, Ms. CANTWELL, Mr. CORNYN, Mrs. MURRAY, Mrs. DOLE, Ms. LANDRIEU, Mr. CHAMBLISS, Mr. WICKER, and Mr. VITTER):

S. 3399. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Finance.

By Mr. ALEXANDER:

S. 3400. A bill to amend title 38, United States Code, to improve the educational assistance available under post-9/11 veterans educational assistance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GRAHAM (for himself and Mr. LIEBERMAN):

S. 3401. A bill to provide for habeas corpus review for terror suspects held at Guantanamo Bay, Cuba, and for other purposes; to the Committee on the Judiciary.

By Mr. SALAZAR:

S. 3402. A bill to provide information and education to consumers concerning health care services and health insurance coverage; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 3403. A bill to amend title 49, United States Code, to require determination of the maximum feasible fuel economy level achievable for cars and light trucks for a year based on a projected fuel gasoline price that is not less than the applicable high gasoline price projection issued by the Energy Information Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. TESTER:

S. 3404. A bill to amend the Beef Research and Information Act to allow the promotion of beef that is born and raised exclusively in the United States, allow the establishment of an importers qualified beef council to promote nondomestic beef, and to establish new referendum requirements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. WHITEHOUSE):

S. 3405. A bill to prohibit secret modifications and revocations of the law, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HARKIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. ENZI, Mr. SPECTER, Mr. OBAMA, Mr. MCCAIN, Mr. DODD, Mr. GREGG, Mrs. CLINTON, Mr. ALEXANDER, Mr. JOHNSON, Mr. ROBERTS, Mr. KERRY, Mr. COLEMAN, Mr. FEINGOLD, Ms. SNOWE, Mr. LEAHY, Mr. BURR, Mr. BROWN, Mr. SMITH, Mr. DURBIN, Ms. MURKOWSKI, Mr. LAUTENBERG, Mr. WARNER, Mr. SANDERS, Mr. BROWNBACK, Mr. REED, Mr. MARTINEZ, Ms. MIKULSKI, Mr. ISAKSON, Mr. CASEY, Mr. CRAIG, Mrs. MURRAY, Mr. BENNETT, Ms. LANDRIEU, Ms. COLLINS, Mr. BIDEN, Mr. ALLARD, Mr. NELSON of Florida, Mr. SUNUNU, Mr. CARDIN, Mr. THUNE, Mr. LEVIN, Mr. BARRASSO, Mrs. MCCASKILL, Mr. CRAPO, Mr. SCHUMER, Mr. STEVENS, Mr. SALAZAR, Mr. VOINOVICH, Mr. TESTER, Mr. COCHRAN, Mr. REID, Mr. LUGAR, and Mr. CHAMBLISS):

S. 3406. A bill to restore the intent and protections of the Americans with Disabilities Act of 1990; read the first time.

By Mr. BURR (for himself, Mr. WICKER, Mr. ALEXANDER, and Mr. INHOFE):

S. 3407. A bill to amend title 10, United States Code, to authorize commanders of wounded warrior battalions to accept charitable gifts on behalf of the wounded members of the Armed Forces assigned to such battalions; to the Committee on Armed Services.

By Mr. BAUCUS (for himself and Mr. CONRAD):

S. 3408. A bill to amend title XI of the Social Security Act to provide for the conduct of comparative effectiveness research and to amend the Internal Revenue Code of 1986 to establish a Comparative Effectiveness Research Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. REID (for Mr. KENNEDY (for himself and Mr. GRASSLEY)):

S. 3409. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure the safety and quality of medical products and enhance the authorities of the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself, Mr. SCHUMER, Mr. LIEBERMAN, and Mr. INOUYE):

S. 3410. A bill to authorize a grant program to provide for expanded access to mainstream financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR (for herself and Mr. COLEMAN):

S. 3411. A bill to authorize the sale of certain National Forest System lands in the Superior National Forest in Minnesota; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANDERS (for himself, Mr. OBAMA, Mrs. CLINTON, Mr. KENNEDY, Mr. BROWN, Ms. MIKULSKI, Mr. CASEY, Mrs. BOXER, Mr. DURBIN, Mr. INOUYE, Mr. HARKIN, Mr. KERRY, Mr. CARDIN, and Mr. LEAHY):

S. 3412. A bill to achieve access to comprehensive primary health care services for all Americans and to improve primary care delivery through an expansion of the community health center and National Health Service Corps programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANDERS (for himself, Mr. OBAMA, Mrs. CLINTON, Mr. KENNEDY, Mr. BROWN, Ms. MIKULSKI, Mr. CASEY, Mrs. BOXER, Mr. DURBIN, and Mr. INOUYE):

S. 3413. A bill to achieve access to comprehensive primary health care services for all Americans and to improve primary care delivery through an expansion of the community health center and National Health Service Corps programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MENENDEZ (for himself, Mrs. MURRAY, Mr. KENNEDY, and Ms. CANTWELL):

S. 3414. A bill to recapture family-sponsored and employment-based immigrant visas lost to bureaucratic delays and to prevent losses of family-sponsored and employment-based immigrant visas in the future, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 3415. A bill to authorize the construction of the Dry-Redwater Regional Water Authority System in the State of Montana and a portion of McKenzie Country, North Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself and Mr. INHOFE):

S. 3416. A bill to amend section 40122(a) of title 49, United States Code, to improve the dispute resolution process at the Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN:

S. 3417. A bill to amend part A of title IV of the Social Security Act to expand educational opportunities for recipients of temporary assistance for needy families; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. MCCAIN, Mr. ENZI, Mr. MARTINEZ, Mr. BOND, Mr. WICKER, Mr. CORNYN, Mr. CRAPO, Mr. ALLARD, Mr. THUNE, Mr. BARRASSO, and Mr. INHOFE):

S. Res. 636. A resolution recognizing the strategic success of the troop surge in Iraq and expressing gratitude to the members of the United States Armed Forces who made that success possible; to the Committee on Armed Services.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. Res. 637. A resolution to honor the visionary and extraordinary work of Los Alamos National Laboratory and IBM on the Roadrunner supercomputer; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. OBAMA, Ms. KLOBUCHAR, Ms. CANTWELL, Mrs. MCCASKILL, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mrs. BOXER, Mr. KENNEDY, and Mrs. FEINSTEIN):

S. Res. 638. A resolution supporting legislation promoting improved health care and access to health care for women; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SALAZAR (for himself and Mr. ALLARD):

S. Res. 639. A resolution recognizing the benefits of transportation improvements along the United States Route 36 corridor to communities, individuals, and businesses in Colorado; to the Committee on Environment and Public Works.

By Mr. CARDIN (for himself and Mrs. CLINTON):

S. Res. 640. A resolution expressing the sense of the Senate that there should be an increased Federal commitment to public health and the prevention of diseases and injuries for all people in the United States; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself, Mr. DEMINT, Mr. HATCH, Mr. INHOFE, Mr. MARTINEZ, Mr. ROBERTS, and Mr. MCCONNELL):

S. Res. 641. A resolution congratulating the Focus on the Family radio program for its induction into the National Radio Hall of Fame.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 642. A resolution to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 24

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 24, a bill to amend the Safe Drinking Water Act to require a health advisory and monitoring of drinking water for perchlorate.

S. 150

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 150, a bill to amend the Safe Drinking Water Act to protect the health of pregnant women, fetuses, infants, and children by requiring a health advisory and drinking water standard for perchlorate.

S. 154

At the request of Mr. BUNNING, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 154, a bill to promote coal-to-liquid fuel activities.

S. 155

At the request of Mr. BUNNING, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 155, a bill to promote coal-to-liquid fuel activities.

S. 211

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 642

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 642, a bill to codify Executive Order 12898, relating to environmental justice, to require the Administrator of the Environmental Protection Agency to fully implement the recommendations of the Inspector General of the Agency and the Comptroller General of the United States, and for other purposes.

S. 826

At the request of Mr. MENENDEZ, the names of the Senator from Connecticut

(Mr. LIEBERMAN) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 976

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 976, a bill to secure the promise of personalized medicine for all Americans by expanding and accelerating genomics research and initiatives to improve the accuracy of disease diagnosis, increase the safety of drugs, and identify novel treatments.

S. 1084

At the request of Ms. STABENOW, her name was added as a cosponsor of S. 1084, a bill to provide housing assistance for very low-income veterans.

S. 1090

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1090, a bill to amend the Agriculture and Consumer Protection Act of 1973 to assist the neediest of senior citizens by modifying the eligibility criteria for supplemental foods provided under the commodity supplemental food program to take into account the extraordinarily high out-of-pocket medical expenses that senior citizens pay, and for other purposes.

S. 1343

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1343, a bill to amend the Public Health Service Act with respect to prevention and treatment of diabetes, and for other purposes.

S. 1376

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1376, a bill to amend the Public Health Service Act to revise and expand the drug discount program under section 340B of such Act to improve the provision of discounts on drug purchases for certain safety net providers.

S. 1638

At the request of Mr. LEAHY, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1638, a bill to adjust the salaries of Federal justices and judges, and for other purposes.

S. 1911

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 1911, a bill to amend the Safe Drinking Water Act to protect the health of susceptible populations, including pregnant women, infants, and children, by requiring a health advisory, drinking water standard, and reference concentration for trichloroethylene vapor intrusion, and for other purposes.

S. 1933

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 1933, a bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems.

S. 2042

At the request of Ms. STABENOW, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2042, 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.

S. 2092

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2092, a bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies.

S. 2102

At the request of Mr. BINGAMAN, the names of the Senator from California (Mrs. BOXER) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 2102, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 2270

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2270, a bill to include health centers in the list of entities eligible for mortgage insurance under the National Housing Act.

S. 2314

At the request of Mr. SALAZAR, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 2314, a bill to amend the Internal Revenue Code of 1986 to make geothermal heat pump systems eligible for the energy credit and the residential energy efficient property credit, and for other purposes.

S. 2347

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. 2347, a bill to restore and protect access to discount drug prices for university-based and safety-net clinics.

S. 2510

At the request of Ms. LANDRIEU, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2618

At the request of Ms. KLOBUCHAR, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2618, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss Facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.

S. 2641

At the request of Mr. GRASSLEY, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2641, a bill to amend title XVIII and XIX of the Social Security Act to improve the transparency of information on skilled nursing facilities and nursing facilities and to clarify and improve the targeting of the enforcement of requirements with respect to such facilities.

S. 2668

At the request of Mr. KERRY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2669

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2669, a bill to provide for the implementation of a Green Chemistry Research and Development Program, and for other purposes.

S. 2705

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2705, a bill to authorize programs to increase the number of nurses within the Armed Forces through assistance for service as nurse faculty or education as nurses, and for other purposes.

S. 2794

At the request of Mr. KOHL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2794, a bill to protect older Americans from misleading and fraudulent marketing practices, with the goal of increasing retirement security.

S. 2817

At the request of Mr. SALAZAR, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2817, a bill to establish the National Park Centennial Fund, and for other purposes.

S. 2851

At the request of Mr. BUNNING, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Georgia (Mr. ISAKSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 2851, a bill to amend the Internal Revenue Code of 1986 to modify the penalty on the understatement of taxpayer's liability by tax return preparers.

S. 2858

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2858, a bill to establish

the Social Work Reinvestment Commission to provide independent counsel to Congress and the Secretary of Health and Human Services on policy issues associated with recruitment, retention, research, and reinvestment in the profession of social work, and for other purposes.

S. 2883

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2883, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 2885

At the request of Ms. SNOWE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2885, a bill to amend the Internal Revenue Code of 1986 to expand the availability of industrial development bonds to facilities manufacturing intangible property.

S. 2919

At the request of Mr. STEVENS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2919, a bill to promote the accurate transmission of network traffic identification information.

S. 2932

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2932, a bill to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

S. 2950

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 2950, a bill to increase housing, awareness, and navigation demonstration services (HANDS) for individuals with autism spectrum disorders.

S. 3067

At the request of Ms. COLLINS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3067, a bill to amend the Public Health Service Act to reauthorize the Dental Health Improvement Act.

S. 3073

At the request of Mr. CORNYN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 3073, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

S. 3080

At the request of Mrs. FEINSTEIN, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3080, a bill to ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

S. 3109

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 3109, a bill to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system.

S. 3155

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 3155, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 3160

At the request of Mr. INOUYE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3160, a bill to reauthorize and amend the National Sea Grant College Program Act, and for other purposes.

S. 3164

At the request of Mr. MARTINEZ, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3164, a bill to amend tile XVIII of the Social Security Act to reduce fraud under the Medicare program.

S. 3166

At the request of Mr. SESSIONS, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3166, a bill to amend the Immigration and Nationality Act to impose criminal penalties on individuals who assist aliens who have engaged in genocide, torture, or extrajudicial killings to enter the United States.

S. 3167

At the request of Mr. BURR, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. 3200

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 3200, a bill to develop capacity and infrastructure for mentoring programs.

S. 3246

At the request of Mr. CARDIN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 3246, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to set the standard mileage rate for use of a passenger automobile for purposes of the charitable contributions deduction.

S. 3303

At the request of Mr. BROWNBACK, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3303, a bill to require automobile manufacturers to ensure that not less than 80 percent of the automobiles manufactured or sold in the United States by each manufacturer to operate on fuel mixtures containing 85 percent ethanol, 85 percent methanol, or biodiesel.

S. 3308

At the request of Mrs. FEINSTEIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 3308, a bill to require the Secretary of Veterans Affairs to permit facilities of the Department of Veterans Affairs to be designated as voter registration agencies, and for other purposes.

S. 3323

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3323, a bill to provide weatherization and home heating assistance to low income households, and to provide a heating oil tax credit for middle income households.

S. 3337

At the request of Mr. ROBERTS, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 3337, a bill to require the Secretary of Agriculture to carry out conservation reserve program notice CRP–598, entitled the ''Voluntary Modification of Conservation Reserve Program (CRP) Contract for Critical Feed Use''.

S. 3338

At the request of Ms. KLOBUCHAR, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3338, a bill to amend title 23, United States Code, to improve the safety of Federal-aid highway bridges, to strengthen bridge inspection standards and processes, to increase investment in the reconstruction of structurally deficient bridges on the National Highway System, and for other purposes.

S. 3353

At the request of Mr. CASEY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3353, a bill to provide temporary financial relief for rural school districts adversely impacted by the current energy crisis, and for other purposes.

S. 3362

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Indiana (Mr. BAYH), the Senator from Maryland (Mr. CARDIN) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 3362, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

S. CON. RES. 87

At the request of Mr. CASEY, his name was added as a cosponsor of S.

Con. Res. 87, a concurrent resolution congratulating the Republic of Latvia on the 90th anniversary of its declaration of independence.

S. RES. 551

At the request of Mr. THUNE, his name was added as a cosponsor of S. Res. 551, a resolution celebrating 75 years of successful State-based alcohol regulation.

At the request of Mr. BARRASSO, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 551, supra.

S. RES. 627

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH), the Senator from New York (Mrs. CLINTON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 627, a resolution welcoming home Keith Stansell, Thomas Howes, and Marc Gonsalves, three citizens of the United States who were held hostage for over five years by the Revolutionary Armed Forces of Colombia (FARC) after their plane crashed on February 13, 2003.

S. RES. 630

At the request of Mr. SANDERS, his name was added as a cosponsor of S. Res. 630, a resolution recognizing the importance of connecting foster youth to the workforce through internship programs, and encouraging employers to increase employment of former foster youth.

S. RES. 632

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 632, a resolution calling on the Governments of the People's Republic of China and the international community to use the upcoming Olympic Games as an opportunity to push for the parties to the conflicts in Sudan, Chad, and the Central African Republic to cease hostilities and revive efforts toward a peaceful resolution of their national and regional conflicts.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. CONRAD):

S. 3371. A bill to amend the Internal Revenue Code of 1986 to simplify the deduction for use of a portion of a residence as a home office by providing an optional standard home office deduction; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation to offer a drastically simplified alternative for home-based businesses to benefit from the home office tax deduction. The U.S. Small Business Administration's, SBA's, Office of Advocacy designated reforming the home office tax deduction as one of its top ten Regulatory Review and Reform initiatives for 2008. By establishing an optional home office deduction, the Home Office Tax Deduction Simplification and Improvement Act of 2008 would take a strong step toward making our tax laws easier to understand. I thank Senator Conrad for joining me to introduce this critical bill.

As Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I continually hear from small enterprises across Maine and this nation about the necessity of tax relief and reform. Despite the fact that small firms are our economy's real job creators, the current tax system places an entirely unreasonable burden on them as they struggle to satisfy their tax obligations.

Notably, according to the Office of Management and Budget's Office of Information and Regulatory Affairs, the American public spends approximately 9 billion hours each year to complete government-mandated forms and paperwork. A staggering 80 percent of this time is consumed by completing tax forms. What's even more troubling is that companies that employ fewer than 20 employees spend nearly $1,304 per employee in tax compliance costs, an amount that is nearly 67 percent more than larger firms.

Turning to the legislation I am offering today, the Internal Revenue Code presently offers qualified individuals a home office tax deduction if they use a portion of their home as a principal place of business or as a space to meet with their patients or clients. That said, although recent research from the SBA indicates that roughly 53 percent of America's small businesses are home-based, few of these firms take advantage of the home office tax deduction. The reason is simple: reporting the deduction is complicated.

A 2006 survey conducted by the National Federation of Independent Business, NFIB, Research Foundation found that approximately 33 percent of small-employer taxpayers try to comprehend the tax rules governing the home office tax deduction, but only about half of those respondents believe that they actually have a good understanding of the rules. As Dewey Martin, a Certified Public Accountant from my home State of Maine, so aptly said in recent testimony before the Senate Finance Committee, ''Many small business owners avoid the deduction because of the complications and the fear of a potential audit.''

With a morass of paperwork attributable to the home office deduction, the time-consuming process of navigating the tangled web of rules and regulations makes it unsurprising that so many small business owners forego the home office deduction. So to encourage the use of the home office tax deduction, the bill we are introducing today would establish an optional, easy-to-use incentive.

Turning to specifics, our bill would direct the Secretary of the Treasury to establish a method for determining a deduction that consists of multiplying an applicable standard rate by the square footage of the type of property being used as a home office. The proposal would also require the IRS to separately state the amounts allocated to several types of expenses in order to reduce the burden on the taxpayer. It is vital that the IRS clearly identify the amounts of the deduction devoted to real estate taxes, mortgage interest, and depreciation so that taxpayers do not duplicate them on Schedule A. Finally, the bill makes two changes designed to ease the administration of the deduction: First, to reflect an economy in which many business owners conduct business or consult with customers through the Internet or over the phone versus face-to-face, our legislation takes these entrepreneurs into account by allowing the home office deduction to be taken if the taxpayer uses the home to meet or deal with clients regardless of whether the clients are physically present. Second, our bill would allow for de minimis use of business space for personal activities so that taxpayers would not lose their ability to claim the deduction if they make a personal call or pay a bill online.

I would be remiss not to note that the bill we are introducing today is the result of the dedicated efforts of various groups and organizations, which have worked with Senator Conrad and me on a consensus approach to improve the current law home office tax deduction. In particular, it is significant to note that the IRS Taxpayer Advocate Service strongly backs this bill. In fact, the National Taxpayer Advocate, Nina E. Olson, sent my office the following statement regarding our legislation: ''In my 2007 Annual Report to Congress, I made a similar proposal to simplify the home office business deduction. I am pleased that Senator Snowe and Conrad's proposed bill reflects the gist of my legislative recommendation. Reducing the burdensome substantiation requirements for employees and self-employed taxpayers who incur modest home office costs would make the home office business deduction simpler and more accessible to them.''

My office also received an endorsement of the bill from the National Federation of Independent Business. Dan Danner, the organization's Executive Director, said the following: ''Currently only a small percentage of home-based businesses in the U.S. take advantage of the home-office deduction because calculating the deduction is unnecessarily complicated. NFIB small business owners have advocated for a simpler, standard home-office deduction for years. The Snowe-Conrad legislation gives home-based businesses the option to deduct a legitimate business expense with minimum hassle. This commonsense change to the tax code will reduce tax complexity and help many home-based businesses take advantage of this deduction.'' Additionally, the SBA's Office of Advocacy added: ''The SBA Office of Advocacy reviewed the legislation and supports it.''

In closing, according to the SBA's Office of Advocacy, America's home-

based sole proprietors generate $102 billion in revenue annually. With this in mind, it is absolutely critical to endow these small firms with as much relief from burdensome tax constraints as possible so that they can focus their efforts on developing the products and services of the future, as well as creating new jobs. The confusion over the home office business tax deduction, in my estimation, can be easily solved by passing this legislation. I urge all Senators to consider the benefits this bill will provide to thousands of small business owners, and I look forward to working with my colleagues to enact it in a timely manner.

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. 3371

*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 ''Home Office Tax Deduction Simplification and Improvement Act of 2008''.

**SEC. 2. OPTIONAL STANDARD HOME OFFICE DEDUCTION.**

(a) IN GENERAL.—Subsection (c) of section 280A of the Internal Revenue Code of 1986 (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end the following new paragraph:

''(7) ELECTION OF STANDARD HOME OFFICE DEDUCTION.—

''(A) IN GENERAL.—In the case of an individual who is allowed a deduction for the use of a portion of a dwelling unit as a business by reason of paragraph (1), (2), or (4), notwithstanding the limitations of paragraph (5), if such individual elects the application of this paragraph for the taxable year with respect to such dwelling unit, such individual shall be allowed a deduction equal to the standard home office deduction for the taxable year in lieu of the deductions otherwise allowable under this chapter for such taxable year by reason of paragraph (1), (2), or (4).

''(B) STANDARD HOME OFFICE DEDUCTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the standard home office deduction is an amount equal to the product of—

''(I) the applicable home office standard rate, and

''(II) the square footage of the portion of the dwelling unit to which paragraph (1), (2), or (4) applies.

''(ii) APPLICABLE HOME OFFICE STANDARD RATE.—For purposes of this subparagraph, the term 'applicable home office standard rate' means the rate applicable to the taxpayer's category of business, as determined and published by the Secretary for the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

''(iii) MAXIMUM SQUARE FOOTAGE TAKEN INTO ACCOUNT.—The Secretary shall determine and publish annually the maximum square footage that may be taken into account under clause (i)(II) for each of the 3 categories of businesses described in paragraphs (1), (2), and (4) for the taxable year.

''(C) EFFECT OF ELECTION.—

''(i) GENERAL RULE.—Except as provided in clause (ii), any election under this paragraph, once made by the taxpayer with respect to any dwelling unit, shall continue to apply with respect to such dwelling unit for each succeeding taxable year.

''(ii) ONE-TIME ELECTION PER DWELLING UNIT.—A taxpayer who elects the application of this paragraph in a taxable year with respect to any dwelling unit may revoke such application in a subsequent taxable year. After so revoking, the taxpayer may not elect the application of this paragraph with respect to such dwelling unit in any subsequent taxable year.

''(D) DENIAL OF DOUBLE BENEFIT.—

''(i) IN GENERAL.—Except as provided in clause (ii), in the case of a taxpayer who elects the application of this paragraph for the taxable year, no other deduction or credit shall be allowed under this subtitle for such taxable year for any amount attributable to the portion of a dwelling unit taken into account under this paragraph.

''(ii) EXCEPTION FOR DISASTER LOSSES.—A taxpayer who elects the application of this paragraph in any taxable year may take into account any disaster loss described in section 165(i) as a loss under section 165 for the applicable taxable year, in addition to the standard home office deduction under this paragraph for such taxable year.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.''.

(b) MODIFICATION OF HOME OFFICE BUSINESS USE RULES.—

(1) PLACE OF MEETING.—Subparagraph (B) of section 280A(c)(1) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) as a place of business which is used by the taxpayer in meeting or dealing with patients, clients, or customers in the normal course of the taxpayer's trade or business, or''.

(2) DE MINIMIS PERSONAL USE.—Paragraph (1) of section 280A(c) of such Code is amended by striking ''for the convenience of his employer'' and inserting ''for the convenience of such employee's employer. A portion of a dwelling unit shall not fail to be deemed as exclusively used for business for purposes of this paragraph solely because a de minimis amount of non-business activity may be carried out in such portion''.

(c) REPORTING OF EXPENSES RELATING TO HOME OFFICE DEDUCTION.—Within 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall ensure that all forms and schedules used to calculate or report itemized deductions and profits or losses from business or farming state separately amounts attributable to real estate taxes, mortgage interest, and depreciation for purposes of the deductions allowable under paragraphs (1), (2), (4), and (7) of section 280A(c) of the Internal Revenue Code of 1986.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

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By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 3373. A bill to reauthorize and expand the Northwest Straits Marine Conservation Initiative Act to promote the protection of the resources of the Northwest Straits, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. MURRAY. Mr. President, I rise today to introduce the Northwest Straits Marine Conservation Initiative Act. This bill will reauthorize the Northwest Straits Marine Conservation Initiative, which promotes the protection and restoration of the marine waters, habitats, and species of the Northwest Straits region of Puget Sound in Washington State in order to achieve ecosystem health and sustainable resource use.

The Northwest Straits region makes up 60 percent of the Puget Sound's shoreline and includes the marine waters, nearshore areas, and shorelines of the Strait of Juan de Fuca and of Puget Sound from the Canadian border to the southern end of Snohomish County. This region represents a unique resource of enormous environmental and economic value to the people of the United States and, in particular, of the region surrounding the Northwest Straits. However, in the last several decades, habitat health, water quality, and populations of commercially and culturally valuable species found in the Northwest Straits have sharply declined. During the 20th century, extensive development, a legacy of lost or abandoned fishing gear, land conversion, loss of native sea grass, and invasive species have destroyed once intact native habitats in its ecosystem.

In 1997, I partnered with former Congressman Jack Metcalf and brought opposing stakeholders together to create an advisory commission to address regional and local issues in the marine environment. Many were skeptical of our efforts, but our work created an innovate model for restoring and protecting marine habitats. As a result, the Northwest Straits Initiative was created to provide funding to help citizens design and carry out marine conservation projects driven by local priorities and informed by science and the Initiative's goals and benchmarks.

The Northwest Straits Initiative is composed of volunteer-based marine resources committees in 7 counties, as well as over 100 members representing residents, tribes, businesses, fishermen, boaters, and scientists. It has logged thousands of volunteer hours and completed hundreds of projects, demonstrating that citizen involvement in marine resource conservation and restoration is powerful, effective, and necessary. And the program has accomplished a lot: thousands of derelict crab pots and fishing nets have been removed, miles of forage fish spawning habitat have been surveyed, hundreds of thousands of native Olympia oysters have been planted, marine stewardship areas have been designated, nearly 1,000 tons of creosote wood has been removed, and dozens of stewardship and public outreach programs have been completed.

The authorization of the Northwest Straits Marine Conservation Initiative will ensure the continuation of this successful and innovative regional approach to marine resource restoration and protection.

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By Mr. SMITH (for himself and Mr. WYDEN):

S. 3374. A bill to establish a commission on veterans and members of the Armed Forces with post traumatic

stress disorder, traumatic brain injury, or other mental health disorders, to enhance the capacity of mental health providers to assist such veterans and members, and for other purposes; to the Committee on Veterans' Affairs.

Mr. SMITH. Mr. President, I rise today with my colleague Senator RON WYDEN to introduce a bill that will help improve the lives of our veterans who are suffering from a mental illness. The Healing Our Nation's Heroes Act of 2008 is an important bill and I look forward to its passage. Senator WYDEN has been an ally for me in the struggle to ensure veterans, particularly those who are struggling with a mental illness, get the care that they need. It is an honor for me to work him to ensure our Nation's heroes are not forgotten.

Our work together on this bill began last summer when I called a Special Committee on Aging field hearing at the Portland Veterans Affairs Medical Center in our home state of Oregon. At that hearing, Senator WYDEN and I heard the testimony of officials from the Department of Veterans Affairs, VA, as well as local leaders who operate programs that support our veterans' mental and physical health needs. I also held roundtables in my state on the issue and a follow-up hearing in Washington, DC in October, 2007 to further examine the scope of the issues and barriers facing our veterans in need of care. At this hearing, we were fortunate to have former Senator and World War II veteran Bob Dole testify. Senator Dole is a decorated war hero who has fought for decades to ensure that our servicemembers and veterans have the proper supports they need. His insight and knowledge of the issues facing our veterans, both young and old, were instrumental in helping us to draft this legislation. Without the input of countless people who told us of the problems faced by their loved ones and their own struggles with the current system, we could not have made this bill possible.

In our Nation today, we have nearly 24 million veterans, about 40 percent of whom are age 65 and older. The Veterans Health Administration serves about 5.5 million of them each year and employs 247,000 employees to attend to their care. I draw attention to these numbers to emphasize not only the scale of the system—and therefore the noted difficulties in meeting all needs at all times—but also to reiterate that there are a large number of veterans to whom we owe an enormous debt.

Unfortunately, we are not doing well enough by our veterans. We know that nationally 23 percent of all homeless persons are veterans. In Portland, Oregon, that number could be as high as 30 percent. They suffer disproportionately from poor health, including mental health and substance abuse challenges. We are fortunate to have wonderful community-based groups, such as the Central City Concern in Portland, working to help those who are homeless to get the help and support they need; but we must do more.

As was reported at the hearing I held in October of 2007, Dr. Kaplan from Portland State University found that veterans in our nation are at twice the risk of suicide as non-veterans. With the number and needs of veterans ever-increasing in our nation, we must ensure that our mental health infrastructure is prepared to handle their unique needs.

What we now refer to as post-traumatic stress disorder, PTSD, once was described as ''soldier's heart'' in the Civil War, ''shell shock'' in World War I, and ''combat fatigue'' in World War II. Whatever the name, they are serious mental illnesses and deserve equal attention and care as a physical wound. A system must be in place to help our veterans as they adjust back to life with their families and within their communities.

So many of our veterans from previous conflicts in Korea, Vietnam and around the globe in World War II, needed similar programs once they returned home. Yet, I fear that we did not do enough to help them. With proper and early support systems in place, we can work to prevent the more serious and chronic mental health issues that come from a lack of intervention.

There is no greater obligation than caring for those who have served this country with their military service. We would be remiss if we did not ensure that the health care provided to our heroes in arms is the finest medicine has to offer. A lack of culturally sensitive mental health professionals, an inability to reach rural areas, stigma related to mental illness within the military, bureaucratic run-arounds and long waiting times are just a few of the problems that we hear about—both in the news and directly from constituents. These are problems that must be addressed and can only be addressed if we all work together to find solutions.

As our country faces new waves of veterans with mental health illnesses, many of whose issues arise from combat stress, we must ensure that we learn from the lessons of the past. We must ensure that they are cared for, and we must not leave behind those who fought for our nation in previous generations.

This bill has three important parts that will improve mental health services to our veterans. First, it will establish a commission charged with oversight of outreach and services offered to veterans and members of the Armed Forces with post traumatic stress disorder and other disorders that affect mental health. This commission will be a long-term body that will ensure that our veterans have the support that they need. They will report to Congress, make recommendations to the Departments of Veterans Affairs and Defense, and look for innovative ways that the two bodies can work together to better ensure our servicemembers have the proper supports while they are in the Armed Forces, during their time of transition back to their communities, and as they live their lives as veterans in their communities.

This bill also will establish the Heroes-to-Healers Program, which we have created to build on the successes of the Troops-to-Teachers Program. In addition to the wonderful work that the Troops-to-Teachers program does in training former servicemembers to work in high-need school districts, the Heroes-to-Healers Program will train former servicemembers to become a part of the mental health workforce. We know that major complaints from servicemembers and veterans working to gain needed mental health services are the wait times for care that they experience due to lack of available staff and their desire to work with professionals who understand, first-hand, the difficult things that they have seen and type of experiences they have had serving overseas in combat zones. Through this program, participants will receive financial support to gain the training and licensing they need to become a mental health professional, while ensuring there is a minimum amount of time that they will then serve their fellow veterans in their new profession.

To further help recruitment and retention efforts for mental health service providers, the third part of this bill will provide a new grant program to state and local mental health agencies, as well as non-profit organizations to establish, expand or enhance mental health provider recruitment and retention efforts. These efforts will be targeted at supporting mid-career professionals who are looking to work in the mental health profession.

We know that we must do a better job of helping our veterans. We can do better at ensuring they can remain stable in their communities, that they can live healthy lives and that they can prosper as persons to whom we owe a great deal of gratitude and compassion.

I look forward to working with my colleagues to ensure its passage. I urge my colleagues on both sides of the aisle 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. 3374

*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 ''Healing Our Nation's Heroes Act of 2008''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Since October 2001, approximately 1,640,000 members of the Armed Forces have been deployed as part of Operation Enduring Freedom or Operation Iraqi Freedom.

(2) 300,000 members of the Armed Forces are suffering from major depression or post traumatic stress because of service in Operation Enduring Freedom or Operation Iraqi Freedom.

(3) 320,000 of the members of the Armed Forces who served in Operation Enduring Freedom or Operation Iraqi Freedom, or 19 percent of such members, have received brain injuries from such service.

(4) Only 43 percent of members of the Armed Forces with a probable traumatic brain injury have reported receiving a medical evaluation for their head injury.

(5) Records of the Department of Veterans Affairs show that 120,000 members of the Armed Forces who are no longer on active duty have been diagnosed with mental health problems, approximately half of whom suffer from post traumatic stress disorder (PTSD).

(6) In the last year, only 53 percent of those members of the Armed Forces with post traumatic stress disorder or depression have sought professional help from a mental health care provider.

(7) Rates of post traumatic stress disorder and depression are highest among members of the Armed Forces who are women or members of the Reserves.

(8) Efforts to improve access to quality mental health care are integral to supporting and treating both active duty members of the Armed Forces and veterans.

(9) Without quality mental health care, members of the Armed Forces and veterans may experience lower work productivity, which negatively affects their physical health, mental health, and family and social relationships.

(10) Cultural and personal stigmas are factors that contribute to low rates of veterans of Operation Enduring Freedom and Operation Iraqi Freedom who seek mental health care from qualified mental health care providers.

(11) The capacity of mental health care providers and access to such providers must be improved to meet the needs of members of the Armed Forces who are returning from deployment in Operation Enduring Freedom or Operation Iraqi Freedom.

(12) Community-based providers of mental health care are invaluable assets in addressing the needs of such members and should not be overlooked.

(13) Coordination of care among government agencies as well as nongovernmental agencies is integral to the successful treatment of members of the Armed Forces returning from deployment.

**SEC. 3. COMMISSION ON VETERANS AND MEMBERS OF THE ARMED FORCES WITH POST TRAUMATIC STRESS DISORDER, TRAUMATIC BRAIN INJURY, OR OTHER MENTAL HEALTH DISORDERS CAUSED BY SERVICE IN THE ARMED FORCES.**

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission on veterans and members of the Armed Forces with post traumatic stress disorder (PTSD), traumatic brain injury, or other mental health disorders caused by service in the Armed Forces.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The commission shall be composed of a chair and members appointed jointly by the Secretary of Veterans Affairs and the Secretary of Defense, including not less than one of each of the following:

(A) Members of the Armed Forces on active duty.

(B) Veterans who are retired from the Armed Forces.

(C) Employees of the Department of Veterans Affairs.

(D) Employees of the Department of Defense.

(E) Recognized medical or scientific authorities in fields relevant to the commission, including psychiatry and medical care.

(F) Mental health professionals who are not physicians.

(G) Veterans who have undergone treatment for post traumatic stress disorder, traumatic brain injury, or other mental health disorders.

(2) CONSIDERATION OF RECOMMENDATIONS.—In appointing members of the commission, the Secretary of Veterans Affairs and the Secretary of Defense shall consult with nongovernmental organizations that represent veterans, members of the Armed Forces, and families of such veterans and members.

(c) DUTIES.—

(1) IN GENERAL.—The commission shall—

(A) oversee the monitoring and treatment of veterans and members of the Armed Forces with post traumatic stress disorder, traumatic brain injury, or other mental health disorders caused by service in the Armed Forces; and

(B) conduct a thorough study of all matters relating to the long-term adverse consequences of such disorders for such veterans and members, including an analysis of—

(i) the information gathered from rescreening data obtained from post deployment interviews; and

(ii) treatments that have been shown to be effective in the treatment of post traumatic stress disorder, traumatic brain injury, or other mental health disorders caused by service in the Armed Forces.

(2) RECOMMENDATIONS.—The commission shall develop recommendations on the development of initiatives—

(A) to mitigate the adverse consequences studied under paragraph (1)(B); and

(B) to reduce cultural stigmas associated with treatment of post traumatic stress disorder, traumatic brain injury, or other mental health disorders of veterans and members of the Armed Forces.

(3) ANNUAL REPORTS.—Not later than September 30 each year, the commission shall submit to the appropriate committees of Congress a report containing the following:

(A) A detailed statement of the findings and conclusions of the commission as a result of its activities under paragraph (1).

(B) The recommendations of the commission developed under paragraph (2).

(d) POWERS OF THE COMMISSION.—

(1) SITE VISITS.—The commission may visit locations where veterans and members of the Armed Forces with post traumatic stress disorder, traumatic brain injury, or other mental health disorders caused by service in the Armed Forces receive treatment for such disorders to carry out the oversight and monitoring required by subsection (c)(1)(A).

(2) INFORMATION FROM FEDERAL AGENCIES.—The commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this Act. Upon request of the chair of the commission, the head of such department or agency shall furnish such information to the commission.

(e) TERMINATION.—The commission shall be terminated at the joint discretion of the Secretary of Defense and the Secretary of Veterans Affairs.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Veterans' Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

**SEC. 4. HEROES-TO-HEALERS PROGRAM.**

(a) IN GENERAL.—Part III of title 38, United States Code, is amended by adding at the end the following:

**''CHAPTER 44—HEROES-TO-HEALERS PROGRAM**

''Sec.
''4400. Purposes.
''4401. Definitions.
''4402. Authorization of Heroes-to-Healers Program.
''4403. Recruitment and selection of Program participants.
''4404. Participation agreement and financial assistance.
''4405. Participation by States.
''4406. Reporting requirements.
''4407. Authorization of appropriations.

**''§ 4400. Purposes**

''The purposes of this chapter are—

''(1) to encourage veterans and members of the Armed Forces separating from the Armed Forces—

''(A) to obtain certification or licensing as mental health care providers; and

''(B) to obtain employment with Federal, State, and local agencies and nongovernmental organizations that provide mental health care to members of the Armed Forces, veterans, or the families of such members or veterans; and

''(2) to enhance the capacity of such agencies and organizations to provide such care, by increasing the number of individuals seeking employment for the provision of such care.

**''§ 4401. Definitions**

''In this chapter:

''(1) The term 'mental health care provider', with respect to an individual, means a psychiatrist, psychologist, social worker, psychiatric nurse, mental health counselor, or marriage and family therapist.

''(2) The term 'Program' means the Heroes-to-Healers Program authorized by section 4402 of this title and described in this chapter.

**''§ 4402. Authorization of Heroes-to-Healers Program**

''(a) PURPOSE.—The purpose of this section is to authorize—

''(1) the Heroes-to-Healers Program; and

''(2) a mechanism for the funding and administration of such program.

''(b) PROGRAM AUTHORIZED.—(1) The Secretary may carry out a program—

''(A) to assist eligible individuals described in section 4403 of this title in obtaining certification or licensing (as prescribed for under applicable State law) as mental health care providers; and

''(B) to facilitate the employment of such individuals, by Federal, State, and local agencies and nongovernmental organizations that provide mental health care to members of the Armed Forces, veterans, or the families of such members or veterans, to provide such care.

''(2) The program authorized by paragraph (1) and described in this chapter shall be known as the 'Heroes-to-Healers Program'.

''(c) ADMINISTRATION OF PROGRAM.—The Secretary shall administer the Program in consultation with the Secretary of Defense.

''(d) INFORMATION REGARDING PROGRAM.—The Secretary shall provide to the Secretary of Defense information regarding the Program and applications for participation in the Program, for distribution as part of preseparation counseling provided under section 1142 of title 10 to members of the Armed Forces described in section 4403 of this title.

''(e) PLACEMENT ASSISTANCE AND REFERRAL SERVICES.—The Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services to individuals who meet the criteria described in section 4403 of this title.

**''§ 4403. Recruitment and selection of Program participants**

''(a) ELIGIBLE INDIVIDUALS.—The following individuals are eligible for selection to participate in the Program:

''(1) Any individual who—

''(A) was a member of the Armed Forces and becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14; or

''(B) has an approved date of retirement from service in the Armed Forces.

''(2) Any individual who—

''(A)(i) is separated or released from active duty in the Armed Forces after two or more years of continuous active duty in the Armed Forces immediately before the separation or release; or

''(ii) has completed a total of at least—

''(I) three years of active duty service in the Armed Forces;

''(II) three years of service computed under section 12732 of title 10; or

''(III) three years of any combination of such service; and

''(B) executes a reserve commitment agreement for a period of not less than 3 years under subsection (e)(2).

''(3) Any individual who is retired or separated for physical disability under chapter 61 of title 10.

''(b) SUBMISSION OF APPLICATIONS.—(1) Selection of eligible individuals to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in paragraph (2). An application shall be in such form and contain such information as the Secretary may require.

''(2) An application of an individual shall be considered to be submitted on a timely basis under paragraph (1) if the application is submitted not later than five years after the date on which the individual is retired, separated, or released from active duty in the Armed Forces, as the case may be.

''(c) SELECTION CRITERIA.—(1) The Secretary shall prescribe the criteria to be used to select eligible individuals to participate in the Program.

''(2) An individual is eligible to participate in the Program only if the individual's last period of service in the Armed Forces was honorable, as characterized by the Secretary concerned. An individual selected to participate in the Program before the retirement of the individual or the separation or release of the individual from active duty in the Armed Forces may continue to participate in the Program after the retirement, separation, or release only if the individual's last period of service is characterized as honorable by the Secretary concerned.

''(d) SELECTION PRIORITIES.—In selecting eligible individuals to receive assistance under the Program, the Secretary shall give priority to individuals who engaged in combat while serving in the Armed Forces.

''(e) OTHER CONDITIONS ON SELECTION.—(1) The Secretary may not select an eligible individual to participate in the Program under this section and receive financial assistance under section 4404 of this title unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under section 4404 of this title with respect to the individual.

''(2) The Secretary may not select an eligible individual described in subsection (a)(2)(A) to participate in the Program under this section and receive financial assistance under section 4404 of this title unless—

''(A) the Secretary notifies the Secretary concerned and the individual that the Secretary has reserved a full stipend or bonus under section 4404 of this title for the individual; and

''(B) the individual executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of not less than three years (in addition to any other reserve commitment the individual may have).

**''§ 4404. Participation agreement and financial assistance**

''(a) PARTICIPATION AGREEMENT.—(1) An eligible individual selected to participate in the Program under section 4403 of this title and receive financial assistance under this section shall be required to enter into an agreement with the Secretary in which the individual agrees—

''(A) within such time as the Secretary may require, to obtain certification or licensing as a mental health care provider; and

''(B) to accept an offer of full-time employment as a mental health care provider for not less than five years with a Federal, State, or local agency or nongovernmental organization that provides mental health care to members of the Armed Forces, veterans, or the families of such members or veterans.

''(2) The Secretary may waive the five-year commitment described in paragraph (1)(B) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f), for failure to meet the five-year commitment.

''(3) The Secretary shall encourage eligible individuals to seek employment with mental health care providers located more than 75 miles from a Department medical center.

''(b) VIOLATION OF PARTICIPATION AGREEMENT; EXCEPTIONS.—A participant in the Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) during any period in which the participant—

''(1) is pursuing a full-time course of study related to the field of mental health care at an institution of higher education;

''(2) is serving on active duty as a member of the Armed Forces;

''(3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

''(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

''(5) is a mental health care provider who is seeking and unable to find full-time employment as a mental health care provider in a Federal, State, or local agency or nongovernmental organization that provides mental health care to members of the Armed Forces, veterans, or the families of such members or veterans for a single period not to exceed 27 months; or

''(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

''(c) STIPEND FOR PARTICIPANTS.—(1) Subject to paragraph (2), the Secretary may pay to a participant in the Program selected under section 4403 of this title a stipend in an amount of not more than $5,000 per year of participation in the Program.

''(2) The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 2,500.

''(d) BONUS FOR PARTICIPANTS.—(1) Subject to paragraph (2), the Secretary of Education may, in lieu of paying a stipend under subsection (c), pay a bonus of up to $10,000 to a participant in the Program selected under section 4403 of this title who agrees in the participation agreement under subsection (a) to become a mental health care provider and to accept full-time employment as a mental health care provider for not less than five years in a Federal, State, or local agency or nongovernmental organization that provides mental health care to members of the Armed Forces, veterans, or the families of such members or veterans.

''(2) The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 2,000.

''(e) TREATMENT OF STIPEND AND BONUS.—A stipend or bonus paid under this section to a participant in the Program shall not be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

''(f) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—(1) A participant in the Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

''(A) The participant fails to obtain mental health care provider certification or licensing, to become a mental health care provider, or to obtain employment as a mental health care as required by the participation agreement under subsection (a).

''(B) The participant voluntarily leaves, or is terminated for cause from, employment as a mental health care provider during the five years of required service in violation of the participation agreement.

''(C) The participant executed a written agreement with the Secretary concerned under section 4403(e)(2) of this title to serve as a member of a reserve component of the Armed Forces for a period of three years and fails to complete the required term of service.

''(2) A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under this section shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the five years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and such interest shall accrue from the day on which the participant is first notified of the amount due.

''(3) The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11 shall not release a participant from the obligation to reimburse the Secretary under this subsection.

''(4) A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

''(g) RELATIONSHIP TO EDUCATIONAL ASSISTANCE UNDER TITLES 10 AND 38.—The receipt by a participant in the Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapters 30, 31, 33, or 35 of this title or chapters 1606 or 1607 of title 10.

**''§ 4405. Participation by States**

''(a) DISCHARGE OF STATE ACTIVITIES THROUGH CONSORTIA OF STATES.—The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

''(b) ASSISTANCE TO STATES.—(1) Subject to paragraph (2), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible individuals for participation in the Program and facilitating the employment of participants in the Program as a mental health care provider.

''(2) The total amount of grants made under paragraph (1) in any fiscal year may not exceed $5,000,000.

**''§ 4406. Reporting requirements**

''(a) ANNUAL REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this chapter and annually thereafter, the Secretary shall, in consultation with the Secretary of Defense, the Secretary of Homeland Security, and the Comptroller General of the United States, submit to Congress a report on the effectiveness of the Program in the recruitment and retention of qualified personnel by Federal, State, and local agencies and nongovernmental organizations that provide mental health care to members of the Armed Forces, veterans, or the families of such members or veterans.

''(b) ELEMENTS OF REPORT.—The report submitted under subsection (a) shall include information on the following:

''(1) The number of participants in the Program.

''(2) The types of positions in which the participants are employed.

''(3) The populations served by the participants.

''(4) The agencies and organizations in which the participants are employed as mental health care providers.

''(5) The types of agencies and organizations with which the participants are employed.

''(6) The geographic distribution of the agencies and organizations with which participants are employed.

''(7) The rates of retention of the participants by the Federal, State, and local agencies and nongovernmental organizations employing the participants.

''(8) Such other matters as the Secretary considers to be appropriate.

**''§ 4407. Authorization of appropriations**

''There are authorized to be appropriated to the Secretary to carry out the provisions of this chapter $10,000,000 for fiscal year 2009 and each fiscal year thereafter.''.

(b) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 43 the following new item:

**''44. Heroes-to-Healers Program ..... 4400.''.**

**SEC. 5. GRANT PROGRAM TO ENCOURAGE STATE AND LOCAL MENTAL HEALTH AGENCIES TO ESTABLISH, EXPAND, OR ENHANCE MENTAL HEALTH PROVIDER RECRUITMENT AND RETENTION EFFORTS.**

(a) PURPOSES.—It is the purpose of this section to establish a program to recruit and retain highly qualified mid-career professionals and recent graduates of an institution of higher education, as psychiatrists, psychologists, social workers, psychiatric nurses, mental health counselors, or marriage and family therapists.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity described in subsection (c)(2).

(2) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means—

(A) an individual with substantial, demonstrable career experience; or

(B) an individual who has graduated from an institution of higher education not more than 3 years prior to applying to an eligible entity to become to be a mental health provider under this section.

(3) MENTAL HEALTH PROVIDER.—The term ''mental health provider'' means a psychiatrist, psychologist, social worker, psychiatric nurse, mental health counselor, marriage or family therapist, or any other provider determined appropriate by the Secretary.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Veterans Affairs, establish a program to award grants, on a competitive basis, to eligible entities to encourage State and local mental health agencies or other entities to establish, expand, or enhance mental health provider recruitment and retention efforts. The Secretary may establish tiered grant award amounts based on criteria including specific need for highly qualified mental health providers by profession within a high demand area, geographic location, and existing compensation rates.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be—

(A) a State health agency;

(B) a high-need local health agency;

(C) a for-profit or nonprofit organization that has a proven record of effectively recruiting and retaining highly qualified mental health providers, that has entered into a partnership with a high-need local health agency or with a State health agency;

(D) an institution of higher education that has entered into a partnership with a high-need local health agency or with a State health agency;

(E) a regional consortium of State health agencies; or

(F) a consortium of high-need local health agencies.

(3) PRIORITY.—In awarding a grant under this subsection, the Secretary shall give priority to a partnership or consortium that includes a high-need State agency or local health agency.

(4) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) CONTENTS.—An application submitted under subparagraph (A) shall include a description of—

(i) one or more target recruitment groups on which the applicant will focus its recruitment efforts under the grant;

(ii) the characteristics of each such target group that—

(I) demonstrate the knowledge and experience of the group's members; and

(II) demonstrate that the members are eligible to achieve the purposes of this section;

(iii) the manner in which the applicant will use funds received under the grant to develop a cadre of mental health providers, or other programs to recruit and retain highly qualified midcareer professionals, recent college graduates, and recent graduate school graduates, as highly qualified mental health providers, in high-need military or veterans communities, or as part of entities providing care to military or veterans in medical facilities;

(iv) the manner in which the program carried out under the grant will comply with relevant State laws related to mental health provider certification or licensing and facilitate the certification or licensing of such mental health providers;

(v) the manner in which activities under the grant will increase the number of highly qualified mental health providers, in high-need Federal, State and local agencies (in urban or rural areas), and in high-need mental health professions, in the jurisdiction served by the applicant; and

(vi) the manner in which the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit (particularly through activities that have proven effective in retaining highly qualified mental health providers), train, place, support, and provide mental health induction programs to eligible participants under this section, including providing evidence of the commitment of the institutions, agencies, or organizations to the applicant's programs.

(5) DURATION OF GRANT.—The Secretary may award grants under this subsection for periods of 5 years. At the end of the 5-year period for such a grant, the grant recipient may apply for an additional grant under this section.

(6) EQUITABLE DISTRIBUTION.—To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this subsection among the regions of the United States.

(7) USE OF FUNDS.—

(A) IN GENERAL.—An entity shall use amounts received under a grant under this subsection to develop a cadre of mental health providers in order to establish, expand, or enhance mental health provider recruitment and retention programs for highly qualified mid-career professionals, and recent graduates of an institution of higher education, who are eligible participants.

(B) AUTHORIZED ACTIVITIES.—A program carried out under subparagraph (A) shall include 2 or more of the following activities:

(i) To provide scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining mental health providers in high-need areas operated by Federal, State and local health agencies, to all eligible participants, in an amount that shall not be less than $5,000, nor more than $20,000, per participant.

(ii) To carry out pre- and post-placement induction or support activities that have proven effective in recruiting and retaining mental health providers, such as—

(I) mentoring;

(II) providing internships;

(III) providing high-quality, preservice coursework; and

(IV) providing high-quality, sustained in-service professional development.

(iii) To make payments to pay the costs associated with accepting mental health providers under this section from among eligible participants or to provide financial incentives to prospective mental health providers who are eligible participants.

(iv) To collaborate with institutions of higher education in the development and implementation of programs to facilitate mental health provider recruitment (including credentialing and licensing) and mental health retention programs.

(v) To carry out other programs, projects, and activities that are designed and have proven to be effective in recruiting and retaining mental health providers, and that the Secretary determines to be appropriate.

(vi) To develop long-term mental health provider recruitment and retention strategies, including developing—

(I) a national, statewide or regionwide clearinghouse for the recruitment and placement of mental health providers;

(II) reciprocity agreements between or among States for the certification or licensing of mental health providers; or

(III) other long-term teacher recruitment and retention strategies.

(C) EFFECTIVE PROGRAMS.—An entity shall use amounts received under a grant under this subsection only for programs that have proven to be effective in both recruiting and retaining mental health providers (as determined by the Secretary).

(8) REQUIREMENTS.—

(A) TARGETING.—An entity that receives a grant under this subsection shall ensure that participants in the program carried out under the grant who are recruited with funds made available under the grant are placed in high-need areas operated by high-need Federal, State, and local health agencies. In placing such participants in mental health facilities, such entity shall give priority to facilities that are located in—

(i) rural under served areas; or

(ii) urban areas with high percentages of individuals who are members of the Armed Forces or veterans.

(B) SUPPLEMENT, NOT SUPPLANT.—Amounts made available under this section shall be used to supplement, and not supplant, State and local public funds expended for mental health provider recruitment and retention programs.

(C) PARTNERSHIPS AND CONSORTIA OF LOCAL HEALTH AGENCIES.—In the case of a partnership established by a Federal, State, or local health agency to carry out a program under this section, or a consortium of such agencies established to carry out such a program, the Federal, State, or local health agency or consortium shall not be eligible to receive funds through a State program under this section.

(9) PERIOD OF SERVICE.—A participant in a program under this subsection who receives training through the program shall serve at a high-need medical facility or an agency operated by a high-need Federal, State, or local health agency for a term of not less than 3 years.

(10) REPAYMENT.—The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that a participant in a program under this section who receives a stipend or other financial incentive as provided for in paragraph (7)(B)(i), but who fails to complete their service obligation under paragraph (9), repays all or a portion of such stipend or other incentive.

(11) ADMINISTRATIVE FUNDS.—An entity that receives a grant under this subsection shall not use more than 5 percent of the funds made available under the grant for the administration of a program under this subsection.

(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary in each fiscal year to carry out this subsection.

(d) EVALUATION AND ACCOUNTABILITY FOR RECRUITING AND RETAINING MENTAL HEALTH PROVIDERS.—

(1) EVALUATION.—An entity that receives a grant under this section shall—

(A) within 30 days of the end of the 3rd year of the grant period, conduct an interim evaluation of the program funded under the grant; and

(B) within 30 days of the end of the 5th year of the grant period, conduct a final evaluation of the program funded under the grant.

(2) CONTENTS.—In conducting an evaluation under paragraph (1), an entity shall describe the extent to which State and local agencies that received funds through the grant have met the goals relating to mental health provider recruitment and retention described in the application submitted by the entity under paragraph (4).

(3) REPORTS.—An entity that receives a grant under this Act shall prepare and submit to the Secretary and the appropriate committees of Congress, an interim and final report that contains the results of the interim and final evaluations carried out under subparagraphs (A) and (B) of paragraph (1), respectively.

(4) REVOCATION.—If the Secretary determines that the recipient of a grant under this section has not made substantial progress in meeting the goals and the objectives of the grant by the end of the 3rd year of the grant period, the Secretary shall—

(A) revoke any payments made for the 4th year of the grant period; and

(B) not make any payment for the 5th year of the grant period.

Mr. WYDEN. Mr. President, over the past 7 years, hundreds of thousands of members of our armed forces have gone to war and returned home alive, but suffering. Advances in protective equipment and improvements made in battlefield care mean that fewer troops than ever before suffer from obvious physical wounds. But many more of these service members have returned with less obvious injuries—invisible injuries like post-traumatic stress disorder or traumatic brain injury.

Our armed forces have seen a surge in diagnosed cases of post-traumatic stress disorder and traumatic brain injury, commonly known as PTSD and TBI. And soldiers in the National Guard and Reserves are much more likely to suffer from PTSD and depression when they return from battle, a fact that is very important in Oregon where almost all of our servicemembers serve in the Guard and Reserves.

While no less real and no less serious than physical wounds of war, PTSD and TBI require a specialized kind of diagnosis and treatment. Unfortunately, only half of the soldiers and veterans who suffer from PTSD or TBI are receiving care for their wounds, according to a RAND Corporation study.

To help our service men and women suffering from PTSD, TBI and other mental health conditions, we are introducing a bill today that's designed to address some of the overwhelming difficulties faced by many of our nation's warriors. This bill, the ''Healing Our Nation's Heroes Act of 2008,'' has within it provisions to help improve mental health care, and access to care, for service members who suffer from the invisible wounds of war.

First, this legislation would create a standing commission to study and oversee mental health treatment of our veterans. This commission would make recommendations on methods to improve mental health care and, just as importantly, overcome the cultural stigma attached to seeking help for mental health disorders. As an ongoing body, this commission will continue to help guide Congress and the agencies for years, instead of just making recommendations and disappearing.

Secondly, the bill would create a ''Heroes-to-Healers Program'' which would provide financial incentives for veterans and members of the armed forces who are separating or retiring to obtain certification or licensing as mental health providers. It also encourages them to seek employment with organizations that provide mental health care to members of the armed forces, veterans and their families.

One of the more heartbreaking truths surrounding PTSD is that service members are often reluctant to seek help from mental health professionals who don't share their experiences. This reluctance creates the sort of self-isolation that leads to increased risk of suicide.

By increasing the number of veterans working as mental health providers, this bill will allow more servicemembers and veterans to get treatment from those who truly understand what combat is like.

Our bill would also create a grant program to help state and local mental health agencies recruit and retain mental health professionals. Some service members and veterans don't feel comfortable seeking mental health care from the Department of Defense or VA. But mental health agencies are already being stretched thin, especially in rural areas. This legislation will provide help in recruiting and retaining the mental health providers our wounded heroes so desperately need.

Surviving the trauma of combat shouldn't sentence our forces to a lifetime of mental and emotional pain. They paid the price bravely for serving our country in battle. This bill will help them move beyond the invisible scars of the battlefield and rebuild their lives at home.

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By Mr. WYDEN (for himself, Ms. COLLINS, and Mr. DODD):

S. 3375. A bill to prohibit the introduction or delivery for introduction into interstate commerce of novelty lighters, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, today, I, along with my colleagues Senator COLLINS from Maine and Senator DODD from Connecticut, am introducing the Protect Children From Dangerous Lighters Act, a ban on novelty lighters. Novelty lighters, also known as toy-like lighters, are cigarette lighters that look like small children's toys or regular household items.

These lighters are dangerous and have terrible consequences. Because they are so well disguised as toys, novelty lighters have children literally playing with fire.

The results can be deadly: In Oregon, two boys were playing with a novelty lighter disguised as a toy dolphin and accidentally started a serious fire. One boy died and the other now has permanent brain damage. Also in Oregon, a mother suffered third degree burns on her foot when her child was playing with a novelty lighter disguised as a small toy Christmas tree and set a bed on fire.

Tragic accidents like these happen all over the country. In North Carolina, a boy sustained second degree

burns after playing with a novelty lighter that looked like a toy cell phone. One of the most tragic incidents occurred in Arkansas, where a 2-year-old and a 15-month-old child died in a fire they accidentally started playing with a novelty lighter shaped like a toy motorcycle.

These injuries and deaths demand we take action and remove these dangerous lighters from shelves everywhere.

If we don't protect children from novelty lighters, we are condemning them to play life-threatening Russian roulette every time they pick up what they think is a toy.

A ban on novelty lighters would require the Consumer Product Safety Commission to treat novelty lighters as a banned hazardous substance. That means novelty lighters will not be manufactured, imported, sold, or given away as promotional gifts anywhere in this country. Passing this bill is the only way we can guarantee that novelty lighters will be kept out of the hands of children. It's our best tool to prevent injuries like those that have already brought tragedy to too many families.

A number of states and cities have taken it upon themselves to take action to ban these deadly lighters. Maine and Tennessee passed novelty lighter ban legislation and similar bans are being introduced in many other states, including Oregon. We should expand and support these efforts to protect children in all states.

A Federal ban on novelty lighters has widespread nationwide support. Along with the Oregon Fire Marshal, the National Association of Fire Marshals supports a Federal ban on these lighters and has been active in promoting public awareness on this issue. Even the cigarette lighter industry, represented by the Lighter Association, supports a ban on novelty lighters. We also have support from the Congressional Fire Institute, Safe Kids USA, Consumer Federation of America and the Consumer's Union.

The more people learn about novelty lighters, the more support there is to ban them.

I urge my colleagues to act now and help kids across America avoid the senseless deaths and serious injuries they suffer when they mistake novelty lighters for toys.

Hazardous tools containing flammable fuel should not be dressed up in packages that are particularly attractive to children. Kids need our help to protect them from the treacherous ''wolf in sheep's clothing'' of novelty lighters.

I urge all my colleagues to support the Protect Children from Dangerous Lighters Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objetion, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3375

*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 ''Protect Children from Dangerous Lighters Act of 2008''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Lighters are inherently dangerous products containing flammable fuel.

(2) If lighters are used incorrectly or used by children, dangerous and damaging consequences may result.

(3) Novelty lighters are easily mistaken by children and adults as children's toys or as common household items.

(4) Novelty lighters have been the cause of many personal injuries to children and adults and property damage throughout the United States.

**SEC. 3. NOVELTY LIGHTER DEFINED.**

In this Act, the term ''novelty lighter'' means a device typically used for the igniting or lighting of cigarettes, cigars, or pipes that has a toy-like appearance, has entertaining audio or visual effects, or resembles in any way in form or function an item that is commonly recognized as appealing, attractive, or intended for use by children of 10 years of age or younger, including such a device that takes toy-like physical forms, including toy animals, cartoon characters, cars, boats, airplanes, common household items, weapons, cell phones, batteries, food, beverages, musical instruments, and watches.

**SEC. 4. BAN ON NOVELTY LIGHTERS.**

(a) BANNED HAZARDOUS SUBSTANCE.—A novelty lighter shall be treated as a banned hazardous substance as defined in section 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) and the prohibitions set out in section 4 of such Act (15 U.S.C. 1263) shall apply to novelty lighters.

(b) APPLICATION.—Subsection (a) applies to a novelty lighter—

(1) manufactured on or after January 1, 1980; and

(2) that is not considered by the Consumer Product Safety Commission to be an antique or an item with significant artistic value.

Ms. COLLINS. Mr. President, I rise to join my friend Senator WYDEN in introducing a bill that will ban the sale of certain novelty lighters that children can mistake for toys, often with tragic consequences for themselves and their families.

In Arkansas last year, two boys, ages 15 months and 2 years, died when the toddler accidentally started a fire with a lighter shaped like a motorcycle. In Oregon, a fire started with a dolphin-shaped lighter left one child dead and another brain-damaged. A North Carolina 6-year-old boy was badly burned by a lighter shaped like a cell phone.

Sadly, the U.S. Fire Administration has other stories of the hazards presented by novelty lighters. When you learn that one looks like a rubber duck toy—and quacks—you can imagine the potential for harm.

As a co-chair of the Congressional Fire Services Caucus, I am proud to note that this spring, my home State of Maine became the first State to outlaw the sale of novelty lighters.

My State's pioneering law stems from a tragic 2007 incident in a Livermore, Maine, grocery store. While his mother was buying sandwiches, six-year-old Shane St. Pierre picked up what appeared to be a toy flashlight in the form of a baseball bat. When he flicked the switch, a flame shot out and burned his face. Shane's dad, Norm St. Pierre, a fire chief in nearby West Paris, began advocating for the novelty-lighter ban that became Maine law in March 2008.

The Maine State Fire Marshal's office supported that legislation, and a national ban has the support of the Congressional Fire Services Institute's National Advisory Committee, the National State Fire Marshals Association, and the National Volunteer Fire Council.

The bill is straightforward. It treats novelty lighters manufactured after January 1, 1980, as banned hazardous substances unless the Consumer Product Safety Commission determines a particular lighter has antique or significant artistic value. Otherwise, sale of lighters with toy-like appearance, special audio or visual features, or other attributes that would appeal to children under 10 would be banned.

The novelty lighters targeted in this legislation serve no functional need. But they are liable to attract the notice and curiosity of children, whose play can too easily turn into a scene of horror and death. The sale of lighters that look like animals, cartoon characters, food, toys, or other objects is simply irresponsible and an invitation to tragedy.

I urge all of my colleagues to join me in supporting this simple measure that can save children from disfigurement and death.

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By Mr. COLEMAN (for himself, Ms. COLLINS, and Mr. LIEBERMAN):

S. 3377. A bill to amend title 46, United States Code, to waive the biometric transportation security card requirement for certain small business merchant mariners, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. COLEMAN. Mr. President, Minnesota is the land of over 10,000 lakes and nearly as many fishing guides. We even have a Fishing Hall of Fame in Baxter where many of our legendary guides are enshrined—names like Al and Ron Lindner, Babe Winkleman, Gary Roach and many others. In fact tonight there is a banquet honoring the Hall. The craft of the fishing guide is to understand fish and to share their knowledge and the sport with many of us who don't possess their skills.

When I travel my state I meet with folks from all walks of life who have dealings with the federal government and last summer I was in the city of Baudette, a small community on the Rainy River on the northern border of Minnesota. I had the chance to speak with a fishing guide who told me about a new federal regulation with which he had to comply. As you can imagine, I was amazed when he told me that he

was being required to get a Transportation Worker Identification Credential—or TWIC—in order to stay in business as a fishing guide. Now I understand that folks who do business on the water should be able to exhibit seamanship and operate a safe watercraft. But, my guides and I are having a hard time understanding why a guy whose briefcase is a bucket of minnows and his workday starts when he backs his boat into the lake should be required to submit to the same security screening as operators and workers in our major ports.

To address this issue, I am introducing the Small Marine Business and Fishing Guide Relief Act. I want to thank Senator COLLINS and Senator LIEBERMAN for joining me as original cosponsors of this legislation. Our bill is very straightforward—it will exempt mariners from needing a TWIC if they are not required to submit a vessel security plan for their boat to the Coast Guard. This group of mariners includes fishing guides, charter captains and other small recreational boaters.

I want to be clear these mariners will still be required to have a Coast Guard license. Security should not be jeopardized by eliminating the TWIC requirement because the Coast Guard conducts significant background checks when mariners apply for a Coast Guard license. These background checks review crimes against people, property, public safety, the environment and examine whether the applicant has prior drug offenses or committed a crime against national security.

These folks already pay a minimum of $140 for their Coast Guard licenses which are good for five years. Given these factors, asking these operators to pay over $100 more for another credential—especially with the recent downturn in the economy and the cost of gas—is an unnecessary burden that doesn't make sense.

Additionally, our legislation calls for a report to examine the feasibility of identifying which small boat operators already purchased a TWIC but will not need it once this legislation is signed into law. Once this is done, refunds or credits could be issued towards license renewals for these folks.

The TWIC program is an important tool to ensure the safety of our nation's ports, but common sense tells us that a fishing dock on Lake of the Woods or Rainy River is vastly different from the major ports around the country that receive thousands of cargo containers per day. Simply put, we need to make sure our local fishing guides and other small marine operators are not being subjected to excessive government regulation and this legislation will provide that relief.

A similar TWIC exemption passed the House on April 24 as part of the Coast Guard Reauthorization Act and I encourage my Senate colleagues to pass this legislation as well before we adjourn for the year.

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. 3377

*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 ''Small Marine Business and Fishing Guide Relief Act of 2008''.

**SEC. 2. WAIVER OF BIOMETRIC TRANSPORTATION SECURITY CARD REQUIREMENT FOR CERTAIN SMALL BUSINESS MERCHANT MARINERS.**

(a) IN GENERAL.—Section 70105 (b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B), by inserting ''and serving under the authority of such license, certificate of registry, or merchant mariners document on a vessel for which the owner or operator of such vessel is required to submit a vessel security plan under section 70103(c) of this title'' before the semicolon;

(2) by striking subparagraph (D); and

(3) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report that contains the following:

(1) A list of the locations that provide service to individuals seeking to obtain or renew a license, certificate of registry, or merchant mariners document under part E of subtitle II of title 46, United States Code.

(2) An assessment of the feasibility of accepting applications for licenses, certificates of registry, and merchant mariner documents described in paragraph (1) and any applicant biometrics required therefor at the Transportation Worker Identification Credential enrollment facilities or mobile enrollment centers of the Department of Homeland Security.

(3) An assessment of the administrative feasibility of verifying that an individual has obtained a biometric transportation security card issued under section 70105 of title 46, United States Code, and is serving under the authority of a license, certificate of registry, or merchant mariners document described in paragraph (1) on a vessel for which the owner or operator of such vessel is not required to submit a vessel security plan under section 70103(e) of such title to provide such individual a refund of any fees paid by such individual to obtain such biometric transportation security card.

(4) An assessment of the administrative feasibility of verifying that an individual has obtained a biometric transportation security card described in paragraph (3) and is serving under the authority of a license, certificate of registry, or merchant mariners document described in paragraph (1) on a vessel described in paragraph (3) to provide such individual a credit towards the renewal of such license, certificate of registry, or merchant mariners document that is equal to the amount of fees paid by such individual for such biometric transportation security card.

Ms. COLLINS. Mr. President, I am pleased to be an original cosponsor of the Small Marine Business and Fishing Guide Relief Act that Senator COLEMAN is introducing today. This legislation will provide much-needed relief to charter boat captains and other operators of small marine businesses in Maine by exempting them from having to obtain a Transportation Worker Identification Credential, or TWIC, which costs $132.50 for each employee.

Under current law, any individual who holds a Coast Guard license, as most charter boat captains do, must also obtain a TWIC. The purpose of the requirement was to ensure that port operators and the Coast Guard could inspect a tamper-resistant identification document to verify the identity of those who have access to secure areas of ports and large vessels.

Charter boat captains, however, do not have secure areas on their boats and usually do not need unescorted access to port facilities. Therefore, they have no need for a TWIC. For these small businesses, requiring them to obtain a TWIC essentially amounts to an unnecessary and costly government regulation.

Many small businesses are struggling in these lean economic times, particularly with high marine fuel prices and tourists who have less to spend their discretionary income on charter tours in the Gulf of Maine. With these businesses' declining profit margins, they cannot afford an additional $132 identification card for their employees.

Even with this exemption, charter captains with a Coast Guard license will have undergone an extensive background check for the same crimes that are reviewed when an individual applies for a TWIC. So waiving the TWIC requirement for them would not reduce the background information available for review before these individuals are licensed as charter captains.

To be sure, the Transportation Worker Identification Credential will play a critical role in our Nation's maritime security by limiting access to secure areas of ports and large vessels. It must ''be implemented, however, in a manner that does not unnecessarily and unproductively impede legitimate business operations.

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By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 3381. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, Tesuque, and Taos; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, during the previous session I introduced legislation to address the funding of Indian water rights claims that are of utmost importance in the west, and in particular, within the State of New Mexico. Since that time many parties have met for countless hours in New Mexico and here in Washington to address how these claims could be resolved and finally settled. Rather than spend countless hours in litigation, these groups have sat down and worked through these issues in a very productive manner.

As a result, today I am pleased to come before you to introduce, on behalf of myself and Senator BINGAMAN, the Aamodt and Taos Pueblo Indian Water Rights Settlement Act of 2008. This legislation will resolve these long-standing Indian water rights claims within New Mexico and authorize a source of Federal funding to resolve them.

The Aamodt litigation in New Mexico was filed in 1966 and is the longest-standing litigation in the Federal judiciary system. The hard work that each party put into the settlement process demonstrates that negotiated settlements, with multiple parties working together, can best determine how to allocate scarce water supplies among diverse parties in a way that does not curtail existing uses. This bill will result in additional economic development and improved health benefits within these communities.

The resolution of these claims will not only improve the lives of many within these communities by providing a safe and reliable water supply, but will also improve the ability of New Mexico to effectively undertake water rights planning in the near and long-term future.

As I have stated before, the costs of not settling these claims in New Mexico are dire. The legislation before us will ensure that our obligations to these communities are met and that they will have safe and reliable water systems.

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. 3381

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Table of contents.
TITLE I—AAMODT LITIGATION SETTLEMENT ACT
Sec. 101. Short title.
Sec. 102. Definitions.
Subtitle A—Pojoaque Basin Regional Water System
Sec. 111. Authorization of Regional Water System.
Sec. 112. Operating Agreement.
Sec. 113. Acquisition of Pueblo water supply for the Regional Water System.
Sec. 114. Delivery and allocation of Regional Water System capacity and water.
Sec. 115. Aamodt Settlement Pueblos' Fund.
Sec. 116. Environmental compliance.
Sec. 117. Authorization of appropriations.
Subtitle B—Pojoaque Basin Indian Water Rights Settlement
Sec. 121. Settlement Agreement and contract approval.
Sec. 122. Environmental compliance.
Sec. 123. Conditions precedent and enforcement date.
Sec. 124. Waivers and releases.
Sec. 125. Effect.
TITLE II—TAOS PUEBLO INDIAN WATER RIGHTS SETTLEMENT ACT
Sec. 201. Short title.
Sec. 202. Purpose.
Sec. 203. Definitions.
Sec. 204. Pueblo rights.
Sec. 205. Pueblo water infrastructure and watershed enhancement.
Sec. 206. Taos Pueblo Water Development Fund.
Sec. 207. Marketing.
Sec. 208. Mutual-benefit projects.
Sec. 209. San Juan-Chama Project contracts.
Sec. 210. Authorizations, ratifications, confirmations, and conditions precedent.
Sec. 211. Waivers and releases.
Sec. 212. Interpretation and enforcement.
Sec. 213. Disclaimer.

## TITLE I—AAMODT LITIGATION SETTLEMENT ACT

**SEC. 101. SHORT TITLE.**

This title may be cited as the ''Aamodt Litigation Settlement Act''.

**SEC. 102. DEFINITIONS.**

In this title:

(1) ACRE-FEET.—The term ''acre-feet'' means acre-feet of water per year.

(2) AAMODT CASE.—The term ''Aamodt Case'' means the civil action entitled State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

(3) AUTHORITY.—The term ''Authority'' means the Pojoaque Basin Regional Water Authority described in section 9.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) BISHOP'S LODGE EXTENSION.—The term ''Bishop's Lodge Extension'' has the meaning given the term in the Engineering Report.

(5) CITY.—The term ''City'' means the city of Santa Fe, New Mexico.

(6) COST-SHARING AND SYSTEM INTEGRATION AGREEMENT.—The term ''Cost-Sharing and System Integration Agreement'' means the agreement executed by the United States, the State, the Pueblos, the County, and the City that—

(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and

(B) allocates the costs of the Regional Water System with respect to—

(i) the construction, operation, maintenance, and repair of the Regional Water System;

(ii) rights-of-way for the Regional Water System; and

(iii) the acquisition of water rights.

(7) COUNTY.—The term ''County'' means Santa Fe County, New Mexico.

(8) COUNTY DISTRIBUTION SYSTEM.—The term ''County Distribution System'' means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(9) COUNTY WATER UTILITY.—The term ''County Water Utility'' means the water utility organized by the County to—

(A) receive water distributed by the Authority; and

(B) provide the water received under subparagraph (A) to customers on non-Pueblo land in the Pojoaque Basin.

(10) ENGINEERING REPORT.—The term ''Engineering Report'' means the report entitled ''Pojoaque Regional Water System Engineering Report'' and dated April 2007 and any amendments thereto.

(11) FUND.—The term ''Fund'' means the Aamodt Settlement Pueblos' Fund established by section 115(a).

(12) OPERATING AGREEMENT.—The term ''Operating Agreement'' means the agreement between the Pueblos and the County executed under section 112(a).

(13) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term ''operations, maintenance, and replacement costs'' means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.

(B) EXCLUSION.—The term ''operations, maintenance, and replacement costs'' does not include construction costs or costs related to construction design and planning.

(14) POJOAQUE BASIN.—

(A) IN GENERAL.—The term ''Pojoaque Basin'' means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) INCLUSION.—The term ''Pojoaque Basin'' includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 505).

(15) PUEBLO.—The term ''Pueblo'' means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(16) PUEBLOS.—The term ''Pueblos'' means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(17) PUEBLO LAND.—The term ''Pueblo land'' means any real property that is—

(A) held by the United States in trust for a Pueblo within the Pojoaque Basin;

(B)(i) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or

(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—

(I) within the exterior boundaries of the Pueblo, as recognized and conformed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree;

(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2005.

(18) PUEBLO WATER FACILITY.—

(A) IN GENERAL.—The term ''Pueblo Water Facility'' means—

(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and

(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—

(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and

(II) described in the Operating Agreement.

(B) INCLUSIONS.—The term ''Pueblo Water Facility'' includes—

(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and

(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.

(19) REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The term ''Regional Water System'' means the Regional Water System described in section 111(a).

(B) EXCLUSIONS.—The term ''Regional Water System'' does not include the County or Pueblo water supply delivered through the Regional Water System.

(20) SAN JUAN-CHAMA PROJECT.—The term ''San Juan-Chama Project'' means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97) and the Act of April 11, 1956 (70 Stat. 105).

(21) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the stipulated and binding agreement among the State, the Pueblos, the United States, the County, and the City dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States) on May 3, 2006 and as amended in conformity with this Act.

(23) STATE.—The term ''State'' means the State of New Mexico.

**Subtitle A—Pojoaque Basin Regional Water System**

**SEC. 111. AUTHORIZATION OF REGIONAL WATER SYSTEM.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement, to be known as the ''Regional Water System''—

(1) to divert and distribute water to the Pueblos and to the County Water Utility, in accordance with the Engineering Report; and

(2) that consists of—

(A) surface water diversion facilities at San Ildefonso Pueblo on the Rio Grande; and

(B) any treatment, transmission, storage and distribution facilities and wellfields for the County Distribution System and Pueblo Water Facilities that are necessary to supply a minimum of 4,000 acre-feet of water within the Pojoaque Basin, in accordance with the Engineering Report.

(b) FINAL PROJECT DESIGN.—The Secretary shall issue a final project design within 90 days of completion of the environmental compliance described in section 116 for the Regional Water System that—

(1) is consistent with the Engineering Report; and

(2) includes a description of any Pueblo Water Facilities.

(c) ACQUISITION OF LAND; WATER RIGHTS.—

(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 117(c), the Pueblos shall consent to the grant of such easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State or County own easements or rights-of-way that may be used for construction of the Regional Water System, the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary. The Secretary shall acquire any other land or interest in land that is necessary for the construction of the Regional Water System with the exception of the Bishop's Lodge Extension.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(d) CONDITIONS FOR CONSTRUCTION.—

(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—

(A) the Secretary executes—

(i) the Settlement Agreement; and

(ii) the Cost-Sharing and System Integration Agreement; and

(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—

(1) PUEBLO WATER FACILITIES.—The costs of constructing the Pueblo Water Facilities, as determined by the final project design and the Engineering Report—

(A) shall be at full Federal expense subject to the amount authorized in section 117(a)(1); and

(B) shall be nonreimbursable to the United States.

(2) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations for the Regional Water System described in the Cost-Sharing and System Integration Agreement shall be satisfied on the payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(h) CONVEYANCE OF REGIONAL WATER SYSTEM FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), on completion of the construction of the Regional Water System (other than the Bishop's Lodge Extension if construction of the Bishop's Lodge Extension is deferred pursuant to the Cost-Sharing and System Integration Agreement), the Secretary, in accordance with the Operating Agreement, shall convey to—

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land located within the boundaries of the Pueblo that is acquired by the United States for the construction of the Pueblo Water Facility;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the portions of the Regional Water System.

(2) CONDITIONS FOR CONVEYANCE.—The Secretary shall not convey any portion of the Regional Water System facilities under paragraph (1) until the date on which—

(A) construction of the Regional Water System (other than the Bishop's Lodge Extension if construction of the Bishop's Lodge Extension is deferred pursuant to the Cost-Sharing and System Integration Agreement) is complete; and

(B) the Operating Agreement is executed in accordance with section 112.

(3) SUBSEQUENT CONVEYANCE.—On conveyance by the Secretary under paragraph (1), the Pueblos, the County, and the Authority shall not reconvey any portion of the Regional Water System conveyed to the Pueblos, the County, and the Authority, respectively, unless the reconveyance is authorized by an Act of Congress enacted after the date of enactment of this Act.

(4) INTEREST OF THE UNITED STATES.—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) ADDITIONAL CONSTRUCTION.—On conveyance of a portion of the Regional Water System under paragraph (1), the Pueblos, County, or the Authority, as applicable, may, at the expense of the Pueblos, County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) LIABILITY.—

(A) IN GENERAL.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed, other than damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(7) EFFECT.—Nothing in any transfer of ownership provided or any conveyance thereto as provided in this section shall extinguish the right of any Pueblo, the County, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, repair, and replacement of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

**SEC. 112. OPERATING AGREEMENT.**

(a) IN GENERAL.—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the date of issuance of a final project design for the Regional Water System under section 111(b).

(b) APPROVAL.—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) CONTENTS.—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions for—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—
(I) the County Distribution System; and
(II) the Pueblo Water Facilities;
(B) the allocation of the Regional Water System capacity;
(C) the terms of use of unused water capacity in the Regional Water System;
(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County from the Regional Water System, including provisions addressing when the construction of such additional infrastructure requires approval by the Authority;
(E) the allocation and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;
(F) the operation of wellfields located on Pueblo land;
(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 113(a);
(H) the operation of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement so that, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and
(I) dispute resolution; and
(3) provisions for operating and maintaining the Regional Water System facilities before and after conveyance under section 111(h), including provisions to—
(A) ensure that—
(i) the operation of, and the diversion and conveyance of water by, the Regional Water System is in accordance with the Settlement Agreement;
(ii) the wells in the Regional Water System are used in conjunction with the surface water supply of the Regional Water System to ensure a reliable firm supply of water to all users of the Regional Water System, consistent with the intent of the Settlement Agreement that surface supplies will be used to the maximum extent feasible;
(iii) the respective obligations regarding delivery, payment, operation, and management are enforceable; and
(iv) the County has the right to serve any new water users located on non-Pueblo land in the Pojoaque Basin; and
(B) allow for any aquifer storage and recovery projects that are approved by the Office of the New Mexico State Engineer.
(d) EFFECT.—Nothing in this title precludes the Operating Agreement from authorizing phased or interim operations if the Regional Water System is constructed in phases.

**SEC. 113. ACQUISITION OF PUEBLO WATER SUPPLY FOR THE REGIONAL WATER SYSTEM.**

(a) IN GENERAL.—For the purpose of providing a reliable firm supply of water from the Regional Water System for the Pueblos in accordance with the Settlement Agreement, the Secretary, on behalf of the Pueblos, shall—
(1) acquire water rights to—
(A) 302 acre-feet of Nambe reserved water described in section 2.6.2 of the Settlement Agreement pursuant to section 117(c)(1)(C); and
(B) 1141 acre-feet from water acquired by the County for water rights commonly referred to as ''Top of the World'' rights in the Aamodt case;
(2) make available 1079 acre-feet to the Pueblos pursuant to a contract entered into among the Pueblos and the Secretary in accordance with section 11 of the Act of June 13, 1962 (76 Stat. 96, 97) (San Juan-Chama Project Act) under water rights held by the Secretary; and
(3) by application to the State Engineer, obtain approval to divert the water acquired and made available under paragraphs (1) and (2) at the points of diversion for the Regional Water System, consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement.
(b) FORFEITURE.—The nonuse of the water supply secured by the Secretary for the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.
(c) TRUST.—The Pueblo water supply secured under subsection (a) shall be held by the United States in trust for the Pueblos.
(d) CONTRACT FOR SAN JUAN-CHAMA PROJECT WATER SUPPLY.—With respect to the contract for the water supply required by subsection (a)(2), such San Juan-Chama Project contract shall be pursuant to the following terms:
(1) WAIVERS.—Notwithstanding the provisions of the Act of June 13, 1962 (76 Stat, 96, 97) or any other provision of law—
(A) the Secretary shall waive the entirety of the Pueblos' share of the construction costs for the San Juan-Chama Project, and pursuant to that waiver, the Pueblos' share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest, due from 1972 to the execution of the contract required by subsection (a)(2), shall be nonreimbursable;
(B) the Secretary's waiver of each Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and
(C) the costs associated with any water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Pub. L. No. 88-293, 78 Stat. 171 (March 26, 1964) shall remain nonreimbursable and nonreturnable.
(2) TERMINATION.—The contract shall provide that it shall terminate only upon the following conditions—
(A) failure of the United States District Court for the District of New Mexico to enter a final decree for the Aamodt case by December 15, 2012 or within the time period of any extension of that deadline granted by the court; or
(B) entry of an order by the United States District Court for the District of New Mexico voiding the final decree and Settlement Agreement for the Aamodt case pursuant to section 10.3 of the Settlement Agreement.
(e) LIMITATION.—The Secretary shall use the water supply secured under subsection (a) only for the purposes described in the Settlement Agreement.
(f) FULFILLMENT OF WATER SUPPLY ACQUISITION OBLIGATIONS.—Compliance with subsections (a) through (e) shall satisfy any and all obligations of the Secretary to acquire or secure a water supply for the Pueblos pursuant to the Settlement Agreement.
(g) RIGHTS OF PUEBLOS IN SETTLEMENT AGREEMENT UNAFFECTED.—Notwithstanding the provisions of subsections (a) through (f), the Pueblos, the County or the Regional Water Authority may acquire any additional water rights to ensure all parties to the Settlement Agreement receive the full allocation of water provided by the Settlement Agreement and nothing in this Act amends or modifies the quantities of water allocated to the Pueblos thereunder.

**SEC. 114. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY AND WATER.**

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—
(1) IN GENERAL.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—
(A) 4,000 acre-feet of consumptive use of water; and
(B) the requisite peaking capacity described in—
(i) the Engineering Report; and
(ii) the final project design.
(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—
(A) there shall be allocated to the Pueblos—
(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and
(ii) the requisite peaking capacity for the quantity of water described in clause (i); and
(B) there shall be allocated to the County Water Utility—
(i) sufficient capacity for the conveyance of 1,500 acre-feet consumptive use; and
(ii) the requisite peaking capacity for the quantity of water described in clause (i).
(3) APPLICABLE LAW.—Water shall be allocated to the Pueblos and the County Water Utility under this subsection in accordance with—
(A) this title;
(B) the Settlement Agreement; and
(C) the Operating Agreement.
(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—
(1) to the Pueblos water in a quantity sufficient to allow full consumptive use of up to 2,500 acre-feet rights by the Pueblos in accordance with—
(A) the Settlement Agreement;
(B) the Operating Agreement; and
(C) this Title; and
(2) to the County water in a quantity sufficient to allow full consumptive use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—
(A) the Settlement Agreement;
(B) the Operating Agreement; and
(C) this title.
(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNUSED CAPACITY.—The Regional Water System may be used to—
(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the Settlement Agreement to each of the Pueblos and to the County; and
(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity by each other through the Regional Water System in accordance with an intergovernmental agreement between the Pueblos, or between a Pueblo and County Water Utility, as applicable, if—
(A) such intergovernmental agreements are consistent with the Operating Agreement, the Settlement Agreement and this Act;
(B) capacity is available without reducing water delivery to any Pueblo or the County Water Utility in accordance with the Settlement Agreement, unless the County Water Utility or Pueblo contracts for a reduction in water delivery or Regional Water System capacity;
(C) the Pueblo or County Water Utility contracting for use of the unused capacity or water has the right to use the water under applicable law; and
(D) any agreement for the use of unused capacity or water provides for payment of

the operation, maintenance, and replacement costs associated with the use of capacity or water.

**SEC. 115. AAMODT SETTLEMENT PUEBLOS' FUND.**

(a) ESTABLISHMENT OF THE AAMODT SETTLEMENT PUEBLOS' FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Aamodt Settlement Pueblos' Fund,'' consisting of—

(1) such amounts as are made available to the Fund under section 117(c); and

(2) any interest earned from investment of amounts in the Fund under subsection (b).

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make amounts available from the Fund for distribution to the Pueblos in accordance with—

(1) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.); and

(2) this title.

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) TRIBAL MANAGEMENT PLAN.—

(1) IN GENERAL.—A Pueblo may withdraw all or part of the Pueblo's portion of the Fund on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that a Pueblo spend any amounts withdrawn from the Fund in accordance with the purposes described in section 117(c).

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Fund under an approved tribal management plan are used in accordance with this title.

(4) LIABILITY.—If a Pueblo or the Pueblos exercise the right to withdraw amounts from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts withdrawn.

(5) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblos shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Fund that the Pueblos do not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this title, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(D) ANNUAL REPORT.—The Pueblos shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(6) NO PER CAPITA PAYMENTS.—No part of the principal of the Fund, or the interest or income accruing on the principal shall be distributed to any member of a Pueblo on a per capita basis.

(7) AVAILABILITY OF AMOUNTS FROM THE FUND.—

(A) APPROVAL OF SETTLEMENT AGREEMENT.—Amounts made available under subparagraphs (A) and (C) of section 117(c)(1) shall be available for expenditure or withdrawal only after the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) COMPLETION OF CERTAIN PORTIONS OF REGIONAL WATER SYSTEM.—Amounts made available under section 117(c)(1)(B) shall be available for expenditure or withdrawal only after those portions of the Regional Water System described in section 1.5.24 of the Settlement Agreement have been declared substantially complete by the Secretary.

(C) FAILURE TO FULFILL CONDITIONS PRECEDENT.—If the conditions precedent in section 123 have not been fulfilled by June 30, 2016, the United States shall be entitled to set off any funds expended or withdrawn from the amounts appropriated pursuant to section 117(c), together with any interest accrued, against any claims asserted by the Pueblos against the United States relating to the water rights in the Pojoaque Basin.

**SEC. 116. ENVIRONMENTAL COMPLIANCE.**

(a) IN GENERAL.—In carrying out this subtitle, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this title affects the outcome of any analysis conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**SEC. 117. AUTHORIZATION OF APPROPRIATIONS.**

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there is authorized to be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities under section 116 a total of $106,400,000 between fiscal years 2009 and 2021.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) ADJUSTMENT.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) LIMITATIONS.—

(A) IN GENERAL.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) RECORD OF DECISION.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional Water System, as defined in the Engineering Report.

(b) ACQUISITION OF WATER RIGHTS.—There is authorized to be appropriated to the Secretary funds for the acquisition of the water rights under section 113(a)(1)(B)—

(1) in the amount of $5,400,000.00 if such acquisition is completed by December 31, 2009; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2010.

(c) AAMODT SETTLEMENT PUEBLOS' FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2009 through 2021:

(A) $8,000,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) $37,500,000, which shall be allocated to an account, to be established not later than January 1, 2016, to assist the Pueblos in paying the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) $5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambé for the acquisition of the Nambé reserved water rights in accordance with section 113(a)(1)(A). The amount authorized herein shall be adjusted according to the CPI Urban Index commencing January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambé only for the acquisition of land, other real property interests, or economic development.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—Prior to conveyance of the Regional Water System pursuant to section 111, the Secretary shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System up to an amount that does not exceed $5,000,000, which is authorized to be appropriated to the Secretary.

(B) OBLIGATION OF THE FEDERAL GOVERNMENT AFTER COMPLETION.—Except as provided in section 113(a)(4)(B), after construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited under this section the Federal Government shall have no obligation to pay for the operation, maintenance, and replacement costs of the Regional Water System.

**Subtitle B—Pojoaque Basin Indian Water Rights Settlement**

**SEC. 121. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.**

(a) APPROVAL.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this title, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are executed to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this title) are authorized, ratified, and confirmed.

(b) EXECUTION.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this title, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments that are

necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this title).

(c) AUTHORITIES OF THE PUEBLOS.—

(1) IN GENERAL.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or expanded water uses for water rights recognized in section 2.1 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of section 2.1.5 of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) EXECUTION.—The Secretary shall not execute the Settlement Agreement until such amendment is accomplished under paragraph (1).

(3) APPROVAL BY SECRETARY.—Consistent with the Settlement Agreement as amended under paragraph (1), the Secretary shall approve or disapprove a lease entered into under paragraph (1).

(4) PROHIBITION ON PERMANENT ALIENATION.—No lease or contract under paragraph (1) shall be for a term exceeding 99 years, nor shall any such lease or contract provide for permanent alienation of any portion of the water rights made available to the Pueblos under the Settlement Agreement.

(5) APPLICABLE LAW.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) LEASING OR MARKETING OF WATER SUPPLY.—The water supply provided on behalf of the Pueblos pursuant to section 113(a)(1) may only be leased or marketed by any of the Pueblos pursuant to the intergovernmental agreements described in section 114(c)(2).

(d) AMENDMENTS TO CONTRACTS.—The Secretary shall amend the contracts relating to the Nambe Falls Dam and Reservoir that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

**SEC. 122. ENVIRONMENTAL COMPLIANCE.**

(a) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The execution of the Settlement Agreement under section 121(b) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this subtitle, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

**SEC. 123. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.**

(a) CONDITIONS PRECEDENT.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register a statement of finding that the conditions have been fulfilled.

(2) REQUIREMENTS.—The conditions precedents referred to in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 124, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 117, with the exception of subsection (a)(1) of that section, by June 30, 2016;

(D) the State of New Mexico has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement;

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico by December 15, 2012, or within the time period of any extension of that deadline granted by that court.

(b) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative Order consistent with the Settlement Agreement. The waivers and releases executed pursuant to section 124 shall become effective as of the date that the conditions precedent described in subsection (a)(2) have been fulfilled.

(c) EXPIRATION.—If the parties to the Settlement Agreement entitled to provide notice regarding the lack of substantial completion of the Regional Water System provide such notice in accordance with section 10.3 of the Settlement Agreement, the Settlement Agreement shall no longer be effective, the waivers and releases executed pursuant to section 124 shall no longer be effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the appropriate parties in writing and approved by Congress.

**SEC. 124. WAIVERS AND RELEASES.**

(a) CLAIMS BY THE PUEBLO AND THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, and the United States, acting in its capacity as trustee for the Pueblos, as part of their obligations under the Settlement Agreement, shall each execute a waiver and release of—

(1) all past, present, and future claims to surface and groundwater rights that the Pueblos, or the United States on behalf of the Pueblos, asserted or could have asserted in the Aamodt Case;

(2) all past, present, and future claims for damages, losses or injuries to water rights or claims of interference, diversion or taking of water for lands within the Pojoaque Basin that accrued at any time up to and including the enforcement date identified in section 123(b), that the Pueblos or their members, or the United States on behalf of the Pueblos, asserted or could have asserted against the parties to the Aamodt Case;

(3) their defenses in the Aamodt Case to the claims previously asserted therein by the other Settlement Parties; and

(4) all pending inter se challenges against other parties to the Settlement Agreement.

(b) CLAIMS BY THE PUEBLOS.—The Pueblos, on behalf of themselves and their members, as part of their obligations under the Settlement Agreement, shall execute a waiver and release of—

(1) all causes of action against the United States, its agencies, or employees, arising out of all past, present, and future claims for water rights that were asserted, or could have been asserted, by the United States as trustee for the Pueblos and on behalf of the Pueblos in the Aamodt case;

(2) all claims for damages, losses or injuries to water rights or claims of interference, diversion or taking of water for lands within the Pojoaque Basin that accrued at any time up to and including the enforcement date identified in section 123(b), that the Pueblos or their members may have against the United States, its agencies, or employees; and

(3) all claims arising out of or resulting from the negotiation or the adoption of the Settlement Agreement, exhibits thereto, the Final Decree, or this title, that the Pueblos of their members may have against the United States, its agencies, agents or employees.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding subsections (a) and (b), and except as otherwise provided in the Settlement Agreement, the Pueblos and the United States shall retain—

(1) all claims for water rights or injuries to water rights arising out of activities occurring outside the Pojoaque Basin except insofar as such claims are specifically addressed in the Cost-Sharing and System Integration Agreement;

(2) all claims for enforcement of the Settlement Agreement, the Final Decree, or this title, through such legal and equitable remedies as may be available in any court of competent jurisdiction;

(3) all rights to use and protect water rights acquired pursuant to state law to the extent not inconsistent with the Final Decree and the Settlement Agreement;

(4) all claims relating to activities affecting the quality of water; and

(5) all rights, remedies, privileges, immunities, powers, and claims not specifically waived and released pursuant to the Settlement Agreement or this title.

(d) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the Enforcement Date.

(2) NO REVIVAL OF CLAIMS.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

**SEC. 125. EFFECT.**

Nothing in this title or the Settlement Agreement affects the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community other than the Pueblos.

## TITLE II—TAOS PUEBLO INDIAN WATER RIGHTS SETTLEMENT ACT

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Taos Pueblo Indian Water Rights Settlement Act''.

**SEC. 202. PURPOSE.**

The purposes of this title are—

(1) to approve, ratify, and confirm the Taos Pueblo Indian Water Rights Settlement Agreement;

(2) to authorize and direct the Secretary to execute the Settlement Agreement and to perform all obligations of the Secretary under the Settlement Agreement and this title; and

(3) to authorize all actions and appropriations necessary for the United States to meet its obligations under the Settlement Agreement and this title.

**SEC. 203. DEFINITIONS.**

In this title:

(1) ELIGIBLE NON-PUEBLO ENTITIES.—The term ''Eligible Non-Pueblo Entities'' means the Town of Taos, EPWSD, and the New Mexico Department of Finance and Administration Local Government Division on behalf

of the Acequia Madre del Rio Lucero y del Arroyo Seco, the Acequia Madre del Prado, the Acequia del Monte, the Acequia Madre del Rio Chiquito, the Upper Ranchitos Mutual Domestic Water Consumers Association, the Upper Arroyo Hondo Mutual Domestic Water Consumers Association, and the Llano Quemado Mutual Domestic Water Consumers Association.

(2) ENFORCEMENT DATE.—The term ''Enforcement Date'' means the date upon which all conditions precedent set forth in section 210(f)(2) have been fulfilled.

(3) MUTUAL-BENEFIT PROJECTS.—The term ''Mutual-Benefit Projects'' means the projects described and identified in Articles 6 and 10.1 of the Settlement Agreement.

(4) PARTIAL FINAL DECREE.—The term ''Partial Final Decree'' means the Decree entered in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S. D.N.M.) and 7939–BB (U.S. D.N.M) (consolidated), for the resolution of the Pueblo's water right claims and which is substantially in the form agreed to by the Parties and attached to the Settlement Agreement as Attachment 5.

(5) PARTIES.—The term ''Parties'' means the Parties to the Settlement Agreement, as identified in Article 1 of the Settlement Agreement.

(6) PUEBLO.—The term ''Pueblo'' means the Taos Pueblo, a sovereign Indian Tribe duly recognized by the United States of America.

(7) PUEBLO LANDS.—The term ''Pueblo lands'' means those lands located within the Taos Valley to which the Pueblo, or the United States in its capacity as trustee for the Pueblo, holds title subject to Federal law limitations on alienation. Such lands include Tracts A, B, and C, the Pueblo's land grant, the Blue Lake Wilderness Area, and the Tenorio and Karavas Tracts and are generally depicted in Attachment 2 to the Settlement Agreement.

(8) SAN JUAN-CHAMA PROJECT.—The term ''San Juan-Chama Project'' means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the contract dated March 31, 2006, between and among—

(A) the United States, acting solely in its capacity as trustee for Taos Pueblo;

(B) the Taos Pueblo, on its own behalf;

(C) the State of New Mexico;

(D) the Taos Valley Acequia Association and its 55 member ditches (''TVAA'');

(E) the Town of Taos;

(F) El Prado Water and Sanitation District (''EPWSD''); and

(G) the 12 Taos area Mutual Domestic Water Consumers Associations (''MDWCAs''), as amended to conform with this title.

(11) STATE ENGINEER.—The term ''State Engineer'' means the New Mexico State Engineer.

(12) TAOS VALLEY.—The term ''Taos Valley'' means the geographic area depicted in Attachment 4 of the Settlement Agreement.

**SEC. 204. PUEBLO RIGHTS.**

(a) IN GENERAL.—Those rights to which the Pueblo is entitled under the Partial Final Decree shall be held in trust by the United States on behalf of the Pueblo and shall not be subject to forfeiture, abandonment or permanent alienation.

(b) SUBSEQUENT ACT OF CONGRESS.—The Pueblo shall not be denied all or any part of its rights held in trust absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

**SEC. 205. PUEBLO WATER INFRASTRUCTURE AND WATERSHED ENHANCEMENT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall provide grants and technical assistance to the Pueblo on a nonreimbursable basis to—

(1) plan, permit, design, engineer, construct, reconstruct, replace, or rehabilitate water production, treatment, and delivery infrastructure;

(2) restore, preserve, and protect the environment associated with the Buffalo Pasture area; and

(3) protect and enhance watershed conditions.

(b) AVAILABILITY OF GRANTS.—Upon the Enforcement Date, all amounts appropriated pursuant to section 210(c)(1) shall be available in grants to the Pueblo after the requirements of subsection (c) have been met.

(c) PLAN.—The Secretary shall provide financial assistance pursuant to subsection (a) upon the Pueblo's submittal of a plan that identifies the projects to be implemented consistent with the purposes of this section and describes how such projects are consistent with the Settlement Agreement.

(d) EARLY FUNDS.—Notwithstanding subsection (b), $10,000,000 of the monies authorized to be appropriated pursuant to section 210(c)(1)—

(1) shall be made available in grants to the Pueblo by the Secretary upon appropriation or availability of the funds from other authorized sources; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice, a Tribal Council resolution that describes the purposes under subsection (a) for which the monies will be used, and a plan under subsection (c) for this portion of the funding.

**SEC. 206. TAOS PUEBLO WATER DEVELOPMENT FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Taos Pueblo Water Development Fund'' (hereinafter, ''Fund'') to be used to pay or reimburse costs incurred by the Pueblo for—

(1) acquiring water rights;

(2) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, or wastewater infrastructure;

(3) restoring, preserving and protecting the Buffalo Pasture, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project;

(4) administering the Pueblo's water rights acquisition program and water management and administration system; and

(5) for watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement.

(b) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, invest amounts in the Fund, and make monies available from the Fund for distribution to the Pueblo consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001, et seq.) (hereinafter, ''Trust Fund Reform Act''), this title, and the Settlement Agreement.

(c) INVESTMENT OF THE FUND.—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—Upon the Enforcement Date, all monies deposited in the Fund pursuant to section 210(c)(2) shall be available to the Pueblo for expenditure or withdrawal after the requirements of subsection (e) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Pueblo may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Pueblo spend any funds in accordance with the purposes described in subsection (a).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the requirement that monies withdrawn from the Fund are used for the purposes specified in subsection (a).

(3) LIABILITY.—If the Pueblo exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portions of the funds made available under this title that the Pueblo does not withdraw under paragraph (1)(A).

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) ANNUAL REPORT.—The Pueblo shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS AVAILABLE UPON APPROPRIATION.—Notwithstanding subsection (d), $15,000,000 of the monies authorized to be appropriated pursuant to section 210(c)(2)—

(1) shall be available upon appropriation for the Pueblo's acquisition of water rights in fulfillment of the Settlement Agreement, the Buffalo Pasture Recharge Project, implementation of the Pueblo's water rights acquisition program and water management and administration system, the design, planning, and permitting of water or wastewater infrastructure eligible for funding under sections 205 or 206, or costs related to the negotiation, authorization, and implementation of the Settlement Agreement; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice and a Tribal Council resolution that describes the purposes under paragraph (1) for which the monies will be used.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Pueblo.

**SEC. 207. MARKETING.**

(a) PUEBLO WATER RIGHTS.—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may market water rights secured to it under the Settlement Agreement and Partial Final Decree, provided that such marketing is in accordance with this section.

(b) PUEBLO CONTRACT RIGHTS TO SAN JUAN-CHAMA PROJECT WATER.—Subject to the approval of the Secretary in accordance with

subsection (e), the Pueblo may subcontract water made available to the Pueblo under the contract authorized under section 209(b)(1)(A) to third parties to supply water for use within or without the Taos Valley, provided that the delivery obligations under such subcontract are not inconsistent with the Secretary's existing San Juan-Chama Project obligations and such subcontract is in accordance with this section.

(c) LIMITATION.—

(1) IN GENERAL.—Diversion or use of water off Pueblo Lands pursuant to Pueblo water rights or Pueblo contract rights to San Juan-Chama Project water shall be subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, and any applicable interstate compact as apply to the exercise of water rights or contract rights to San Juan-Chama Project water held by non-Federal, non-Indian entities, including all applicable State Engineer permitting and reporting requirements.

(2) EFFECT ON WATER RIGHTS.—Such diversion or use off Pueblo Lands under paragraph (1) shall not impair water rights or increase surface water depletions within the Taos Valley.

(d) MAXIMUM TERM.—

(1) IN GENERAL.—The maximum term of any water use lease or subcontract, including all renewals, shall not exceed 99 years in duration.

(2) ALIENATION OF RIGHTS.—The Pueblo shall not permanently alienate any rights it has under the Settlement Agreement, the Partial Final Decree, and this title.

(e) APPROVAL OF SECRETARY.—The Secretary shall approve or disapprove any lease or subcontract submitted by the Pueblo for approval not later than—

(1) 180 days after submission; or

(2) 60 days after compliance, if required, with the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later, provided that no Secretarial approval shall be required for any water use lease or subcontract with a term of less than 7 years.

(f) NO FORFEITURE OR ABANDONMENT.—The nonuse by a lessee or subcontractor of the Pueblo of any right to which the Pueblo is entitled under the Partial Final Decree shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of those rights.

(g) NO PREEMPTION.—

(1) IN GENERAL.—The approval authority of the Secretary provided under subsection (e) shall not amend, construe, supersede, or preempt any State or Federal law, interstate compact, or international treaty that pertains to the Colorado River, the Rio Grande, or any of their tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quantity of those waters.

(2) APPLICABLE LAW.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water made available under the Settlement Agreement.

(h) NO PREJUDICE.—Nothing in this title shall be construed to establish, address, prejudice, or prevent any party from litigating whether or to what extent any applicable State law, Federal law or interstate compact does or does not permit, govern, or apply to the use of the Pueblo's water outside of New Mexico.

**SEC. 208. MUTUAL-BENEFIT PROJECTS.**

(a) IN GENERAL.—Upon the Enforcement Date, the Secretary, acting through the Commissioner of Reclamation, shall provide financial assistance in the form of grants on a nonreimbursable basis to Eligible Non-Pueblo Entities to plan, permit, design, engineer, and construct the Mutual Benefits Projects in accordance with the Settlement Agreement—

(1) to minimize adverse impacts on the Pueblo's water resources by moving future non-Indian ground water pumping away from the Pueblo's Buffalo Pasture; and

(2) to implement the resolution of a dispute over the allocation of certain surface water flows between the Pueblo and non-Indian irrigation water right owners in the community of Arroyo Seco Arriba.

(b) COST-SHARING.—

(1) FEDERAL SHARE.—The Federal share of the total cost of planning, designing, and constructing the Mutual Benefit Projects authorized in subsection (a) shall be 75 percent and shall be nonreimbursable.

(2) NON-FEDERAL SHARE.—The non-Federal share of the total cost of planning, designing, and constructing the Mutual Benefit Projects shall be 25 percent and may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to completing the Mutual Benefit Projects.

**SEC. 209. SAN JUAN-CHAMA PROJECT CONTRACTS.**

(a) IN GENERAL.—Contracts issued under this section shall be in accordance with this title and the Settlement Agreement.

(b) CONTRACTS FOR SAN JUAN-CHAMA PROJECT WATER.—

(1) IN GENERAL.—The Secretary shall enter into 3 repayment contracts by December 31, 2009, for the delivery of San Juan-Chama Project water in the following amounts:

(A) 2,215 acre-feet/annum to the Pueblo.

(B) 366 acre-feet/annum to the Town of Taos.

(C) 40 acre-feet/annum to EPWSD.

(2) REQUIREMENTS.—Each such contract shall provide that if the conditions precedent set forth in section 210(f)(2) have not been fulfilled by December 31, 2015, the contract shall expire on that date.

(c) WAIVER.—With respect to the contracts authorized and required by subsection (b)(1) and notwithstanding the provisions of Public Law 87–483 (76 Stat. 96) or any other provision of law—

(1) the Secretary shall waive the entirety of the Pueblo's share of the construction costs, both principal and the interest, for the San Juan-Chama Project and pursuant to that waiver, the Pueblo's share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest shall be nonreimbursable; and

(2) the Secretary's waiver of the Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior.

**SEC. 210. AUTHORIZATIONS, RATIFICATIONS, CONFIRMATIONS, AND CONDITIONS PRECEDENT.**

(a) RATIFICATION.—

(1) IN GENERAL.—Except to the extent that any provision of the Settlement Agreement conflicts with any provision of this title, the Settlement Agreement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—To the extent amendments are executed to make the Settlement Agreement consistent with this title, such amendments are also authorized, ratified, and confirmed.

(b) EXECUTION OF SETTLEMENT AGREEMENT.—To the extent that the Settlement Agreement does not conflict with this title, the Secretary shall execute the Settlement Agreement, including all exhibits to the Settlement Agreement requiring the signature of the Secretary and any amendments necessary to make the Settlement Agreement consistent with this title, after the Pueblo has executed the Settlement Agreement and any such amendments.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) TAOS PUEBLO INFRASTRUCTURE AND WATERSHED FUND.—There is authorized to be appropriated to the Secretary to provide grants pursuant to section 205, $30,000,000, as adjusted under paragraph (4), for the period of fiscal years 2009 through 2015.

(2) TAOS PUEBLO WATER DEVELOPMENT FUND.—There is authorized to be appropriated to the Taos Pueblo Water Development Fund, established at section 206(a), $50,000,000, as adjusted under paragraph (4), for the period of fiscal years 2009 through 2015.

(3) MUTUAL-BENEFIT PROJECTS FUNDING.—There is further authorized to be appropriated to the Secretary to provide grants pursuant to section 208, a total of $33,000,000, as adjusted under paragraph (4), for the period of fiscal years 2009 through 2015.

(4) ADJUSTMENTS TO AMOUNTS AUTHORIZED.—The amounts authorized to be appropriated under paragraphs (1) through (3) shall be adjusted by such amounts as may be required by reason of changes since April 1, 2007, in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(5) DEPOSIT IN FUND.—Except for the funds to be provided to the Pueblo pursuant to section 205(d), the Secretary shall deposit the funds made available pursuant to paragraphs (1) and (3) into a Taos Settlement Fund to be established within the Treasury of the United States so that such funds may be made available to the Pueblo and the Eligible Non-Pueblo Entities upon the Enforcement Date as set forth in sections 205(b) and 208(a).

(d) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Agreement and this title.

(e) ENVIRONMENTAL COMPLIANCE.—

(1) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The Secretary's execution of the Settlement Agreement shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this title, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(f) CONDITIONS PRECEDENT AND SECRETARIAL FINDING.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register a statement of finding that the conditions have been fulfilled.

(2) CONDITIONS.—The conditions precedent referred to in paragraph (1) are the following:

(A) The President has signed into law the Taos Pueblo Indian Water Rights Settlement Act.

(B) To the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title.

(C) The Settlement Agreement, so revised, including waivers and releases pursuant to section 211, has been executed by the Parties and the Secretary prior to the Parties' motion for entry of the Partial Final Decree.

(D) Congress has fully appropriated or the Secretary has provided from other authorized sources all funds authorized by paragraphs (1) through (3) of subsection (c) so that the entire amounts so authorized have been previously provided to the Pueblo pursuant to sections 205 and 206, or placed in the Taos Pueblo Water Development Fund or the Taos Settlement Fund as directed in subsection (c).

(E) The Legislature of the State of New Mexico has fully appropriated the funds for the State contributions as specified in the Settlement Agreement, and those funds have been deposited in appropriate accounts.

(F) The State of New Mexico has enacted legislation that amends NMSA 1978, section 72–6–3 to state that a water use due under a water right secured to the Pueblo under the Settlement Agreement or the Partial Final Decree may be leased for a term, including all renewals, not to exceed 99 years, provided that this condition shall not be construed to require that said amendment state that any State law based water rights acquired by the Pueblo or by the United States on behalf of the Pueblo may be leased for said term.

(G) A Partial Final Decree that sets forth the water rights and contract rights to water to which the Pueblo is entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement and Attachment 5 thereto has been approved by the Court and has become final and nonappealable.

(g) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable, and the waivers and releases executed pursuant to section 211 and the limited waiver of sovereign immunity set forth in section 212(a) shall become effective, as of the date that the conditions precedent described in subsection (f)(2) have been fulfilled.

(h) EXPIRATION DATE.—

(1) IN GENERAL.—If all of the conditions precedent described in section (f)(2) have not been fulfilled by December 31, 2015, the Settlement Agreement shall be null and void, the waivers and releases executed pursuant to section 211 shall not become effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government, unless otherwise agreed to by the Parties in writing and approved by Congress.

(2) EXCEPTION.—Notwithstanding subsection (h)(1) or any other provision of law, any unexpended Federal funds, together with any income earned thereon, made available under sections 205(d) and 206(f) and title to any property acquired or constructed with expended Federal funds made available under sections 205(d) and 206(f) shall be retained by the Pueblo.

(3) RIGHT TO SET-OFF.—In the event the conditions precedent set forth in subsection (f)(2) have not been fulfilled by December 31, 2015, the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to paragraphs (1) and (2) of subsection (c) or made available from other authorized sources, together with any interest accrued, against any claims asserted by the Pueblo against the United States relating to water rights in the Taos Valley.

**SEC. 211. WAIVERS AND RELEASES.**

(a) CLAIMS BY THE PUEBLO AND THE UNITED STATES.—The Pueblo, on behalf of itself and its members, and the United States, acting through the Secretary in its capacity as trustee for the Pueblo, as part of their obligations under the Settlement Agreement, shall each execute a waiver and release of claims against all Parties to the Settlement Agreement, including individual members of signatory Acequias, from—

(1) all past, present, and future claims to surface and groundwater rights that the Pueblo, or the United States on behalf of the Pueblo, asserted or could have asserted in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S. D.N.M.) and 7939–BB (U.S. D.N.M.) (consolidated);

(2) all past, present, and future claims for damages, losses or injuries to water rights or claims of interference, diversion or taking of water for lands within the Taos Valley that accrued from time immemorial through the Enforcement Date that the Pueblo, or the United States on behalf of the Pueblo, asserted or could have asserted;

(3) all past, present, and future claims to surface and groundwater rights to the use of Rio Grande mainstream or tributary water, whether presently known or unknown, whether for consumptive or nonconsumptive use, that the Pueblo, or the United States on behalf of the Pueblo, could assert in any present or future water rights adjudication proceeding that are not based on ownership of land or that are based on Pueblo or United States ownership of lands or water rights at any time prior to the Enforcement Date, except that nothing in this paragraph shall be construed to prevent the Pueblo or the United States from fully participating in the inter se phase of any such present or future water rights adjudication proceeding;

(4) all past, present, and future claims for damages, losses or injuries to water rights or claims of interference, diversion or taking of Rio Grande mainstream or tributary water that accrued from time immemorial through the Enforcement Date that the Pueblo, or the United States on behalf of the Pueblo, asserted or could have asserted; and

(5) all past, present, and future claims arising out of or resulting from the negotiation or the adoption of the Settlement Agreement, attachments thereto, or any specific terms and provisions thereof, against the State of New Mexico, its agencies, agents or employees.

(b) CLAIMS BY THE PUEBLO.—The Pueblo, on behalf of itself and its members, as part of its obligations under the Settlement Agreement, shall execute a waiver and release of claims against the United States, its agencies, and its employees from—

(1) all past, present, and future claims for water rights that were asserted, or could have been asserted, by the United States as trustee for the Pueblo and on behalf of the Pueblo in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896–BB (U.S. D.N.M.) and 7939–BB (U.S. D.N.M) (consolidated);

(2) all past, present, and future claims for damages, losses or injuries to water rights or all past, present, and future claims for failure to intervene or act on the Pueblo's behalf in the protection of its water rights, or all past, present, and future claims for failure to acquire and/or develop the water rights and resources of the Pueblo, that accrued from time immemorial through the Enforcement Date; and

(3) all past, present, and future claims arising out of or resulting from the negotiation or the adoption of the Settlement Agreement, attachments thereto, or negotiation and enactment of this title or any specific terms and provisions thereof, against the United States, its agencies, agents or employees.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding subsections (a) and (b), the Pueblo and its members, and the United States, as trustee for the Pueblo and its members, shall retain the following rights and claims:

(1) All claims against persons other than the Parties to the Settlement Agreement for injuries to water rights arising out of activities occurring outside the Taos Valley or the Taos Valley Stream System.

(2) All claims for enforcement of the Settlement Agreement, the San Juan-Chama Project contract between the Pueblo and the United States, the Partial Final Decree, or this title, through such legal and equitable remedies as may be available in any court of competent jurisdiction.

(3) All rights to use and protect water rights acquired pursuant to state law, to the extent not inconsistent with the Partial Final Decree and the Settlement Agreement.

(4) All claims relating to activities affecting the quality of water.

(5) All rights, remedies, privileges, immunities, powers, and claims not specifically waived and released pursuant to the Settlement Agreement or this title.

(d) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the Enforcement Date.

(2) NO REVIVAL OF CLAIMS.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this title.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

**SEC. 212. INTERPRETATION AND ENFORCEMENT.**

(a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—Upon and after the Enforcement Date, if any Party to the Settlement Agreement brings an action in any court of competent jurisdiction over the subject matter relating only and directly to the interpretation or enforcement of the Settlement Agreement or this title, and names the United States or the Pueblo as a party, then the United States, the Pueblo, or both may be added as a party to any such action, and any claim by the United States or the Pueblo to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement, and no waiver of sovereign immunity is made for any action against the United States or the Pueblo that seeks money damages.

(b) SUBJECT MATTER JURISDICTION NOT AFFECTED.—Nothing in this title shall be deemed as conferring, restricting, enlarging, or determining the subject matter jurisdiction of any court, including the jurisdiction of the court that enters the Partial Final Decree adjudicating the Pueblo's water rights.

(c) REGULATORY AUTHORITY NOT AFFECTED.—Nothing in this title shall be deemed to determine or limit any authority of the State or the Pueblo to regulate or administer waters or water rights now or in the future.

**SEC. 213. DISCLAIMER.**

Nothing in the Settlement Agreement or this title shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of any other Indian tribe.

Mr. BINGAMAN. Mr. President, today Senator DOMENICI and I are introducing a bill that I am pleased to say, will help end contentious disputes over water rights claims in two long-standing general stream adjudications in northern New Mexico. The bill accomplishes this by authorizing two Indian water rights settlements. The first is a settlement involving the

water rights claims of the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque stream system, north of Santa Fe. The second settlement resolves Taos Pueblo's water rights claims in the Rio Pueblo de Taos stream system.

The Rio Pojoaque stream adjudication is known as the Aamodt case, and it's my understanding that it's the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been actively litigated before the district court in New Mexico and the Tenth Circuit Court of Appeals. Forty years of litigation resolved very little, certainly not what the parties accomplished by engaging directly with each other in an attempt to resolve their differences. The Aamodt Litigation Settlement Act represents an agreement by the parties that will 1. secure water to meet the present and future needs of the four Pueblos involved in the litigation; 2. protect the interests and rights of long-standing water users, including century-old irrigation practices; and 3. ensure that water is available for municipal and domestic needs for all residents in the Pojoaque basin. Negotiation of this agreement was a lengthy process and the parties had to renegotiate several issues to address local, State, and Federal policy concerns. In the end, however, their commitment to solving the water supply issues in the basin prevailed.

The Rio Pueblo de Taos adjudication is a dispute that is almost 40 years old. Similar to the Aamodt case, little has been resolved by the pending litigation. The parties have been in settlement discussions for well over a decade but it was not until the last 5 years that the discussions took on the sense of urgency needed to resolve the issues at hand. The settlement will fulfill the rights of the Pueblo consistent with the Federal trust responsibility, while continuing the practice of sharing the water necessary to protect the sustainability of traditional agricultural communities. The town of Taos and other local entities are also secure in their ability to access the water necessary to meet municipal and domestic needs. The Taos Pueblo Indian Water Rights Settlement Act represents a commonsense set of solutions that all parties to the adjudication have a stake in implementing.

Both settlements are widely supported in their respective communities. Moreover, the State of New Mexico, under Governor Richardson's leadership, deserves special recognition for actively pursuing a settlement in both of these matters and committing significant resources so that the Federal Government does not have to bear the entire cost of these settlements. To the extent that going concerns may exist by some remaining water users, I am committed to continuing the dialog about the value of these settlements.

This bill is critical for New Mexico's future. I look forward to working with my colleagues in the Senate to see that it gets enacted into law. The U.S. Supreme Court once characterized the Federal Government's responsibilities to Indian tribes as ''moral obligation of the highest responsibility and trust.'' This bill is an attempt to ensure that the Government lives up to that standard, and does so in a manner that also addresses the needs of the Pueblos' neighbors.

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By Mrs. FEINSTEIN:

S. 3382. A bill for the relief of Guy Privat Tape and Lou Nazie Raymonde Toto; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am introducing a private relief bill on behalf of Guy Privat Tape and his wife Lou Nazie Raymonde Toto. Mr. Tape and Ms. Toto are citizens of the Ivory Coast, but have been living in the San Francisco area of California for approximately 15 years.

The story of the Mr. Tape and Ms. Toto is compelling and I believe they merit Congress's special consideration for such an extraordinary form of relief as a private bill.

Mr. Tape and Ms. Toto were subjected to numerous atrocities in the early 1990s in the Ivory Coast. After participating in a demonstration against the ruling party, they were jailed and tortured by their own government. Ms. Toto was brutally raped by her captors and several years later learned that she had contracted HIV.

Despite the hardships that they suffered, Mr. Tape and Ms. Toto were able to make a better life for themselves in the United States. Mr. Tape arrived in the U.S. in 1993 on a B1/B2 non-immigrant visa. Ms. Toto entered without inspection in 1995 from Spain. Despite being diagnosed with HIV, Ms. Toto gave birth to two healthy children, Melody, age 10, and Emmanuel, age 6.

Since arriving in the United States, this family has dedicated themselves to community involvement and a strong work ethic. They pay taxes and own their own home in Hercules, California. They are active members of Easter Hill United Methodist Church.

Mr. Tape is the owner of a small business, Melody's Carpet Cleaning & Upholstery, which has four other employees. Unfortunately, in 2002, Mr. Tape was diagnosed with urologic cancer. While his doctor states that the cancer is currently in remission, he will continue to require life-long surveillance to monitor for recurrence of the disease.

In addition to raising her two children, Ms. Toto obtained a certificate to be a nurse's aide and currently works as a Resident Care Specialist at Creekside Health Care in San Pablo, California. She hopes to finish her schooling so that she can become a Registered Nurse. She is currently taking classes at Contra Costa Community College. Ms. Toto continues to receive medical treatment for HIV. According to her doctor, without access to adequate health care and laboratory monitoring, she is at risk of developing life-threatening illnesses.

Mr. Tape and Ms. Toto applied for asylum when they arrived in the U.S., but after many years of litigation, the claim was ultimately denied by the 9th Circuit Court of Appeals.

Although the regime which subjected Mr. Tape and Ms. Toto to imprisonment and torture is no longer in power, Mr. Tape has been afraid to return to Ivory Coast due to his prior association with President Gbagbo. Mr. Tape had previously sought to promote democracy and peace in the region in support of the current President Gbagbo's party. However, in 2006 Mr. Tape publically distanced himself from President Gbagbo's government when he accused the party of violence and corruption. As a result, Mr. Tape strongly believes that his family will be targeted if they return to Ivory Coast.

One of the most compelling reasons for permitting the family to remain in the United States is the impact their deportation would have on their two U.S. citizen children. For Melody and Emmanuel, the United States is the only country they have ever known. Mr. Tape believes that if the family returns to Ivory Coast, these two young children will be forced to enter the army.

This bill is the only hope for this family to remain in the United States. To send them back to Ivory Coast, where they may face persecution and inadequate medical treatment for their illnesses would be devastating to the family. They are contributing members of their community and have embraced the American dream with their strong work ethic and family values. I have received approximately 50 letters from the church community in support of this family.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 3382

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PERMANENT RESIDENT STATUS FOR GUY PRIVAT TAPE AND LOU NAZIE RAYMONDE TOTO.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Guy Privat Tape and Lou Nazie Raymonde Toto shall each be eligible for the issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Guy Privat Tape and Lou Nazie Raymonde Toto enters the United States before the filing deadline specified in subsection (c), Guy Privat Tape and Lou Nazie Raymonde Toto shall be considered to have entered and remained lawfully in the United States and shall be eligible for adjustment of status under section

245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for the issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon granting an immigrant visa or permanent residence to Guy Privat Tape and Lou Nazie Raymonde Toto, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of birth of Guy Privat Tape and Lou Nazie Raymonde Toto under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of birth of Guy Privat Tape and Lou Nazie Raymonde Toto under section 202(e) of such Act.

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BLACK ALLIANCE FOR
JUST IMMIGRATION,
*Berkeley, CA, July 17, 2008.*

Hon. DIANNE FEINSTEIN,
*U.S. Senator,*
*San Francisco, CA.*

DEAR SENATOR FEINSTEIN: I'm writing on behalf of Guy Privat Tape and Raymond Tape and their three children. The Tape family arrived in the United States in 1993 (husband) and 1995 (wife) as political refugees from the Ivory Coast. Both of them were imprisoned, tortured and beaten, and Mrs. Tape was repeatedly raped, while in the Ivory Coast. As a consequence, she is HIV positive. They were very fortunate to escape with their lives. On the facts, they seem to have a strong case for political sanctuary since the same forces are in power in their homeland.

Recently the Tape family received the terrifying notice from the Immigration and Customs Enforcement (ICE) that on August 6 they should report to be deported. It is outrageous that our government is about to send this family into a dangerous situation. And the impact upon the two children will be devastating.

Please intervene and use your power to ask ICE to reconsider their petition for political asylum. Thank you for your attention to this matter.

Sincerely,

GERALD LENOIR,
*Director.*

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JUNE 29, 2008.

Hon. DIANNE FEINSTEIN,
*U.S. Senator,*
*San Francisco, CA.*

DEAR SENATOR FEINSTEIN: I am writing this letter on behalf of Guy Privat Tape and his wife, Lou Nazie Toto and their two children. Guy Tape arrived in the United States in 1993 and his wife, Lou Nazie Toto, arrived in 1995 as political refugees from the Ivory Coast. In 1995 they applied for political asylum.

They became members of Easter Hill United Methodist Church in Richmond, California shortly after they arrived in the United States and have been faithful and loyal members since that time. They are the proud parents of two children who are United States Citizens. Their daughter sings in the children's choir and is a member of the children's usher board.

Guy Tape is self employed and Lou Nazie Toto is employed as a CNA (Nurse's Assistant). They own their own home and are productive taxpayers.

The U.S. Immigration and Custom Enforcement (ICE) is deporting Guy Tape and his wife, Lou Nazie Toto, back to the Ivory Coast on August 5, 2008. The United States government will be returning this family back to the people who jailed them, beat them.

I am asking you to please intervene and use your power to ask ICE to reconsider this couple's petition for political asylum.

Thank you for your consideration in this matter.

Sincerely yours,

REV. BILLYE AUSTIN,
*Pastor.*

p.s. America made a promise of political asylum to the Tapes—it should keep it!

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EASTER HILL
UNITED METHODIST CHURCH,
*Richmond, CA, June 30, 2008.*

Hon. DIANNE FEINSTEIN,
*U.S. Senator,*
*San Francisco, CA.*

DEAR SENATOR FEINSTEIN: The members of Easter Hill United Methodist Church are asking your assistance to prevent the deportation of the Tape family on August 5, 2008. The Tape family are faithful members of Easter Hill Church. The enclosed 48 letters asking for your help were signed by members of Easter Hill United Methodist Church on Sunday, June 29, 2008:

The following are the members who have signed requesting your assistance for the Tape family:

Joyce Clark; Annie Harris; Horacio Avelino; Thelma Daniels; Augustine Williams; Justin M. McMath; Clara Davis; Karen Colquitt; Meredith Withers; Malanna Wheat; Jay Jackson; Dr. Robert Anderson; Monique Lee; Edward Colquitt; Cecile Smith; Dr. Corann Withers; and Ila Warner.

Pauline Wesley; Zachary Harris; Shirley Haney; Nicole Kelly; Charlesetta Cannady; Sylvester Weaver; Bennie Smith; Joan Daniels; Valree Wilson; Dr. Nannette Finley Hancock; Adolphus Benjamin; Harriet M. Brown; Beverly Hardy; Ernest Baffo-Gyan; Bassey Effiong; and Girlee Parr.

Gladys Harvey; Alfred J. Daniels, Jr.; Sheila Phillips; Renee Lowery; James Bell; Vesper Wheat; William Harris; Napoleon Britt; Todd Wheat; Carolyn Benjamin; Samuel Harvey; Cassandra Clarke; Sharon Nash Haynes; Ena A. Harris; Eloise Hewitt; and Frank Fisher.

Thank you,

MYRTLE BRAXTON ELLINGTON,
*Church & Society Chairperson.*

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By Mr. CARDIN (for himself, Mrs. CLINTON, Ms. MIKULSKI, and Mr. SCHUMER):

S. 3383. A bill to establish the Harriet Tubman National Historical Park in Auburn, New York, and the Harriet Tubman Underground Railroad National Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARDIN. Mr. President, today I am proud to introduce The Harriet Tubman National Historical Park and The Harriet Tubman Underground Railroad National Historical Park Act. I am joined by Mrs. CLINTON, Ms. MIKULSKI, and Mr. SCHUMER as original cosponsors.

The woman, who is known to us as Harriet Tubman, was born Araminta, Minty, Ross approximately 1822 in Dorchester County, Maryland. She spent nearly 30 years of her life as a slave on Maryland's eastern shore. As an adult she took the first name Harriet, and when she was 25 she married John Tubman.

Harriet Tubman escaped from slavery in 1849. She did so in the dead of night, navigating the maze of tidal streams and wetlands that are a hallmark of Maryland's Eastern Shore. She did so alone, demonstrating courage, strength and fortitude that became her hallmarks. Not satisfied with attaining her own freedom, she returned repeatedly for more than 10 years to the places of her enslavement in Dorchester and Caroline counties where, under the most adverse conditions, she led away many family members and other slaves to their freedom. Tubman became known as ''Moses'' by African-Americans and white abolitionists. She was perhaps the most famous and most important conductor in the network of resistance known as the Underground Railroad.

During the Civil War, Tubman served the Union forces as a spy, a scout and a nurse. She served in Virginia, Florida, and South Carolina. She is credited with leading hundreds of slaves from those slave states to freedom during those years.

Following the Civil War, Tubman settled in Auburn, New York. There she was active in the women's suffrage movement, and she also established the one of the first incorporated homes for aged African-Americans. In 1903 she bequeathed the home to the African Methodist Episcopal Zion Church in Auburn. Harriet Tubman died in Auburn in 1913 and she is buried there in the Fort Hill Cemetery.

Slaves were forced to live in primitive buildings even though many were skilled tradesmen who constructed the substantial homes of their owners. Not surprisingly, few of the structures associated with the early years of Tubman's life still stand. The landscapes of the Eastern Shore of Maryland, however, remain evocative of the time that Tubman lived there. Farm fields and forests dot the landscape, which is also notable for its extensive network of tidal rivers and wetlands. In particular, a number of properties including the homestead of Ben Ross, her father, Stewart's Canal, where he worked, the Brodess Farm, where she worked as a slave, and others are within the boundaries of the Blackwater National Wildlife Refuge.

Similarly, Poplar Neck, the plantation from which she escaped to freedom, is still largely intact in Caroline County. The properties in Talbot County, immediately across the Choptank River from the plantation, are today protected by various conservation easements. Were she alive today, Tubman would recognize much of the landscape that she knew intimately as she secretly led black men, women and children to their freedom.

In New York, on the other hand, many of the buildings associated with

Tubman's life remain intact. Her personal home, as well as the Tubman Home for the Aged, the church and rectory of the Thompson Memorial AME Zion Episcopal Church, and the Fort Hill Cemetery are all extant.

In 1999, the Congress approved legislation authorizing a Special Resource Study to determine the appropriateness of establishing a unit of the National Park Service to honor Harriet Tubman. The Study has taken an exceptionally long time to complete, in part because of the lack of remaining structures on Maryland's Eastern Shore. There has never been any doubt that Tubman led an extraordinary life. Her contributions to American history are surpassed by few. Determining the most appropriate way to recognize that life and her contributions, however, has been more difficult. Eventually, the Park Service came to realize that determined that a Park that would include two geographically separate units would be appropriate. The New York unit would include the tightly clustered Tubman buildings in Auburn. The Maryland portion would include large sections of landscapes that are evocative of Tubman's time and are historically relevant. The Special Resource Study will be finalized and released later this year.

THE HARRIET TUBMAN NATIONAL HISTORICAL PARK AND THE HARRIET TUBMAN UNDERGROUND RAILROAD NATIONAL HISTORICAL PARK ACT

The legislation I am introducing today establishes two parks. The Harriet Tubman National Historical Park includes important historical structures in Auburn, New York. They include Tubman's home, the Home for the Aged that she established, the African Methodist Episcopal AME Zion Church, and the Fort Hill Cemetery where she is buried.

The Harriet Tubman Underground Railroad National Historical Park includes historically important landscapes in Dorchester, Caroline and Talbot counties, Maryland, that are evocative of the life of Harriet Tubman. The Maryland properties include about 2,200 acres in Caroline County that comprise the Poplar Neck plantation that Tubman escaped from in 1849. The 725 acres of viewshed across the Choptank River in Talbot County would also be included in the Park. In Dorchester County, the parcels would not be contiguous, but would include about 2,775 acres. All of them are included within the Blackwater National Wildlife Refuge boundaries or abut that resource land. The National Park Service would not own any of these lands.

The bill authorizes $7.5 million in grants for the New York properties for their preservation, rehabilitation, and restoration of those resources.

The bill authorizes $11 million in grants for the Maryland section. Funds can be used for the construction of the State Harriet Tubman Park Visitors Center and/or for easements or acquisition of properties inside or adjacent to the Historical Park boundaries.

Finally, the bill also authorizes a new grants program. Under the program, the National Park Service would award competitive grants to historically Black colleges and universities, predominately Black institutions, and minority serving institutions for research into the life of Harriet Tubman and the African-American experience during the years that coincide with the life of Harriet Tubman. The legislation authorizes $200,000 annually for this scholarship program.

Harriet Tubman was a true American patriot. She was someone for whom liberty and freedom were not just concepts. She lived those principles and shared that freedom with hundreds of others. In doing so, she has earned a nation's respect and honor. That is why I am so proud to introduce this legislation, establishing the Harriet Tubman National Historical Park and the Harriet Tubman Underground Railroad National Historical Park.

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. 3383

*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 ''Harriet Tubman National Historical Park and Harriet Tubman Underground Railroad National Historical Park Act''.

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) Harriet Tubman (born Araminta ''Minty'' Ross)—

(A) was born into slavery in Maryland around 1822;

(B) married John Tubman at age 25;

(C) endured through her youth and young adulthood the hardships of enslaved African Americans; and

(D) boldly emancipated herself from bondage in 1849;

(2) not satisfied with attaining her own freedom, Harriet Tubman—

(A) returned repeatedly for more than 10 years to the places of her enslavement in Dorchester and Caroline Counties, Maryland; and

(B) under the most adverse circumstances led away many family members and acquaintances to freedom in the northern region of the United States and Canada;

(3) Harriet Tubman was—

(A) called ''Moses'' by African-Americans and white abolitionists; and

(B) acknowledged as 1 of the most prominent ''conductors'' of the resistance that came to be known as the ''Underground Railroad'';

(4) in 1868, Frederick Douglass wrote that, with the exception of John Brown, Douglass knew of ''no one who has willingly encountered more perils and hardships to serve our enslaved people'' than Harriet Tubman;

(5) during the Civil War, Harriet Tubman—

(A) was recruited to assist Union troops as a nurse, a scout, and a spy; and

(B) served in Virginia, Florida, and South Carolina, where she is credited with facilitating the rescue of hundreds of enslaved people;

(6) Harriet Tubman established in Auburn, New York, 1 of the first incorporated homes for aged African Americans in the United States, which, 10 years before her death, she bequeathed to the African Methodist Episcopal Zion Church;

(7) there are nationally significant resources comprised of relatively unchanged landscapes associated with the early life of Harriet Tubman in Caroline, Dorchester, and Talbot Counties, Maryland;

(8) there are nationally significant resources relating to Harriet Tubman in Auburn, New York, including—

(A) the residence of Harriet Tubman;

(B) the Tubman Home for the Aged;

(C) the Thompson Memorial AME Zion Church; and

(D) the final resting place of Harriet Tubman in Fort Hill Cemetery;

(9) in developing interpretive programs, the National Park Service would benefit from increased scholarship of the African-American experience during the decades preceding the Civil War and throughout the remainder of the 19th century; and

(10) it is fitting and proper that the nationally significant resources relating to Harriet Tubman be preserved for future generations as units of the National Park System so that people may understand and appreciate the contributions of Harriet Tubman to the history and culture of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve and promote stewardship of the resources in Auburn, New York, and Caroline, Dorchester, and Talbot Counties, Maryland, relating to the life and contributions of Harriet Tubman;

(2) to provide for partnerships with the African Methodist Episcopal Zion Church, the States of New York and Maryland, political subdivisions of the States, the Federal Government, local governments, nonprofit organizations, and private property owners for resource protection, research, interpretation, education, and public understanding and appreciation of the life and contributions of Harriet Tubman;

(3) to sustain agricultural and forestry land uses in Caroline, Dorchester, and Talbot Counties, Maryland, that remain evocative of the landscape during the life of Harriet Tubman; and

(4) to establish a competitive grants program for scholars of African-American history relating to Harriet Tubman and the Underground Railroad.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) CHURCH.—The term ''Church'' means the Thompson Memorial AME Zion Church located in Auburn, New York.

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term ''historically Black college or university'' has the meaning given the term ''part B institution'' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061)).

(3) PREDOMINANTLY BLACK INSTITUTION.—The term ''Predominantly Black Institution'' has the meaning given the term in section 499A(c) of the Higher Education Act of 1965 (20 U.S.C. 1099e(c)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) VISITOR CENTER.—The term ''Visitor Center'' means the Harriet Tubman Underground Railroad State Park Visitor Center to be constructed under section 5(d).

**SEC. 4. ESTABLISHMENT OF HARRIET TUBMAN NATIONAL HISTORICAL PARK.**

(a) ESTABLISHMENT.—On the execution of easements with the Church, the Secretary shall—

(1) establish the Harriet Tubman National Historical Park (referred to in this section as

the ''Historical Park'') in the City of Auburn, New York, as a unit of the National Park System; and

(2) publish notice of the establishment of the Historical Park in the Federal Register.

(b) BOUNDARY.—

(1) IN GENERAL.—The Historical Park shall be comprised of structures and properties associated with the Harriet Tubman home, the Tubman Home for the Aged, the Church, and the Rectory, as generally depicted on the map entitled ''Harriet Tubman National Historical Park–Proposed Boundary'', numbered [_____], and dated [_____].

(2) AVAILABILITY OF MAP.—The map described in paragraph (1) shall be available for public inspection in the appropriate offices of the National Park Service.

(c) ACQUISITION OF LAND.—The Secretary may acquire from willing sellers, by donation, purchase with donated or appropriated funds, or exchange, land or interests in land within the boundary of the Historical Park.

(d) FINANCIAL ASSISTANCE.—The Secretary may provide grants to, and enter into cooperative agreements with—

(1) the Church for—

(A) historic preservation of, rehabilitation of, research on, and maintenance of properties within the boundary of the Historical Park; and

(B) interpretation of the Historical Park;

(2) the Fort Hill Cemetery Association for maintenance and interpretation of the gravesite of Harriet Tubman; and

(3) the State of New York, any political subdivisions of the State, the City of Auburn, and nonprofit organizations for—

(A) preservation and interpretation of resources relating to Harriet Tubman in the City of Auburn, New York;

(B) conducting research, including archaeological research; and

(C) providing for stewardship programs, education, public access, signage, and other interpretive devices at the Historical Park for interpretive purposes.

(e) INTERPRETATION.—The Secretary may provide interpretive tours to sites located outside the boundaries of the Historical Park in Auburn, New York, that include resources relating to Harriet Tubman.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subsection, the Secretary, in cooperation with the Church, shall complete a general management plan for the Historical Park in accordance with section 12(b) of Public Law 91–383 (16 U.S. C. 1a–7(b)).

(2) COORDINATION.—The Secretary shall coordinate the preparation and implementation of the general management plan for the Harriet Tubman National Historical Park with—

(A) the Harriet Tubman Underground Railroad National Historical Park in Maryland; and

(B) the National Underground Railroad: Network to Freedom.

**SEC. 5. ESTABLISHMENT OF THE HARRIET TUBMAN UNDERGROUND RAILROAD NATIONAL HISTORICAL PARK.**

(a) ESTABLISHMENT.—There is established as a unit of the National Park System the Harriet Tubman Underground Railroad National Historical Park (referred to in this section as the ''Historical Park'') in Caroline, Dorchester, and Talbot Counties, Maryland.

(b) BOUNDARY.—

(1) IN GENERAL.—The boundary of the Historical Park shall consist of certain landscapes and associated resources relating to the early life and enslavement of Harriet Tubman and the Underground Railroad, as generally depicted on the map entitled ''Harriet Tubman Underground Railroad National Historical Park–Proposed Boundary'', numbered [_____], and dated [_____].

(2) ADDITIONAL SITES.—The Secretary, after consultation with landowners, the State of Maryland, and units of local government, may modify the boundary of the Historical Park to include additional resources relating to Harriet Tubman that—

(A) are located within the vicinity of the Historical Park; and

(B) are identified in the general management plan prepared under subsection (g) as appropriate for interpreting the life of Harriet Tubman.

(3) AVAILABILITY OF MAP.—On modification of the boundary of the Historical Park under paragraph (2), the Secretary shall make available for public inspection in the appropriate offices of the National Park Service a revised map of the Historical Park.

(c) ACQUISITION OF LAND.—The Secretary may acquire from willing sellers, by donation, purchase with donated or appropriated funds, or exchange, land or an interest in land within the boundaries of the Historical Park.

(d) GRANTS.—In accordance with section 7(b)(2), the Secretary may provide grants—

(1) to the State of Maryland, political subdivisions of the State, and nonprofit organizations for the acquisition of less than fee title (including easements) or fee title to land in Caroline, Dorchester, and Talbot Counties, Maryland, within the boundary of the Historical Park; and

(2) on execution of a memorandum of understanding between the State of Maryland and the Director of the National Park Service, to the State of Maryland for the construction of the Harriet Tubman Underground Railroad State Park Visitor Center on land owned by the State of Maryland in Dorchester County, Maryland, subject to the condition that the State of Maryland provide the Director of the National Park Service, at no additional cost, sufficient office space and exhibition areas in the Visitor Center to carry out the purposes of the Historical Park.

(e) FINANCIAL ASSISTANCE.—The Secretary may provide grants to, and enter into cooperative agreements with, the State of Maryland, political subdivisions of the State, nonprofit organizations, colleges and universities, and private property owners for—

(1) the restoration or rehabilitation, public use, and interpretation of sites and resources relating to Harriet Tubman;

(2) the conduct of research, including archaeological research;

(3) providing stewardship programs, education, signage, and other interpretive devices at the sites and resources for interpretive purposes; and

(4)(A) the design and construction of the Visitor Center; and

(B) the operation and maintenance of the Visitor Center.

(f) INTERPRETATION.—The Secretary may provide interpretive tours to sites and resources located outside the boundary of the Historical Park in Caroline, Dorchester, and Talbot Counties, Maryland, relating to the life of Harriet Tubman and the Underground Railroad.

(g) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this subsection, the Secretary, in coordination with the State of Maryland, political subdivisions of the State, and the United States Fish and Wildlife Service, shall complete a general management plan for the Historical Park in accordance with section 12(b) of Public Law 91–383 (16 U.S. C. 1a–7(b)).

(2) COORDINATION.—The Secretary shall coordinate the preparation and implementation of the general management plan for the Historical Park with—

(A) the Harriet Tubman National Historical Park in Auburn, New York;

(B) the National Underground Railroad: Network to Freedom;

(C) the Maryland Harriet Tubman Underground Railroad State Park; and

(D) the Harriet Tubman Underground Railroad Byway in Dorchester and Caroline Counties, Maryland.

(3) PRIORITY TREATMENT.—The general management plan for the Historical Park shall give priority to the adequate protection of, interpretation of, public appreciation for, archaeological investigation of, and research on Stewart's Canal, the Jacob Jackson home site, the Brodess Farm, the Ben Ross and Anthony Thompson properties on Harrisville Road, and the James Cook site, all of which are privately owned and located in the Blackwater National Wildlife Refuge.

(h) BLACKWATER NATIONAL WILDLIFE REFUGE.—

(1) INTERAGENCY AGREEMENT.—The Secretary shall ensure that, not later than 1 year after the date of enactment of this Act, the National Park Service and the United States Fish and Wildlife Service enter into an interagency agreement that—

(A) promotes and mutually supports the compatible stewardship and interpretation of Harriet Tubman resources at the Blackwater National Wildlife Refuge; and

(B) provides for the maximum level of cooperation between those Federal agencies to further the purposes of this Act.

(2) EFFECT OF ACT.—Nothing in this Act modifies, alters, or amends the authorities of the United States Fish and Wildlife Service in the administration and management of the Blackwater National Wildlife Refuge.

**SEC. 6. ADMINISTRATION.**

(a) IN GENERAL.—The Secretary shall administer the Harriet Tubman National Historical Park and the Harriet Tubman Underground Railroad National Historical Park in accordance with this Act and the laws generally applicable to units of the National Park System including—

(1) the National Park Service Organic Act (16 U.S.C. 1 et seq.); and

(2) the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(b) PARK REGULATIONS.—Notwithstanding subsection (a), regulations and policies applicable to units of the National Park System shall apply only to Federal land administrated by the National Park Service that is located within the boundary of the Harriet Tubman Underground Railroad National Historical Park.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act (other than subsection (b)), including the provision of National Park Service personnel and National Park Service management funds for the Harriet Tubman National Historical Park and the Harriet Tubman Underground Railroad National Historical Park.

(b) GRANTS.—There are authorized to be appropriated not more than—

(1) $7,500,000 to provide grants to the Church for—

(A) historic preservation, rehabilitation, and restoration of resources within the boundary of the Harriet Tubman National Historical Park; and

(B) the costs of design, construction, installation, and maintenance of exhibits and other interpretive devices authorized under section 4(d)(1)(B);

(2) $11,000,000 for grants to the State of Maryland for activities authorized under subsections (d)(1) and (e)(4)(A) of section 5; and

(3) $200,000 for fiscal year 2009 and each fiscal year thereafter for competitive grants to historically Black colleges and universities, Predominately Black Institutions, and minority serving institutions for research into the life of Harriet Tubman and the African-American experience during the years that coincide with the life of Harriet Tubman.

(c) COST-SHARING REQUIREMENT.—

(1) CHURCH AND VISITOR CENTER GRANTS.—The Federal share of the cost of activities provided grants under paragraph (1) or (2) of subsection (b) and any maintenance, construction, or utility costs incurred pursuant to a cooperative agreement entered into under section 4(d)(1)(A) or section 5(e) shall not be more than 50 percent.

(2) HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—The Federal share of the cost of activities provided assistance under subsection (b)(3) shall be not more than 75 percent.

(3) FORM OF NON-FEDERAL SHARE.—The non-Federal share required under this subsection may be in the form of in-kind contributions of goods or services fairly valued.

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By Mr. CARPER (for himself, Ms. COLLINS, Mr. LIEBERMAN, Mr. COLEMAN, and Mrs. MCCASKILL):

S. 3384. A bill to amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects; to the Committee on Homeland Security and Governmental Affairs.

Mr. CARPER. Mr President, I rise today with my colleagues on the Homeland Security and Governmental Affairs Committee to introduce the Information Technology Oversight Enhancement and Waste Prevention Act of 2008.

With a long name like that, you would hope that it is addressing a very serious problem. Well I assure you, that it is.

Every year agencies spend billions of dollars on IT investments that—if planned and implemented properly—can increase productivity, reduce costs, and improve efficiency. As everyone knows, information technology has become a cornerstone of the way we conduct business. Just look at the rise in popularity of Blackberries, not only outside these walls, but right here in the Senate.

In fiscal year 2009, agencies are planning to spend almost $71 billion to improve their financial systems for better reporting, streamline their grant processes, and reduce wasteful paper applications. And this is a good thing.

However, the Government Accountability Office has reported for several years that many of these investments are poorly planned, poorly performing—or in some cases—both. Yet, agencies continue to fund these risky investments without any oversight or accountability. In fact, I was surprised to hear GAO report that $25.2 billion is at danger of being wasted because agencies failed to properly plan or manage their investments.

Mr. President, $25.2 billion may not be a very large sum of money when you compare it to what we spend every year, but I assure you that it is a very real sum of money to those families who can't pay for the gas they need to get to work, or who are struggling to put food on their table.

To illustrate my point further, this chamber had to include emergency funding in the last supplemental appropriations bill to bail out the Census Bureau's 2010 operations. They had been planning for more than a decade to use advanced handheld computers to verify addresses and follow up with households who don't send their census forms in on time. My colleagues and I on the Homeland Security and Governmental Affairs Committee heard, however, that Census Bureau officials failed to define what they need out of the handheld project and, as a result, the contractor was having trouble delivering a product that could work. We held two hearings to try and get to the bottom of the problem and find a solution but, at the end of the day, the Census Bureau had to scrap the handheld project and go with the same expensive and inefficient ''pen and paper'' counting method that they have used for centuries. The cost of this failure on the part of the Census Bureau is expected to total in the billions.

This extra money that the Census Bureau will need to spend between now and 2010 could have been used to improve the quality of the final count by outreaching to historically-undercounted groups. In fact, it could have been used for any number of worthwhile purposes.

My colleagues and I on the Homeland Security and Governmental Affairs Committee's Subcommittee on Federal Financial Management, which I chair, have held three hearings on the issue of troubled IT projects now, including one this morning. And what we've learned is that some agencies can't keep the expected cost of their investments down or deliver on time as promised. Nor do these agencies, in many cases, have qualified IT experts they can turn to before a project spirals out of control. The bill Senators LIEBERMAN, COLLINS and I have put forward today addresses these issues.

Our bill starts by requiring agencies to inform Congress when an investment begins to see increased costs, schedule delays, or performance deficiencies outside of 20 percent of the original plan.

Our bill would also require agencies to inform Congress if an investment exceeds 40 percent of their original plan, and require the agency head to conduct an analysis that determines whether we should continue to fund this investment or just pull the plug.

Many agencies today simply rewrite their plans when they run into trouble. They don't tell Congress that anything is wrong and the troubled projects just keep getting funded year in and year out.

Finally and perhaps most importantly, our bill recognizes that, many times, agencies lack the experience necessary to manage complex IT investments. To remedy this, we propose that OMB create what my staff and I have come to call an ''IT Strike Team.'' This team would be comprised of known individuals inside and outside government who have records of successfully managing complex IT projects. If an agency or OMB recognizes that an investment is beginning to experience problems, the team would come in make sure the project is brought online or scrapped before more money is wasted.

I look forward to working with my colleagues to get these important and necessary reforms enacted. I think I speak for all of us when I say that investing in IT systems is important. But these investments shouldn't come with wasted time and money that they all too often bring. In tight fiscal times like these, we need to make sure the money we do invest is spent wisely.

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. 3384

*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 ''Information Technology Investment Oversight Enhancement and Waste Prevention Act of 2008''.

**SEC. 2. IT INVESTMENT PROJECTS.**

(a) SIGNIFICANT AND GROSS DEVIATIONS.—Section 11317 of title 40, United States Code, is amended to read as follows:

**''SEC. 11317. SIGNIFICANT AND GROSS DEVIATIONS.**

''(a) DEFINITIONS.—In this subchapter:

''(1) AGENCY HEAD.—The term 'Agency Head' means the head of the Federal agency that is primarily responsible for the IT investment project under review.

''(2) ANSI EIA–748 STANDARD.—The term 'ANSI EIA–748 Standard' means the measurement tool jointly developed by the American National Standards Institute and the Electronic Industries Alliance to analyze earned value management systems.

''(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Oversight and Government Reform of the House of Representatives;

''(C) the Committee on Appropriations of the Senate;

''(D) the Committee on Appropriations of the House of Representatives; and

''(E) any other relevant congressional committee with jurisdiction over an agency required to take action under this section.

''(4) CHIEF INFORMATION OFFICER.—The term 'Chief Information Officer' means the Chief Information Officer designated under section 3506(a)(2) of title 44 of the Federal agency that is primarily responsible for the IT investment project under review.

''(5) CORE IT INVESTMENT PROJECT.—The terms 'core IT investment project' and 'core project' mean a mission critical IT investment project jointly designated as such by the Agency Head and the Director under subsection (b).

''(6) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(7) GROSSLY DEVIATED.—The term 'grossly deviated' means cost, schedule, or performance variance that is at least 40 percent from the Original Baseline.

''(8) INDEPENDENT COST ESTIMATE.—The term 'independent cost estimate' means a pragmatic and neutral analysis, assessment, and quantification of all costs and risks associated with the acquisition of an IT investment project, which—

''(A) is based on programmatic and technical specifications provided by the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

''(B) is formulated and provided by an entity other than the office within the agency with primary responsibility for the development, procurement, and delivery of the project;

''(C) contains sufficient detail to inform the selection of a baseline benchmark measure under the ANSI EIA–748 standard; and

''(D) accounts for the full life cycle cost plus associated operations and maintenance expenses over the usable life of the project's deliverables.

''(9) IT INVESTMENT PROJECT.—The terms 'IT investment project' and 'project' mean an information technology system or acquisition that—

''(A) requires special management attention because of its importance to the mission or function of the agency, a component of the agency, or another organization;

''(B) is for financial management and obligates more than $500,000 annually;

''(C) has significant program or policy implications;

''(D) has high executive visibility;

''(E) has high development, modernization, or enhancement costs;

''(F) is funded through other than direct appropriations; or

''(G) is defined as major by the agency's capital planning and investment control process.

''(10) LIFE CYCLE COST.—The term 'life cycle cost' means the total cost of an IT investment project for planning, research and development, modernization, and enhancement.

''(11) ORIGINAL BASELINE.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), the term 'Original Baseline' means the ANSI EIA–748 Standard-compliant cost, schedule, and performance benchmark established at the commencement of an IT investment project contract.

''(B) GROSSLY DEVIATED PROJECT.—If an IT investment project grossly deviates from its Original Baseline (as defined in subparagraph (A)), the term 'Original Baseline' means the ANSI EIA–748 Standard-compliant cost, schedule, and performance benchmark established under subsection (e)(3)(C).

''(12) SIGNIFICANTLY DEVIATED.—The term 'significantly deviated' means cost, schedule, or performance variance that is at least 20 percent from the Original Baseline.

''(b) CORE IT INVESTMENT PROJECTS.—

''(1) DESIGNATION.—Except as provided under paragraph (2), each Agency Head and the Director shall jointly designate not fewer than 5 of the agency's most mission critical IT investment projects as 'core IT investment projects' or 'core projects', after considering, among other factors—

''(A) whether the project represents a high-dollar value relative to the average IT investment project in the agency's portfolio;

''(B) whether the project delivers a capability critical to the successful completion of the agency mission, or a portion of such mission; and

''(C) whether the project incorporates unproven or previously undeveloped technology to meet primary project technical requirements.

''(2) EXCEPTION.—If the Agency Head and the Director jointly determine that fewer than 5 IT investment projects meet the criteria described in paragraph (1), the Director—

''(A) may provide the agency with written authorization to designate fewer than 5 projects; and

''(B) shall submit a report to the appropriate congressional committees that contains notice of, and justification for, any such authorization.

''(c) COST, SCHEDULE, AND PERFORMANCE REPORTS.—

''(1) QUARTERLY REPORTS.—Not later than 7 days after the end of each fiscal quarter, the project manager for an IT investment project shall submit a written report to the Chief Information Officer that includes, as of the last day of the applicable quarter—

''(A) a description of the cost, schedule, and performance of all projects under the project manager's supervision;

''(B) the original and current project cost, schedule, and performance benchmarks for each project under the project manager's supervision;

''(C) the cost, schedule, or performance variance related to each IT investment project under the project manager's supervision since the commencement of the contract;

''(D) for each project under the project manager's supervision, any known, expected, or anticipated changes to project schedule milestones or project performance benchmarks included as part of the original or current baseline description; and

''(E) the current cost, schedule, and performance status of all projects under supervision that were previously identified as significantly deviated or grossly deviated.

''(2) INTERIM REPORTS.—If the project manager for an IT investment project determines that there is reasonable cause to believe that an IT investment project has significantly deviated or grossly deviated since the issuance of the latest quarterly report, the project manager shall submit to the Chief Information Officer, not later than 7 days after such determination, a report on the project that includes, as of the date of the report—

''(A) a description of the original and current program cost, schedule, and performance benchmarks;

''(B) the cost, schedule, or performance variance related to the IT investment project since the commencement of the contract;

''(C) any known, expected, or anticipated changes to the project schedule milestones or project performance benchmarks included as part of the original or current baseline description; and

''(D) the major reasons underlying the significant or gross deviation of the project.

''(d) DETERMINATION OF SIGNIFICANT DEVIATION.—

''(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

''(A) determine if any IT investment project has significantly deviated; and

''(B) report such determination to the Agency Head.

''(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has significantly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a significant deviation for that project under this section since the project was last required to be re-baselined under this section, the Agency Head shall submit a report to the appropriate congressional committees and to the Government Accountability Office that includes—

''(A) written notification of such determination;

''(B) the date on which such determination was made;

''(C) the amount of the cost increases and the extent of the schedule delays with respect to such project;

''(D) any requirements that—

''(i) were added subsequent to the original contract; or

''(ii) were originally contracted for, but were changed by deferment or deletion from the original schedule, or were otherwise no longer included in the requirements contracted for;

''(E) an explanation of the differences between—

''(i) the estimate at completion between the project manager, any contractor, and any independent analysis; and

''(ii) the original budget at completion;

''(F) the rough order of magnitude of the costs of any reasonable alternative system, or reasonable alternative approach to establishing an equivalent outcome or capability;

''(G) a statement of the reasons underlying the project's significant deviation;

''(H) the identities of the project managers responsible for program management and cost control of the program; and

''(I) a summary of the plan of action to remedy the significant deviation.

''(3) DEADLINE.—

''(A) NOTIFICATION BASED ON QUARTERLY REPORT.—If the determination of significant deviation is based on a report submitted under subsection (b)(1), the Agency Head shall notify Congress in accordance with paragraph (2) not later than 14 days after the end of the quarter upon which such report is based.

''(B) NOTIFICATION BASED ON INTERIM REPORT.—If the determination of significant deviation is based on a report submitted under subsection (b)(2), the Secretary shall notify Congress in accordance with paragraph (2) not later than 14 days after the submission of such report.

''(e) DETERMINATION OF GROSS DEVIATION.—

''(1) CHIEF INFORMATION OFFICER.—Upon receiving a report under subsection (c), the Chief Information Officer shall—

''(A) determine if any IT investment project has grossly deviated; and

''(B) report any such determination to the Agency Head.

''(2) CONGRESSIONAL NOTIFICATION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has grossly deviated and the Agency Head has not issued a report to the appropriate congressional committees of a gross deviation for that project under this section since the project was last required to be re-baselined under this section, the Agency Head shall submit a report to the appropriate congressional committees and to the Government Accountability Office that includes—

''(A) written notification of such determination, which states—

''(i) the date on which such determination was made; and

''(ii) an indication of whether or not the project has been previously reported as a significant or gross deviation by the Chief Information Officer, and the date of any such report;

''(B) incorporations by reference of all prior reports to Congress on the project required under this section;

''(C) updated accounts of the items described in subparagraphs (C) through (H) of subsection (d)(2);

''(D) the original estimate at completion for the project manager, any contractor, and any independent analysis;

''(E) a graphical depiction of actual cost variance since the commencement of the contract;

''(F) the amount, if any, of incentive award fees any contractor has received since the commencement of the contract and the reasons for receiving such award fees;

''(G) the project manager's estimated cost at completion and estimated completion date for the project if current requirements are not modified;

''(H) the project manager's estimated cost at completion and estimated completion date for the project based on reasonable modification of such requirements;

''(I) an explanation of the most significant occurrence contributing to the variance identified, including cost, schedule, and performance variances, and the effect such occurrence will have on future project costs and program schedule;

''(J) a statement regarding previous or anticipated re-baselining or re-planning of the project and the names of the individuals responsible for approval;

''(K) the original life cycle cost of the investment and the expected life cycle cost of the investment expressed in constant base year dollars and in current dollars; and

''(L) a comprehensive plan of action to remedy the gross deviation, and milestones established to control future cost, schedule, and performance deviations in the future.

''(3) REMEDIAL ACTION.—If the Chief Information Officer determines under paragraph (1) that an IT investment project has grossly deviated, the Agency Head, in consultation with the Chief Information Officer, shall ensure that—

''(A) a report is submitted to the appropriate congressional committees that—

''(i) describes the primary business case and key functional requirements for the project;

''(ii) describes any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price contract;

''(iii) includes a certification by the Agency Head, after consultation with the Chief Information Officer, that all technical requirements have been reviewed and validated to ensure alignment with the reported business case;

''(iv) describes any changes to the primary business case or key functional requirements which have occurred since project inception; and

''(v) includes an independent cost estimate for the project conducted by an entity approved by the Director;

''(B) an analysis is submitted to the appropriate congressional committees that—

''(i) describes agency business goals that the project was originally designed to address;

''(ii) includes a gap analysis of what project deliverables remain in order for the agency to accomplish the business goals referred to in clause (i);

''(iii) identifies the 3 most cost-effective alternative approaches to the project which would achieve the business goals referred to in clause (i); and

''(iv) includes a cost-benefit analysis, which compares—

''(I) the completion of the project with the completion of each alternative approach, after factoring in future costs associated with the termination of the project; and

''(II) the termination of the project without pursuit of alternatives, after factoring in foregone benefits; and

''(C) a new baseline of the project is established that is consistent with the independent cost estimate required under subparagraph (A)(v); and

''(D) the project is designated as a core IT investment project and subjected to the requirements under subsection (f).

''(4) DEADLINE AND FUNDING CONTINGENCY.—

''(A) NOTIFICATION AND REMEDIAL ACTION BASED ON QUARTERLY REPORT.—

''(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(1), the Agency Head shall—

''(I) not later than 45 days after the end of the quarter upon which such report is based, notify the appropriate congressional committees in accordance with paragraph (2); and

''(II) not later than 180 days after the end of the quarter upon which such report is based, ensure the completion of remedial action under paragraph (3).

''(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadlines described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

''(B) NOTIFICATION AND REMEDIAL ACTION BASED ON INTERIM REPORT.—

''(i) IN GENERAL.—If the determination of gross deviation is based on a report submitted under subsection (c)(2), the Secretary shall—

''(I) not later than 45 days after the submission of such report, notify the appropriate congressional committees in accordance with paragraph (2); and

''(II) not later than 180 days after the submission of such report, ensure the completion of remedial action in accordance with paragraph (3).

''(ii) FAILURE TO MEET DEADLINES.—If the Agency Head fails to meet the deadlines described in clause (i)(II), additional funds may not be obligated to support expenditures associated with the project until the requirements of this subsection have been fulfilled.

''(f) ADDITIONAL REQUIREMENTS FOR CORE IT INVESTMENT PROJECT REPORTS.—

''(1) INITIAL REPORT.—If a report described in subsection (e)(3)(A) has not been submitted for a core IT investment project, the Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall prepare an initial report for inclusion in the first budget submitted to Congress under section 1105(a) of title 31, United States Code, after the designation of a project as a core IT investment project, which includes—

''(A) a description of the primary business case and key functional requirements for the project;

''(B) an identification and description of any portions of the project that have technical requirements of sufficient clarity that such portions may be feasibly procured under firm, fixed-price contracts;

''(C) an independent cost estimate for the project;

''(D) certification by the Chief Information Officer that all technical requirements have been reviewed and validated to ensure alignment with the reported business case; and

''(E) any changes to the primary business case or key functional requirements which have occurred since project inception.

''(2) QUARTERLY REVIEW OF BUSINESS CASE.—The Agency Head, in coordination with the Chief Information Officer and responsible program managers, shall—

''(A) monitor the primary business case and core functionality requirements reported to Congress for designated core IT investment projects; and

''(B) if changes to the primary business case or key functional requirements for a core IT investment project occur in any fiscal quarter, submit a report to Congress not later than 7 days after the end of such quarter that details the changes and describes the impact the changes will have on the cost and ultimate effectiveness of the project.

''(3) ALTERNATIVE SIGNIFICANT DEVIATION DETERMINATION.—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have significantly deviated—

''(A) the Chief Information Officer shall notify the Agency Head of the significant deviation; and

''(B) the Agency Head shall fulfill the requirements under subsection (d)(2) in accordance with the deadlines under subsection (d)(3).

''(4) ALTERNATIVE GROSS DEVIATION DETERMINATION.—If the Chief Information Officer determines, subsequent to a change in the primary business case or key functional requirements, that without such change the project would have grossly deviated—

''(A) the Chief Information Officer shall notify the Agency Head of the gross deviation; and

''(B) the Agency Head shall fulfill the requirements under subsections (e)(2) and (e)(3) in accordance with subsection (e)(4).''.

(b) INCLUSION IN THE BUDGET SUBMITTED TO CONGRESS.—Section 1105(a) of title 31, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking ''include in each budget the following:'' and inserting ''include in each budget—'';

(2) by redesignating the second paragraph (33) (as added by section 889(a) of Public Law 107–296) as paragraph (35);

(3) in each of paragraphs (1) through (34), by striking the period at the end and inserting a semicolon;

(4) in paragraph (35) (as redesignated by paragraph (2)), by striking the period at the end and inserting ''; and''; and

(5) by adding at the end the following:

''(36) the reports prepared under section 11317(f) of title 40, United States Code, relating to the core IT investment projects of the agency.''.

(c) IMPROVEMENT OF INFORMATION TECHNOLOGY ACQUISITION AND DEVELOPMENT.—Subchapter II of chapter 113 of title 40, United States Code, is amended by adding at the end the following:

**''SEC. 11319. ACQUISITION AND DEVELOPMENT.**

''(a) ESTABLISHMENT OF PROGRAMS.—Not later than 120 days after the date of the enactment of this section, each Agency Head (as defined in section 11317(a) of title 49, United States Code) shall establish a program to improve the information technology (referred to in this section as 'IT') processes of the agency overseen by the Agency Head.

''(b) PROGRAM REQUIREMENTS.—Each program established pursuant to this section shall include—

''(1) a documented process for information technology acquisition planning, requirements development and management, project management and oversight, earned-value management, and risk management;

''(2) the development of appropriate metrics for performance measurement of—

''(A) processes and development status; and

''(B) continuous process improvement;

''(3) a process to ensure that key program personnel have an appropriate level of experience or training in the planning, acquisition, execution, management, and oversight of information technology; and

''(4) a process to ensure that the applicable department and subcomponents implement and adhere to established processes and requirements relating to the planning, acquisition, execution, management, and oversight of information technology programs and developments.

''(c) OMB GUIDANCE.—The Director of the Office of Management and Budget shall—

''(1) prescribe uniformly applicable guidance to the administration of all the programs established under subsection (a); and

''(2) take any actions that are necessary to ensure that Federal agencies comply with the guidance.

''(d) ANNUAL REPORT TO CONGRESS.—Not later than the last day of February of each year, the Agency Head shall submit a report to Congress that includes—

''(1) a detailed summary of the accomplishments of the program established by the Agency Head pursuant to this section;

''(2) the status of completeness of implementation of each of the program requirements, and the date each such requirement was deemed to be completed;

''(3) the percentage of Federal IT projects covered under the program compared to all of the IT projects of the agency, listed by number of programs and by annual dollars expended;

''(4) the identification, listed by name and position, of—

''(A) the person assigned responsibility for implementation and management of the program and the percent of such person's time used to carry out such responsibility; and

''(B) the person to whom the person described in subparagraph (A) reports;

''(5) a detailed breakdown of the sources and uses of the amounts spent by the agency during the previous fiscal year to support the activities of the program;

''(6) a copy of any guidance issued under the program and a statement regarding whether each such guidance is mandatory;

''(7) the identification of the metrics developed in accordance with subsection (b)(2);

''(8) a description of how paragraphs (3) and (4) of subsection (b) have been implemented and any related agency guidance; and

''(9) a description of how continuous process improvement has been implemented and the objectives of such guidance.''.

(d) CLERICAL AMENDMENTS.—The table of sections for chapter 113 of title 40, United States Code, is amended—

(1) by striking the item relating to section 11317 and inserting the following:

''11317. Significant and gross deviations.''; and

(2) by inserting after the item relating to section 11318 the following:

''11319. Acquisition and development.''.

**SEC. 3. IT STRIKE FORCE.**

(a) PURPOSE.—The Director of the Office of Management of Budget (referred to in this section as the ''Director''), in consultation with the Administrator of the Office of Electronic Government and Information and Technology at the Office of Management and Budget (referred to in this section as the ''E-Gov Administrator''), shall assist agencies in avoiding significant and gross deviations in the cost, schedule, and performance of IT investment projects (as such terms are defined in section 11317(a) of title 40, United States Code).

(b) IT STRIKE FORCE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the E-Gov Administrator shall establish a small group of individuals (referred to in this section as the ''IT Strike Force'') to carry out the purpose described in subsection (a).

(2) QUALIFICATIONS.—Individuals selected for the IT Strike Force—

(A) shall be certified at the Senior/Expert level according to the Federal Acquisition Certification for Program and Project Managers (FAC–P/PM); or

(B) shall have comparable education, certification, training, and experience to successfully manage high-risk IT investment projects.

(3) NUMBER.—The Director, in consultation with the E-Gov Administrator, shall determine the number of individuals who will be selected for the IT Strike Force.

(c) OUTSIDE CONSULTANTS.—

(1) IDENTIFICATION.—The E-Gov Administrator shall identify consultants in the private sector who have expert knowledge in IT program management and program management review teams. Not more than 20 percent of such consultants may be formally associated with any 1 of the following types of entities:

(A) Commercial firms.

(B) Nonprofit entities.

(C) Research and development corporations receiving Federal financial assistance.

(2) USE OF CONSULTANTS.—

(A) IN GENERAL.—Consultants identified under paragraph (1) may be used to assist the IT Strike Force in assessing and improving IT investment projects.

(B) LIMITATION.—Consultants with a formally established relationship with an organization may not participate in any assessment involving an IT investment project for which such organization is under contract to provide technical support.

(C) EXCEPTION.—The limitation described in subparagraph (B) may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(3) CONTRACTS.—The E-Gov Administrator, in conjunction with the Administrator of the General Services Administration (GSA), may establish competitively bid contracts with 1 or more qualified consultants, independent of any GSA schedule.

(d) INITIAL RESPONSE TO ANTICIPATED SIGNIFICANT OR GROSS DEVIATION.—If the E-Gov Administrator determines there is reasonable cause to believe that a major IT investment project is likely to significantly or grossly deviate (as defined in section 11317(a) of title 40, United States Code), including the receipt of inconsistent or missing data, the E-Gov Administrator shall carry out the following activities:

(1) Recommend the assignment of 1 or more members of the IT Strike Force to assess the project in accordance with the scope and time period described in section 11317(c)(1) of title 40, United States Code, beginning not later than 7 days after such recommendation. No member of the Strike Force who is associated with the department or agency whose IT investment project is the subject of the assessment may be assigned to participate in this assessment. Such limitation may not be construed as precluding access to anyone having relevant information helpful to the conduct of the assessment.

(2) If the E-Gov Administrator determines that 1 or more qualified consultants are needed to support the efforts of the IT Strike Force under paragraph (1), negotiate a contract with the consultant to provide such support during the period in which the IT Strike Force is conducting the assessment described in paragraph (1).

(3) Ensure that the costs of an assessment under paragraph (1) and the support services of 1 or more consultants under paragraph (2) are paid by the major IT investment project being assessed.

(4) Monitor the progress made by the IT Strike Force in assessing the project.

(e) REDUCTION OF SIGNIFICANT OR GROSS DEVIATION.—If the E-Gov Administrator determines that the assessment conducted under subsection (d) confirms that a major IT investment project is likely to significantly or grossly deviate, the E-Gov Administrator shall recommend that the Agency Head (as defined in section 11317(a)(1) of title 40, United States Code) take steps to reduce the deviation, which may include—

(1) providing training or mentoring to improve the qualifications of the program manager;

(2) replacing the program manager or other staff;

(3) supplementing the program management team with Federal Government employees or independent contractors;

(4) terminating the project; or

(5) hiring an independent contractor to report directly to senior management and the E-Gov Administrator.

(f) REPROGRAMMING OF FUNDS.—

(1) AUTHORIZATION.—The Director may direct an Agency Head to reprogram amounts which have been appropriated for such agency to pay for an assessment under subsection (d).

(2) NOTIFICATION.—An Agency Head who reprograms appropriations under paragraph (1) shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any such reprogramming.

(g) REPORT TO CONGRESS.—The Director shall include in the annual Report to Congress on the Benefits of E-Government Initiatives a detailed summary of the composition and activities of the IT Strike Force, including—

(1) the number and qualifications of individuals on the IT Strike Force;

(2) a description of the IT investment projects that the IT Strike Force has worked during the previous fiscal year;

(3) the major issues that necessitated the involvement of the IT Strike Force to assist agencies with assessing and managing IT investment projects and whether such issues were satisfactorily resolved;

(4) if the issues referred to in paragraph (3) were not satisfactorily resolved, the issues still needed to be resolved and the Agency Head's plan for resolving such issues;

(5) a detailed breakdown of the sources and uses of the amounts spent by the Office of Management and Budget and other Federal agencies during the previous fiscal year to support the activities of the IT Strike Force; and

(6) a determination of whether the IT Strike Force has been effective in reducing the amount of IT investment projects that deviate or significantly deviate.

Ms. COLLINS. Mr. President, I am pleased to join Senator CARPER in introducing a bill that will improve agency performance and Congressional oversight of major Federal information-technology, IT projects.

The well-publicized cost and performance problems with the Census Bureau's handheld computers for the 2010 Census—with its troubling implications for the next House reapportionment and for the allocation of Federal funds—represent only the most recent and conspicuous failure in a long trail of troubles that also includes critical IT projects like the FBI's virtual case file initiative. Former IBM executive and Carnegie-Mellon University technology expert Watts Humphrey makes the point succinctly: ''Software failures are common, and the biggest projects fail most often.''

During the 108th Congress, the Committee on Governmental Affairs investigated the botched automated record-keeping project for the Federal employees' Thrift Savings Plan TSP. This project was terminated in 2001 after a

4-year contract produced $36 million in waste that was charged to the accounts of TSP participants and beneficiaries. A second vendor needed an additional $33 million to bring the system online, years overdue and costing more than double its original estimate.

In a 2004 letter from the Federal Retirement Thrift Investment Board to the Governmental Affairs Committee, the board characterized the project as ''ill-fated '' and acknowledged the importance of careful planning, task definition, communication, proper personnel, and risk management—all of which were lacking on that project.

Large IT project failures have cost U.S. taxpayers billions of dollars in wasted expenditures. The waste is troubling, but even more troubling is the fact that when Federal IT projects fail, they can undermine the Government's ability to defend the Nation, enforce its laws, or deliver critical services to citizens. Again and again, we have seen IT project failures grounded in poor planning, ill-defined and shifting requirements, undisclosed difficulties, poor risk management, and lax monitoring of performance.

Unfortunately, as the Government Accountability Office, GAO, tells us in a new report, Federal IT projects still fall short in their use of effective oversight techniques to monitor development and to spot signs of possible trouble.

The GAO reports that the Federal Government will spend over $70 billion in fiscal year 2008 on IT projects. Most of that spending is concentrated in two dozen agencies that have 778 major projects underway. These Federal entities range from Cabinet departments like Commerce, Defense, and Veterans Affairs, to agencies like NASA, the Office of Personnel Management, and the Agency for International Development.

The GAO observes that ''Effectively managing projects involves pulling together essential cost, schedule, and performance goals in a meaningful, coherent fashion so that managers have an accurate view of the program's development status.'' This set of goals becomes the project ''baseline.''

When the GAO conducted a study of a random sample of those major Federal IT projects, however, they found that 85—nearly half the sample—had been ''rebaselined.'' Eighteen of those projects have been rebaselined three or more times. For example, the Department of Defense Advanced Field Artillery Tactical Data System has been rebaselined four times; a Veterans Affairs Health Administration Center project has been rebaselined six times.

Rebaselining can reflect funding changes, revisions in project scope or goals, and other perfectly reasonable project modifications. But as the GAO notes, ''[rebaselining] can also be used to mask cost overruns and schedule delays.'' All major Federal agencies have rebaselining policies, but the GAO concludes that they are not comprehensive and that ''none of the policies are fully consistent with best practices.''

The bill that Senator CARPER and I are introducing will go far toward addressing the weaknesses identified by the GAO and will reduce the risks that important Federal IT projects will drag on far beyond deadlines, fail to deliver intended capabilities, or waste taxpayers' money. We are pleased to have Senators LIEBERMAN, COLEMAN, and MCCASKILL join us as cosponsors in this effort.

Our bill will improve both agency and Congressional oversight of large Federal IT projects. For all major investments, the bill requires agencies to track the earned value management index, a key cost and performance measure, and to alert Congress should that measure fall below a defined threshold.

The bill requires additional reports to Congress as well as specific corrective actions should those same indicators continue to worsen. Further, because the bill's performance thresholds are based on original cost baselines, rebaselining can no longer serve as a tactic to hide troubled projects. If severe shortfalls remain uncorrected, the bill can even suspend commitment of funds to a project until the agency takes the required corrective actions.

Our bill does not envision making Congress a micromanager of Federal projects—especially in so complex a field as information technology. But it will ensure that, for these important investments, agencies will be required to track key performance metrics, inform Congress of shortfalls in those metrics, and provide Congress with followup reports, independent cost estimates, and analyses of project alternatives when the original projects have run off course.

The bill also provides that each covered agency identify to Congress their top mission-critical projects. Those ''core investments'' would be subject to additional upfront planning, reporting, and performance monitoring requirements. This will help ensure that agencies apply extra vigilance to these projects at the planning stage and not just when execution begins.

In addition to tracking cost and schedule slippage, agencies making core IT investments must provide a complete ''business case'' that outlines the need for the project and its associated costs and schedules; produce a rigorous, independent, third-party estimate of the project's full, life-cycle costs; have the agency CIO certify the project's functional requirements; track these functional requirements; and report to Congress any changes in functional requirements, including whether those changes concealed a major cost increase.

To help agencies deliver IT projects on time and on budget, the bill also provides two new support mechanisms.

First, agency heads would be required to establish an internal IT-management program, subject to OMB guidelines, to improve project planning, requirements development, and management of earned value and risk.

Second, the Director of OMB and its E-Gov Administrator will be required to establish an IT strike force of experts and independent consultants who can be assigned to help agencies reform troubled projects. In addition, the E-Gov Administrator can recommend that agency heads mentor or replace an IT project manager, reinforce the management team, terminate the project, or hire an independent contractor to report on the project.

These and other provisions will help improve project planning, avoid problems in project execution, provide early alerts when problems arise, and promote prompt corrective action.

In projects where difficulties persist, our bill provides strong remedies. For projects that exhibit a performance shortfall of 20 percent or more, the agency head involved must not only alert Congress but also provide a summary of a concrete plan of action to correct the problem. If the shortfall exceeds 40 percent, agencies have 6 months to take required remedial steps or else suspend further project spending until those steps are completed.

If the provisions of this bill had been in force during the past decade, early indicators of trouble and prompt warnings to Congress might have helped prevent much of the added cost, decreased functionality, and increased anxiety we now see surrounding the handheld computers that were intended to streamline the 2010 Census. The additional scrutiny of plans and costs required by this bill might have saved some of the billions wasted on other IT projects that ultimately landed on high-risk lists.

Our bill creates a measured, methodical plan to ensure that Federal agencies apply best practices to IT projects, supply timely reports of problems, and devise corrective actions sooner rather than later. Our Government and our citizens will benefit from these improvements. I urge every Senator to support this constructive and bipartisan bill.

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By Mr. DURBIN (for himself, Mr. GREGG, Mr. DODD, Mr. BURR, Mr. HARKIN, and Mr. ALEXANDER):

S. 3385. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, today I rise to introduce the FDA Food Safety Modernization Act.

Yesterday, the Food and Drug Administration, which is responsible for ensuring the safety of about 80 percent of our food supply, announced that it was one step closer to pinpointing the source of the current Salmonella Saintpaul outbreak. At first we were told tomatoes were the culprit. Then tomatoes were exonerated and jalapeno

peppers in south Texas were to blame. Now FDA is saying it has discovered a strain of the bacteria in Serrano peppers from a farm in Tamaulipas, Mexico.

In the meantime, over three months have passed since the first reported case. At least 255 people have been hospitalized and two have died because of the outbreak. The tomato industry faces tens of millions of dollars in losses and a loss in consumer confidence. Some estimate that the economic impact may be as much as $100 to $500 million.

Over the last couple of years we have seen news headlines about E. coli in spinach, pet food spiked with melamine, Salmonella-tainted peanut butter, and now contaminated peppers. It's clear that these are not isolated cases but the product of a food safety system that is outdated, under-funded, and overwhelmed. Some of our most important food safety statutes date back to the early 1900s. Standards have not been updated. The budgets of the agencies that act as watchdogs over the system have eroded. We import more of our food than ever but we don't have the systems in place to make sure this food is as safe as it could be. All these shortcomings put consumers at unnecessary risk.

FDA is struggling to keep up. There are holes in its ability to protect consumers from unsafe foods. For example, the Consumer Protection Safety Commission, the EPA, and even FDA with respect to infant formula all have recall authority. But FDA is unable to pull any other contaminated food off the shelf when the company that makes it will not. FDA can suggest a recall and most of the time companies comply. But there are always bad actors and sometimes companies choose not to recall their products because they are afraid of upsetting consumer confidence or losing market share. In this case, FDA's hands are tied.

These are significant gaps in our food safety system that need to be addressed. We can and should do better.

That is why I am pleased to introduce The FDA Food Safety Modernization Act, along with Senators GREGG, DODD, BURR, HARKIN, and ALEXANDER. This bill is a comprehensive, bipartisan effort that addresses some of the weaknesses in FDA's authorities and resources and updates food safety standards to make important improvements in our current food safety system. The bill includes a number of important preventive measures, such as increasing the frequency of FDA inspections of food facilities, especially high-risk facilities; directing FDA to set standards for fresh produce; and requiring the food industry to control hazards in the food supply chain. It also enables FDA to more effectively respond to an outbreak by giving the agency new authorities to order recalls, shut down tainted facilities, and access records to track and trace food.

The food industry is one of the most important sectors of our economy, generating more than $1 trillion annually in economic activity and employing millions of American workers. Food is also a deeply personal experience, a part of our daily lives and our traditions and culture. For far too long Congress has gone without a comprehensive review of our food safety laws. As long as we continue to do nothing, we will pay the price for an outdated and ill-equipped food safety system.

I thank Senators GREGG, DODD, BURR, HARKIN, and ALEXANDER for joining me in crafting this bill and urge my colleagues to support.

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. 3385

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''FDA Food Safety Modernization Act''.

(b) REFERENCES.—Except as otherwise specified, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents.

TITLE I—GENERAL FOOD PROVISIONS

Sec. 101. Inspections of records.
Sec. 102. Registration of food facilities.
Sec. 103. Mandatory recall authority.
Sec. 104. Hazard analysis and risk-based preventive controls.
Sec. 105. Performance standards.
Sec. 106. Standards for produce safety.
Sec. 107. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.
Sec. 108. Administrative detention of food.
Sec. 109. Protection against intentional adulteration.
Sec. 110. National agriculture and food defense strategy.
Sec. 111. Food and Agriculture Coordinating Councils.
Sec. 112. Decontamination and disposal standards and plans.
Sec. 113. Authority to collect fees.
Sec. 114. Final rule for prevention of Salmonella Enteritidis in shell eggs during production.
Sec. 115. Sanitary transportation of food.
Sec. 116. Food allergy and anaphylaxis management.

TITLE II—DETECTION AND SURVEILLANCE

Sec. 201. Recognition of laboratory accreditation for analyses of foods.
Sec. 202. Integrated consortium of laboratory networks.
Sec. 203. Building domestic capacity.
Sec. 204. Enhancing traceback and recordkeeping.
Sec. 205. Surveillance.

TITLE III—SPECIFIC PROVISIONS FOR IMPORTED FOOD

Sec. 301. Foreign supplier verification program.
Sec. 302. Voluntary qualified importer program.
Sec. 303. Authority to require import certifications for food.
Sec. 304. Prior notice of imported food shipments.
Sec. 305. Review of a regulatory authority of a foreign country.
Sec. 306. Building capacity of foreign governments with respect to food.
Sec. 307. Inspection of foreign food facilities.
Sec. 308. Accreditation of qualified third-party auditors.
Sec. 309. Foreign offices of the Food and Drug Administration.
Sec. 310. Funding for food safety.
Sec. 311. Jurisdiction; authorities.

**TITLE I—GENERAL FOOD PROVISIONS**

**SEC. 101. INSPECTIONS OF RECORDS.**

Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the heading and all follows through ''of food is'' and inserting the following: ''RECORDS INSPECTION.—

''(1) ADULTERATED FOOD.—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is'';

(2) by inserting '', and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner,'' after ''relating to such article'';

(3) by striking the last sentence; and

(4) by inserting at the end the following:

''(2) SERIOUS ADVERSE HEALTH CONSEQUENCES.—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

''(3) APPLICATION.—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.''.

**SEC. 102. REGISTRATION OF FOOD FACILITIES.**

(a) UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking ''conducts business and'' and inserting ''conducts business, the e-mail address for the contact person of the facility, and''; and

(B) inserting '', or any other food categories as determined appropriate by the Secretary, including by guidance)'' after ''Code of Federal Regulations'';

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

''(3) BIENNIAL REGISTRATION RENEWAL.—During the period beginning on October 1

and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.''.

(b) SUSPENSION OF REGISTRATION.—

(1) IN GENERAL.—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: ''The registration shall contain a consent to permit the Secretary to inspect such facility.'';

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

''(b) SUSPENSION OF REGISTRATION.—

''(1) IN GENERAL.—If the Secretary determines that food manufactured, processed, packed, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of the facility under this section in accordance with this subsection.

''(2) HEARING ON SUSPENSION.—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 days after the issuance of the order, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary may reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

''(3) POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.—

''(A) CORRECTIVE ACTION PLAN.—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan in a timely manner.

''(B) VACATING OF ORDER.—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

''(4) EFFECT OF SUSPENSION.—If the registration of a facility is suspended under this subsection, such facility shall not import food or offer to import food into the United States, or otherwise introduce food into interstate commerce in the United States.

''(5) REGULATIONS.—The Secretary shall promulgate regulations that describe the standards officials will use in making a determination to suspend a registration, and the format such officials will use to explain to the registrant the conditions found at the facility.

''(6) NO DELEGATION.—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of suspension shall not be delegated to any officer or employee other than the Commissioner.''.

(2) IMPORTED FOOD.—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting ''(or for which a registration has been suspended under such section)'' after ''section 415''.

(c) CONFORMING AMENDMENTS.—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting ''415,'' after ''404,''.

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period ''for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)''.

**SEC. 103. MANDATORY RECALL AUTHORITY.**

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

**''SEC. 418. MANDATORY RECALL AUTHORITY.**

''(a) VOLUNTARY PROCEDURES.—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

''(b) PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

''(1) immediately cease distribution of such article; or

''(2) immediately notify all persons—

''(A) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

''(B) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

''(c) HEARING ON ORDER.—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

''(d) POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.—

''(1) AMENDMENT OF ORDER.—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

''(A) amend the order to require recall of such article or other appropriate action;

''(B) specify a timetable in which the recall shall occur;

''(C) require periodic reports to the Secretary describing the progress of the recall; and

''(D) provide notice to consumers to whom such article was, or may have been, distributed.

''(2) VACATING OF ORDER.—If, after such hearing, the Secretary determines that adequate grounds do not exist to continue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

''(e) COOPERATION AND CONSULTATION.—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

''(f) PUBLIC NOTIFICATION.—In conducting a recall under this section, the Secretary shall ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification of the recall to consumers and retailers to whom such article was, or may have been, distributed. The notification shall include, at a minimum—

''(1) the name of the article of food subject to the recall; and

''(2) a description of the risk associated with such article.

''(g) NO DELEGATION.—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.

''(h) EFFECT.—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall.''.

(b) CIVIL PENALTY.—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting ''or any person who does not comply with a recall order under section 418'' after ''section 402(a)(2)(B)''.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.) is amended by adding at the end the following:

''(oo) The refusal or failure to follow an order under section 418.''.

**SEC. 104. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.**

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 103, is amended by adding at the end the following:

**''SEC. 419. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.**

''(a) IN GENERAL.—Each owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent their occurrence and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(w), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

''(b) HAZARD ANALYSIS.—The owner, operator, or agent in charge of a facility shall—

''(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

''(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

''(B) hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism; and

''(2) develop a written analysis of the hazards.

''(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

''(1) hazards identified in the hazard analysis conducted under subsection (b) will be significantly minimized or prevented; and

''(2) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

''(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

''(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures that a facility will implement if the preventive controls implemented under subsection (c) are found to be

ineffective through monitoring under subsection (d).

''(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

''(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

''(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

''(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e); and

''(4) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, as well as to conditions and processes in the facility, and to new and emerging threats.

''(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of nonconformance material to food safety, instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

''(h) WRITTEN PLAN AND DOCUMENTATION.—Each owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted to address those hazards under subsection (c). Such written plan, together with documentation that the plan is being implemented, shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

''(i) REQUIREMENT TO REANALYZE.—Each owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is commenced. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding.

''(j) DEEMED COMPLIANCE OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.—An owner, operator, or agent in charge of a facility required to comply with 1 of the following standards and regulations with respect to such facility shall be deemed to be in compliance with this section, with respect to such facility:

''(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

''(k) EXCEPTION FOR FACILITIES IN COMPLIANCE WITH SECTION 420.—This section shall not apply to a facility that is subject to section 420.

''(l) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the storage of packaged foods that are not exposed to the environment.

''(m) DEFINITIONS.—For purposes of this section:

''(1) CRITICAL CONTROL POINT.—The term 'critical control point' means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce it to an acceptable level.

''(2) FACILITY.—The term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.

''(3) PREVENTIVE CONTROLS.—The term 'preventive controls' means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would have employed to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (a) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

''(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

''(B) Supervisor, manager, and employee hygiene training.

''(C) An environmental monitoring program to verify the effectiveness of pathogen controls.

''(D) An allergen control program.

''(E) A recall contingency plan.

''(F) Good Manufacturing Practices (GMPs).

''(G) Supplier verification activities.''.

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall promulgate regulations to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(2) CONTENT.—The regulations promulgated under paragraph (1) shall provide sufficient flexibility to be applicable in all situations, including in the operations of small businesses.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to apply specific technologies, practices, or critical controls to an individual facility.

(4) REVIEW.—In promulgating the regulations under paragraph (1), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of this Act to ensure that the program under such section 419 is consistent, to the extent practicable, with applicable internationally recognized standards in existence on such date.

(c) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to hazard analysis and preventive controls required under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 103, is amended by adding at the end the following:

''(pp) The operation of a facility that manufacturers, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 419.''.

(e) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(f) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) EXCEPTIONS.—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined by the Secretary) after the date that is 2 years after the date of enactment of this Act; and

(B) the amendments made by this section shall apply to a very small business (as defined by the Secretary) after the date that is 3 years after the date of enactment of this Act.

**SEC. 105. PERFORMANCE STANDARDS.**

The Secretary shall, not less frequently than every 2 years, review and evaluate epidemiological data and other appropriate sources of information to determine the most significant food-borne contaminants and the most significant resulting hazards, and may issue science-based guidance documents, action levels, and regulations to help prevent adulteration under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342). Such standards shall be applicable to products and product classes and shall not be written to be facility-specific.

**SEC. 106. STANDARDS FOR PRODUCE SAFETY.**

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 104, is amended by adding at the end the following:

**''SEC. 420. STANDARDS FOR PRODUCE SAFETY.**

''(a) PROPOSED RULEMAKING.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in consultation with the Secretary of Agriculture and representatives of State departments of agriculture, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

''(2) PUBLIC INPUT.—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

''(3) CONTENT.—The proposed rulemaking under paragraph (1) shall—

''(A) include, with respect to growing, harvesting, sorting, and storage operations, minimum standards related to fertilizer use, nutrients, hygiene, packaging, temperature controls, animal encroachment, and water; and

''(B) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism.

''(4) PRIORITIZATION.—The Secretary shall prioritize the implementation of the regulations for specific fruits and vegetables that are raw agricultural commodities that have

been associated with food-borne illness outbreaks.

''(b) FINAL REGULATION.—

''(1) IN GENERAL.—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum standards for those types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

''(2) FINAL REGULATION.—The final regulation shall—

''(A) provide a reasonable period of time for compliance, taking into account the needs of small businesses for additional time to comply;

''(B) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States; and

''(C) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

''(c) CRITERIA.—

''(1) IN GENERAL.—The regulations adopted under subsection (b) shall—

''(A) set forth those procedures, processes, and practices as the Secretary determines to be reasonably necessary to prevent the introduction of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402; and

''(B) permit States and foreign countries from which food is imported into the United States, subject to paragraph (2), to request from the Secretary variances from the requirements of the regulations, where upon approval of the Secretary, the variance is considered permissible under the requirements of the regulations adopted under subsection (b)(1)(C) and where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 to the same extent as the requirements of the regulation adopted under subsection (b).

''(2) APPROVAL OF VARIANCES.—A State or foreign country from which food is imported into the United States shall request a variance from the Secretary in writing. The Secretary may deny such a request as not reasonably likely to ensure that the produce is not adulterated under section 402 to the same extent as the requirements of the regulation adopted under subsection (b).

''(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

''(e) GUIDANCE.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture and representatives of State departments of agriculture, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce.

''(f) EXCEPTION FOR FACILITIES IN COMPLIANCE WITH SECTION 419.—This section shall not apply to a facility that is subject to section 419.''.

(b) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 104, is amended by adding at the end the following:

''(qq) The production or harvesting of produce not in accordance with minimum standards as provided by regulation under section 420(b) or a variance issued under section 420(c).''.

(c) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

**SEC. 107. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.**

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 106, is amended by adding at the end the following:

**''SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.**

''(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

''(1) IDENTIFICATION.—The Secretary shall allocate resources to inspect facilities according to the risk profile of the facilities, which shall be based on the following factors:

''(A) The risk profile of the food manufactured, processed, packed, or held at the facility.

''(B) The facility's history of food recalls, outbreaks, and violations of food safety standards.

''(C) The rigor of the facility's hazard analysis and risk-based preventive controls.

''(D) Whether the food manufactured, processed, packed, handled, prepared, treated, distributed, or stored at the facility meets the criteria for priority under section 801(h)(1).

''(E) Whether the facility has received a certificate as described in section 809(b).

''(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

''(2) INSPECTIONS.—The Secretary shall increase the frequency of inspection of all facilities, and shall increase the frequency of inspection of facilities identified under paragraph (1) as high-risk facilities such that—

''(A) for the first 2 years after the date of enactment of the FDA Food Safety Modernization Act, each high-risk facility is inspected not less often than once every 2 years; and

''(B) for each succeeding year, each high-risk facility is inspected not less often than once each year.

''(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect articles of food imported into the United States according to the risk profile of the article of food, which shall be based on the following factors:

''(1) The risk profile of the food imported.

''(2) The risk profile of the countries of origin and countries of transport of the food imported.

''(3) The history of food recalls, outbreaks, and violations of food safety standards of the food importer.

''(4) The rigor of the foreign supplier verification program under section 805.

''(5) Whether the food importer participates in the Voluntary Qualified Importer Program under section 806.

''(6) Whether the food meets the criteria for priority under section 801(h)(1).

''(7) Whether the food is from a facility that has received a certificate as described in section 809(b).

''(8) Any other criteria deemed appropriate by the Secretary for purposes of allocating inspection resources.

''(c) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture to target food inspection resources.

''(d) FACILITY.—For purposes of this section, the term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.''.

(b) ANNUAL REPORT.—Section 903 (21 U.S.C. 393) is amended by adding at the end the following:

''(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report regarding—

''(1) information about food facilities including—

''(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

''(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

''(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

''(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary did not inspect in the previous fiscal year;

''(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

''(F) the number of high-risk facilities identified pursuant to section 421 that the Secretary did not inspect in the previous fiscal year;

''(2) information about food imports including—

''(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

''(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

''(C) the average cost of physically inspecting or sampling a food line subject to this Act that is imported or offered for import into the United States; and

''(3) information on the foreign offices established under section 309 of the FDA Food Safety Modernization Act including—

''(A) the number of foreign offices established; and

''(B) the number of personnel permanently stationed in each foreign office.

''(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.''.

**SEC. 108. ADMINISTRATIVE DETENTION OF FOOD.**

(a) IN GENERAL.—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking ''credible evidence or information indicating'' and inserting ''reason to believe''; and

(2) striking ''presents a threat of serious adverse health consequences or death to humans or animals'' and inserting ''is adulterated or misbranded''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

**SEC. 109. PROTECTION AGAINST INTENTIONAL ADULTERATION.**

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 107, is amended by adding at the end the following:

**''SEC. 422. PROTECTION AGAINST INTENTIONAL ADULTERATION.**

''(a) IN GENERAL.—Not later than 24 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act.

''(b) CONTENT OF REGULATIONS.—Regulations under subsection (a) shall only apply to food—

''(1) for which the Secretary has identified clear vulnerabilities (such as short shelf-life or susceptibility to intentional contamination at critical control points);

''(2) in bulk or batch form, prior to being packaged for the final consumer; and

''(3) for which there is a high risk of intentional contamination, as determined by the Secretary, that could cause serious adverse health consequences or death to humans or animals.

''(c) DETERMINATIONS.—In making the determination under subsection (b)(3), the Secretary shall—

''(1) conduct vulnerability assessments of the food system;

''(2) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration at vulnerable points; and

''(3) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

''(d) EXCEPTION.—This section shall not apply to food produced on farms, except for milk.

''(e) DEFINITION.—For purposes of this section, the term 'farm' has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).''.

(b) GUIDANCE DOCUMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guidance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 422 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) CONTENT.—The guidance document issued under paragraph (1) shall—

(A) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food;

(B) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate;

(C) include a model assessment for a person to use under subparagraph (A);

(D) include examples of mitigation strategies or measures described in subparagraph (B); and

(E) specify situations in which the examples of mitigation strategies or measures described in subparagraph (D) are appropriate.

(3) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time and manner in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) PERIODIC REVIEW.—The Secretary shall periodically review and, as appropriate, update the regulation under subsection (a) and the guidance documents under subsection (b).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 106, is amended by adding at the end the following:

''(rr) The failure to comply with section 422.''.

**SEC. 110. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.**

(a) DEVELOPMENT AND SUBMISSION OF STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) IMPLEMENTATION PLAN.—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) RESEARCH.—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) REVISIONS.—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) CONSISTENCY WITH EXISTING PLANS.—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) COMPONENTS.—

(1) IN GENERAL.—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) GOALS.—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) PREPAREDNESS GOAL.—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) DETECTION GOAL.—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) EMERGENCY RESPONSE GOAL.—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

(I) the Federal Government;

(II) State, local, and tribal governments; and

(III) the private sector.

(D) RECOVERY GOAL.—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture and food production;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

**SEC. 111. FOOD AND AGRICULTURE COORDINATING COUNCILS.**

The Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agriculture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help unify and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

(A) animal or plant disease outbreaks;

(B) food contamination; and

(C) natural disasters affecting agriculture and food.

**SEC. 112. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.**

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator''), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) DEVELOPMENT OF STANDARDS.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) DEVELOPMENT OF MODEL PLANS.—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) EXERCISES.—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) MODIFICATIONS.—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) PRIORITIZATION.—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest-risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

**SEC. 113. AUTHORITY TO COLLECT FEES.**

(a) FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by inserting after section 740 the following:

**''PART 5—FEES RELATED TO FOOD**

**''SEC. 740A. AUTHORITY TO COLLECT AND USE FEES.**

''(a) IN GENERAL.—

''(1) PURPOSE AND AUTHORITY.—For fiscal year 2009 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

''(A) domestic facilities required to register under section 415, to cover reinspection-related costs for each such year;

''(B) domestic facilities required to register under section 415, to cover food recall activities performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for each such year;

''(C) importers required to register under section 415, to cover the administrative costs of participating in the voluntary qualified importer program under section 806 for each such year; and

''(D) importers, to cover reinspection-related costs at ports of entry for each such year.

''(2) DEFINITIONS.—For purposes of this section—

''(A) the term 'reinspection' means 1 or more inspections conducted under section 704 of this Act subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary's satisfaction; and

''(B) the term 'reinspection-related costs' means all expenses, including administrative expenses, incurred in connection with—

''(i) arranging, conducting, and evaluating the results of reinspections; and

''(ii) assessing and collecting reinspection fees under this section.

''(b) ESTABLISHMENT OF FEES.—

''(1) IN GENERAL.—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

''(2) FEE METHODOLOGY.—

''(A) FEES.—Fees amounts established for collection—

''(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

''(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

''(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

''(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

''(B) OTHER CONSIDERATIONS.—In establishing the fee amounts for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

''(3) COMPLIANCE WITH INTERNATIONAL AGREEMENTS.—Nothing in this section shall be construed to authorize the assessment of any fee inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2009 unless appropriations for the Center for Food Safety and Applied Nutrition and the Center for Veterinary Medicine and related activities of the Office of Regulatory Affairs at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the Center for Food Safety and Applied Nutrition and the Center for Veterinary Medicine and related activities of the Office of Regulatory Affairs at the Food and Drug Administration for the preceding fiscal year (excluding the amount of fees appropriated for such fiscal year) multiplied by 1 plus 4.5 percent.

''(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, under subsection (a), notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

''(3) LIMITATION ON AMOUNT OF CERTAIN FEES.—Notwithstanding any other provision of this section, in no case may the amount of the fees collected for a fiscal year—

''(A) under subparagraph (B) of subsection (a)(1) exceed $20,000,000; and

''(B) under subparagraphs (A) and (D) of subsection (a)(1) exceed $25,000,000 combined.

''(d) CREDITING AND AVAILABILITY OF FEES.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

''(e) COLLECTION OF FEES.—

''(1) IN GENERAL.—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

''(2) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

''(f) ANNUAL REPORT TO CONGRESS.—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

''(g) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2009 and each fiscal year

thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.''.

(b) EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.—

(1) AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking ''a drug'' and inserting ''a food, drug'';

(B) in clause (i) by striking ''exported drug'' and inserting ''exported food, drug''; and

(C) in clause (ii) by striking ''the drug'' each place it appears and inserting ''the food, drug''.

(2) CLARIFICATION OF CERTIFICATION.—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

''(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a publicly available listing) as the Secretary determines appropriate.''.

**SEC. 114. FINAL RULE FOR PREVENTION OF SALMONELLA ENTERITIDIS IN SHELL EGGS DURING PRODUCTION.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall issue a final rule based on the proposed rule issued by the Commissioner of Food and Drugs entitled ''Prevention of *Salmonella* Enteritidis in Shell Eggs During Production'', 69 Fed. Reg. 56824, (September 22, 2004).

**SEC. 115. SANITARY TRANSPORTATION OF FOOD.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

**SEC. 116. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.**

(a) DEFINITIONS.—In this section:

(1) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ''early childhood education program'' means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) ESEA DEFINITIONS.—The terms ''local educational agency'', ''secondary school'', ''elementary school'', and ''parent'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) SCHOOL.—The term ''school'' includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

(b) ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(B) APPLICABILITY OF FERPA.—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

(2) CONTENTS.—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following, and may be updated as the Secretary deems necessary:

(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(i) documentation from their child's physician or nurse—

(I) supporting a diagnosis of food allergy and the risk of anaphylaxis;

(II) identifying any food to which the child is allergic;

(III) describing, if appropriate, any prior history of anaphylaxis;

(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;

(V) detailing emergency treatment procedures in the event of a reaction;

(VI) listing the signs and symptoms of a reaction; and

(VII) assessing the child's readiness for self-administration of prescription medication; and

(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(B) The creation and maintenance of an individual health care plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) Communication strategies between individual schools or early childhood education programs and local providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(E) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(F) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(G) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(H) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(I) The creation of a plan contained in each individual health care plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as nonacademic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(J) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(K) Other elements the Secretary deems necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(3) RELATION TO STATE LAW.—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.—

(1) IN GENERAL.—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) USE OF FUNDS.—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) DURATION OF AWARDS.—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A grant awarded under this subsection may not be made in an amount that is more than $50,000 annually.

(7) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal funds required under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) ADMINISTRATIVE FUNDS.—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) PROGRESS AND EVALUATIONS.—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in subsection (b).

(11) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $30,000,000 for fiscal year 2009 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) VOLUNTARY NATURE OF GUIDELINES.—

(1) IN GENERAL.—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be construed to require a local educational agency to implement such guidelines.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

## TITLE II—DETECTION AND SURVEILLANCE

### SEC. 201. RECOGNITION OF LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 109, is amended by adding at the end the following:

**"SEC. 423. RECOGNITION OF LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.**

''(a) RECOGNITION OF LABORATORY ACCREDITATION.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

''(A) provide for the recognition of accreditation bodies that accredit laboratories, including laboratories run and operated by a State or locality, with a demonstrated capability to conduct analytical testing of food products; and

''(B) establish a publicly available registry of accreditation bodies, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies.

''(2) MODEL ACCREDITATION STANDARDS.—The Secretary shall develop model standards that an accreditation body shall require laboratories to meet in order to be included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall look to existing standards for guidance. The model standards shall include methods to ensure that—

''(A) appropriate sampling and analytical procedures are followed and reports of analyses are certified as true and accurate;

''(B) internal quality systems are established and maintained;

''(C) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is recognized;

''(D) individuals who conduct the analyses are qualified by training and experience to do so; and

''(E) any other criteria determined appropriate by the Secretary.

''(3) REVIEW OF ACCREDITATION.—To assure compliance with the requirements of this section, the Secretary shall—

''(A) periodically, or at least every 5 years, reevaluate accreditation bodies recognized under paragraph (1); and

''(B) promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

''(b) TESTING PROCEDURES.—Food testing shall be conducted by either Federal laboratories or non-Federal laboratories that have been accredited by an accreditation body on the registry established by the Secretary under subsection (a) whenever such testing is either conducted by or on behalf of an owner or consignee—

''(1) in support of admission of an article of food under section 801(a);

''(2) due to a specific testing requirement in this Act or implementing regulations;

''(3) under an Import Alert that requires successful consecutive tests; or

''(4) is so required by the Secretary as the Secretary deems appropriate.

The results of any such sampling or testing shall be sent directly to the Food and Drug Administration.

''(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by an accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.''.

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State food laboratories, including the sharing of data between State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

### SEC. 202. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify the means by which each laboratory network member could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

### SEC. 203. BUILDING DOMESTIC CAPACITY.

(a) IN GENERAL.—

(1) INITIAL REPORT.—The Secretary shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that are intended to promote the safety and security of food and to prevent outbreaks of food-borne illness and other food-related hazards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture

Coordinating Councils referred to in section 111, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to food-borne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States to build State food safety and food defense capabilities, including progress implementing strategies developed under sections 110 and 205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(2) BIENNIAL REPORTS.—On a biennial basis following the submission of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (G) of paragraph (1), as necessary.

(b) RISK-BASED ACTIVITIES.—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including techniques that can be employed at ports of entry and through Food Emergency Response Network laboratories, and to provide for well-equipped and staffed laboratory facilities.

(d) INFORMATION TECHNOLOGY.—The report developed under subsection (a)(1) shall include a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) AUTOMATED RISK ASSESSMENT.—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) TRACEBACK AND SURVEILLANCE REPORT.—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in food-borne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(r)) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public and industry, outbreak identification, and traceback.

(g) BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.—The Secretary and the Secretary of Agriculture shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of food-borne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the following 2-year period.

**SEC. 204. ENHANCING TRACEBACK AND RECORDKEEPING.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and representatives of State departments of health and agriculture, shall improve the capacity of the Secretary to effectively and rapidly track and trace, in the event of an outbreak, fruits and vegetables that are raw agricultural commodities.

(b) PILOT PROJECT.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary shall establish a pilot project in coordination with the produce industry to explore and evaluate new methods for rapidly and effectively tracking and tracing fruits and vegetables that are raw agricultural commodities so that, if an outbreak occurs involving such a fruit or vegetable, the Secretary may quickly identify the source of the outbreak and the recipients of the contaminated food.

(2) CONTENT.—The Secretary shall select participants from the produce industry to run projects which overall shall include at least 3 different types of fruits or vegetables that have been the subject of outbreaks during the 5-year period preceding the date of enactment of this Act, and shall be selected in order to develop and demonstrate—

(A) methods that are applicable and appropriate for small businesses; and

(B) technologies, including existing technologies, that enhance traceback and trace forward.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot project under subsection (b) together with recommendations for establishing more effective traceback and trace forward procedures for fruits and vegetables that are raw agricultural commodities.

(d) TRACEBACK PERFORMANCE REQUIREMENTS.—Not later than 24 months after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish standards for the type of information, format, and timeframe for persons to submit records to aid the Secretary in effectively and rapidly tracking and tracing, in the event of an outbreak, fruits and vegetables that are raw agricultural commodities. Nothing in this section shall be construed as giving the Secretary the authority to prescribe specific technologies for the maintenance of records.

(e) PUBLIC INPUT.—During the comment period in the notice of proposed rulemaking under subsection (d), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(f) RAW AGRICULTURAL COMMODITY.—In this section, the term ''raw agricultural commodity'' has the meaning given that term in section 201(r) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(r)).

**SEC. 205. SURVEILLANCE.**

(a) DEFINITION OF FOOD-BORNE ILLNESS OUTBREAK.—In this section, the term ''food-borne illness outbreak'' means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a food.

(b) FOOD-BORNE ILLNESS SURVEILLANCE SYSTEMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance food-borne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on food-borne illnesses by—

(A) coordinating Federal, State and local food-borne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of findings on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data, and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a food-borne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of fingerprinting strategies for food-borne infectious agents, in order to identify new or rarely documented causes of food-borne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating food-borne illness surveillance systems and data with other biosurveillance and public health situational awareness capabilities at the state and federal levels; and

(J) other activities as determined appropriate by the Secretary.

(2) PARTNERSHIPS.—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of food-borne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on food-borne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and

local levels, including coordination and integration of activities among Federal agencies, and between the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to food-borne illness surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers to improvement in food-borne illness surveillance and its utility for preventing food-borne illness at Federal, State, and local levels;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(c) IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.—

(1) IN GENERAL.—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve food-borne illness outbreak response and containment.

(B) Accelerate food-borne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State laboratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal-State partnerships to coordinate food safety and defense resources and reduce the incidence of food-borne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 110.

(2) REVIEW.—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) FOOD SAFETY CAPACITY BUILDING GRANTS.—Section 317R(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking ''2002'' and inserting ''2009''; and

(2) by striking ''2003 through 2006'' and inserting ''2010 through 2013''.

## TITLE III—SPECIFIC PROVISIONS FOR IMPORTED FOOD

### SEC. 301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

**''SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.**

''(a) IN GENERAL.—

''(1) VERIFICATION REQUIREMENT.—Each United States importer of record shall perform risk-based foreign supplier verification activities in accordance with regulations promulgated under subsection (c) for the purpose of verifying that the food imported by the importer of record or its agent is—

''(A) produced in compliance with the requirements of section 419 or 420, as appropriate; and

''(B) is not adulterated under section 402 or misbranded under section 403(w).

''(2) IMPORTER EXCLUSION.—For purposes of this section, an 'importer of record' shall not include a person holding a valid license under section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) (referred to as a 'customs broker') if the customs broker has executed a written agreement with another person who has agreed to comply with the requirements of this section with regard to food imported or offered for import by the customs broker.

''(b) GUIDANCE.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist United States importers of record in developing foreign supplier verification programs.

''(c) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a). Such regulations shall, as appropriate, include a process for verification by a United States importer of record, with respect to each foreign supplier from which it obtains food, that the imported food is produced in compliance with the requirements of section 419 or 420, as appropriate, and is not adulterated under section 402 or misbranded under section 403(w).

''(2) VERIFICATION.—The regulations under paragraph (1) shall require that the foreign supplier verification program of each importer of record be adequate to provide assurances that each foreign supplier to the importer of record produces the imported food employing processes and procedures, including risk-based reasonably appropriate preventive controls, equivalent in preventing adulteration and reducing hazards as those required by section 419 or section 420, as appropriate.

''(3) ACTIVITIES.—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

''(d) RECORD MAINTENANCE AND ACCESS.—Records of a United States importer of record related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

''(e) DEEMED COMPLIANCE OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.—An owner, operator, or agent in charge of a facility required to comply with 1 of the following standards and regulations with respect to such facility shall be deemed to be in compliance with this section with respect to such facility:

''(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

''(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

''(f) PUBLICATION OF LIST OF PARTICIPANTS.—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.''.

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 109, is amended by adding at the end the following:

''(ss) The importation or offering for importation of a food if the importer of record does not have in place a foreign supplier verification program in compliance with section 805.''.

(c) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by adding ''or the importer of record is in violation of section 805'' after ''or in violation of section 505''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

### SEC. 302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 301, is amended by adding at the end the following:

**''SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.**

''(a) IN GENERAL.—Beginning not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

''(1) establish a program, in consultation with the Department of Homeland Security, to provide for the expedited review and importation of food offered for importation by United States importers who have voluntarily agreed to participate in such program; and

''(2) issue a guidance document related to participation and compliance with such program.

''(b) VOLUNTARY PARTICIPATION.—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program procedures established by the Secretary.

''(c) ELIGIBILITY.—In order to be eligible, an importer shall be offering food for importation from a facility that has a certification described in section 809(b). In reviewing the applications and making determinations on such requests, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

''(1) The nature of the food to be imported.

''(2) The compliance history of the foreign supplier.

''(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards.

''(4) The compliance of the importer with the requirements of section 805.

''(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

''(6) The potential risk for intentional adulteration of the food.

''(7) Any other factor that the Secretary determines appropriate.

''(d) REVIEW AND REVOCATION.—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

''(e) DEFINITION.—For purposes of this section, the term 'importer' means the person that brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.''.

**SEC. 303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.**

(a) IN GENERAL.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: ''With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (p) that such food be accompanied by a certification or other assurance that the food meets some or all applicable requirements of this Act, then such article shall be refused admission.''.

(b) ADDITION OF CERTIFICATION REQUIREMENT.—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

''(p) CERTIFICATIONS CONCERNING IMPORTED FOODS.—

''(1) IN GENERAL.—The Secretary, based on public health considerations, including risks associated with the food or its place of origin, may require as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity specified in paragraph (2) provide a certification or such other assurances as the Secretary determines appropriate that the article of food complies with some or all applicable requirements of this Act, as specified by the Secretary. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified entities, or in such other form as the Secretary may specify. Such certification shall be used for designated food imported from countries with which the Food and Drug Administration has an agreement to establish a certification program.

''(2) CERTIFYING ENTITIES.—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

''(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by such government or the Secretary; or

''(B) such other persons or entities accredited pursuant to section 809 to provide such certification or assurance.

''(3) RENEWAL AND REFUSAL OF CERTIFICATIONS.—The Secretary may—

''(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

''(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is no longer valid or reliable.

''(4) ELECTRONIC SUBMISSION.—The Secretary shall provide for the electronic submission of certifications under this subsection.''.

(c) CONFORMING TECHNICAL AMENDMENT.—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking ''with respect to an article included within the provision of the fourth sentence of subsection (a)'' and inserting ''with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761,''.

(d) NO LIMIT ON AUTHORITY.—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct random inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

**SEC. 304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.**

(a) IN GENERAL.—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting ''any country to which the article has been refused entry;'' after ''the country from which the article is shipped;''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

**SEC. 305. REVIEW OF A REGULATORY AUTHORITY OF A FOREIGN COUNTRY.**

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 302, is amended by adding at the end the following:

**''SEC. 807. REVIEW OF A REGULATORY AUTHORITY OF A FOREIGN COUNTRY.**

''The Secretary may review information from a country outlining the statutes, regulations, standards, and controls of such country, and conduct on-site audits in such country to verify the implementation of those statutes, regulations, standards, and controls. Based on such review, the Secretary shall determine whether such country can provide reasonable assurances that the food supply of the country is equivalent in safety to food manufactured, processed, packed, or held in the United States.''.

**SEC. 306. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD.**

(a) IN GENERAL.—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, and nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) PLAN.—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and detection techniques.

**SEC. 307. INSPECTION OF FOREIGN FOOD FACILITIES.**

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 305, is amended by inserting at the end the following:

**''SEC. 808. INSPECTION OF FOREIGN FOOD FACILITIES.**

''(a) INSPECTION.—The Secretary—

''(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

''(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the Secretary), to help ensure the safety and security of the food supply of the United States.

''(b) EFFECT OF INABILITY TO INSPECT.—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign facility registered under section 415 of which the owner, operator, or agent in charge of the facility, or the government of the foreign country, refuses to permit entry of United States inspectors, upon request, to inspect such facility. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge refuses such a request to inspect a facility more than 48 hours after such request is submitted.''.

**SEC. 308. ACCREDITATION OF QUALIFIED THIRD-PARTY AUDITORS.**

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 307, is further amended by adding at the end the following:

**''SEC. 809. ACCREDITATION OF QUALIFIED THIRD-PARTY AUDITORS.**

''(a) ACCREDITATION OF CERTIFYING AGENTS.—

''(1) IN GENERAL.—Beginning not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish and implement an accreditation system under which a foreign government, a State or regional food authority, a foreign or domestic cooperative that aggregates the products of growers or processors, or any other third party that the Secretary determines appropriate, may request to be accredited as a certifying agent to certify that eligible entities meet the applicable requirements of this Act.

''(2) REVIEW BY SECRETARY.—When establishing the accreditation system under paragraph (1), the Secretary shall review third-party accreditation systems in existence on the date of enactment of the FDA Food Safety Modernization Act, to avoid unnecessary duplication of efforts and costs.

''(3) REQUEST BY FOREIGN GOVERNMENT.—Prior to accrediting a foreign government as a certifying agent, the Secretary shall perform such reviews and audits of food safety programs, systems, and standards of the government as the Secretary deems necessary to determine that they are adequate to ensure that eligible entities certified by such government meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import to the United States.

''(4) REQUEST BY STATE OR REGIONAL FOOD AUTHORITY.—Prior to accrediting a State or regional food authority as a certifying agent, the Secretary shall perform such reviews and audits of the training and qualifications of auditors used by the authority and conduct such reviews of internal systems and such other investigation of the authority as the Secretary deems necessary to determine that each eligible entity certified by the authority has systems and standards in use to ensure that such entity meets the requirements of this Act.

''(5) COOPERATIVES AND OTHER THIRD PARTIES.—Prior to accrediting a foreign or domestic cooperative that aggregates the products of growers or processors or any other

third party that the Secretary determines appropriate as a certifying agent, the Secretary shall perform such reviews and audits of the training and qualifications of auditors used by the cooperative or party and conduct such reviews of internal systems and such other investigation of the cooperative or party as the Secretary deems necessary to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity meets the requirements of this Act.

''(6) LIMITATION ON THIRD PARTIES.—The Secretary may not accredit a third party that the Secretary determines appropriate as a certifying agent unless each auditor used by such party prepares the audit report for an audit under this section in a form and manner designated by the Secretary. An audit report shall include—

''(A) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

''(B) the dates of the audit;

''(C) the scope of the audit; and

''(D) any other information required by the Secretary that relate to or may influence an assessment of compliance with this Act.

''(b) IMPORTATION.—As a condition of accrediting a foreign government, a State or regional food authority, a foreign or domestic cooperative that aggregates the products of growers or processors, or any other third party that the Secretary determines appropriate as a certifying agent, such government, authority, cooperative, or party shall agree to issue a written and electronic certification to accompany each food shipment made for import from an eligible entity certified by the certifying agent, subject to requirements set forth by the Secretary. The Secretary shall consider such certificates when targeting inspection resources under section 421.

''(c) MONITORING.—Following any accreditation of a certifying agent, the Secretary may at any time—

''(1) conduct an on-site audit of any eligible entity certified by the agent, with or without the certifying agent present; or

''(2) require the agent to submit to the Secretary, for any eligible entity certified by the agent, an onsite inspection report and such other reports or documents the agent requires as part of the audit process, including, for an eligible entity located outside the United States, documentation that the eligible is in compliance with any applicable registration requirements.

''(d) DEFINITIONS.—For purposes of this section:

''(1) AUDITOR.—The term 'auditor' means an individual who—

''(A) is qualified to conduct food safety audits; and

''(B) has successfully completed any training requirements established by the Secretary for the conduct of food safety audits.

''(2) CERTIFYING AGENT.—The term 'certifying agent' means a foreign government, a State or regional food authority, a foreign or domestic cooperative that aggregates the products of growers or processors, or any other third party that conducts audits of eligible entities and that is accredited by the Secretary under this section.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any entity in the food supply chain that chooses to be audited by a certifying agent.

''(e) AVOIDING CONFLICTS OF INTEREST WITH CERTIFYING AGENTS.—

''(1) IN GENERAL.—A certifying agent shall—

''(A) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such agent;

''(B) have procedures to ensure against the use, in carrying out audits of eligible entities under this section, of any officer or employee of such agent that has a financial conflict of interest regarding an eligible entity to be certified by such agent; and

''(C) annually make available to the Secretary, disclosures of the extent to which such agent, and the officers and employees of such agent, have maintained compliance with subparagraphs (A) and (B) relating to financial conflicts of interest.

''(2) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to ensure that there are protections against conflicts of interest between a certifying agent and the eligible entity to be certified by such agent. Such regulations shall include—

''(A) requiring that domestic audits performed under this section be unannounced;

''(B) a structure, including timing and public disclosure, for fees paid by eligible entities to certifying agents to decrease the potential for conflicts of interest; and

''(C) appropriate limits on financial affiliations between a certifying agent and any person that owns or operates an eligible entity to be certified by such agent.

''(f) FALSE STATEMENTS.—Any statement of representation made by an employee or agent of an eligible entity to an auditor of a certifying agent or a certifying agent shall be subject to section 1001 of title 18, United States Code.

''(g) RISKS TO PUBLIC HEALTH.—If, at any time during an audit, an auditor of a certifying agent discovers a condition that could cause or contribute to a serious risk to the public health, the auditor shall immediately notify the Secretary of—

''(1) the identification of the eligible entity subject to the audit; and

''(2) such condition.

''(h) WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from a certifying agent—

''(1) if food from eligible entities certified by such agent is linked to an outbreak of human or animal illness;

''(2) following a performance audit and finding by the Secretary that the agent no longer meets the requirements for accreditation; or

''(3) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

''(i) PERFORMANCE AUDITS AND RENEWAL.—To ensure that accreditation of a certifying agent continues to meet the standards of this section and this Act and to allow for the renewal of accreditation of such certifying agent, the Secretary shall—

''(1) audit the performance of such certifying agent on a periodic basis, not less than every 4 years, through the review of audit reports by such certifying agent and the compliance history, as available, of eligible entities certified by such certifying agent; and

''(2) any other measures deemed necessary by the Secretary.

''(j) PUBLICATION OF LIST OF CERTIFYING AGENTS.—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list, including, the name, location and other information deemed necessary by the Secretary, of certifying agents under this section.

''(k) NEUTRALIZING COSTS.—The Secretary shall establish a method, similar to the method used by the Department of Agriculture, by which certifying agents reimburse the Food and Drug Administration for the work performed to accredit such certifying agents. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism.

''(l) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

''(m) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.''.

**SEC. 309. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.**

(a) IN GENERAL.—The Secretary shall by October 1, 2010, establish an office of the Food and Drug Administration in not less than 5 foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices under subsection (a), the progress which such offices have made with respect to assisting the governments of such countries in providing for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

**SEC. 310. FUNDING FOR FOOD SAFETY.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration—

(1) $775,000,000 for fiscal year 2009; and

(2) such sums as may be necessary for fiscal years 2010 through 2013.

(b) INCREASED NUMBER OF FIELD STAFF.—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

(1) 3,600 staff members in fiscal year 2009;

(2) 3,800 staff members in fiscal year 2010;

(3) 4,000 staff members in fiscal year 2011;

(4) 4,200 staff members in fiscal year 2012; and

(5) 4,600 staff members in fiscal year 2013.

**SEC. 311. JURISDICTION; AUTHORITIES.**

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes and regulations;

(2) limit the authority of the Secretary of Health and Human Services to issue regulations related to the safety of food under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(3) impede, minimize, or affect the authority of the Secretary of Agriculture to prevent, control, or mitigate a plant or animal health emergency, or a food emergency involving products regulated under the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the Egg Products Inspection Act.

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By Mr. HATCH (for himself and Mr. DODD):

S. 3387. A bill to amend the Public Health Service Act with respect to pain care; to the Committee on Health, Education, Labor, and Pensions.

Mr. HATCH. Mr. President, I rise today to introduce the National Pain Care Policy Act of 2008. I am pleased to have worked with my colleague, Senator CHRISTOPHER DODD, on this legislation which will help to address barriers to pain care by enhancing coordination of research, improving healthcare provider education and training, and elevating public awareness of pain and pain management.

According to the American Pain Foundation, an estimated 75 million Americans suffer from either chronic or acute pain. Pain is the most common reason that people access the health care system and persistent pain can interfere with everyday life and make ordinary tasks seem impossible. Severe chronic pain also can hinder sleep, work, and social functions. Due to its very nature as a prominent feature of many chronic conditions, pain is said to affect more Americans than diabetes, heart disease and cancer combined.

Most pain can be relieved with proper treatment. This simple fact implies that the pain problems of these countless Americans can be easily fixed. Unfortunately, many people in pain face considerable barriers to accessing proper diagnosis, treatment, and management of their pain.

Health care professionals are, more often than not, inadequately trained regarding pain assessment and management, making it difficult for them to treat their patients' pain safely and effectively. As such, providers may be unfamiliar with current research and guidelines for appropriate pain care. Further, health care professionals may be hesitant to prescribe pain medications for pain management due to lack of knowledge regarding regulatory policies.

To make worse the problem, the National Institutes of Health, NIH, our country's premier institution for biomedical research, currently dedicates less than 1 percent of its research budget to pain research. Worse yet, this research is spread across multiple Institutes and centers without efficient coordination. Effective education is contingent upon adequate research.

Patients may also create for themselves barriers to pain care and management. As impractical as it seems, patients often do not tell their doctor about their pain because they do not want to complain or appear to be a nuisance. They also may avoid taking pain medicines because of addiction or dependency concerns which may be based on misinformation due to lack of education.

The National Pain Care Policy Act of 2008 will help to identify these barriers by authorizing an Institute of Medicine, IOM, Conference on Pain Care to evaluate the adequacy of pain assessment, treatment and management. The conference will establish an action agenda by which to address barriers and improve education and training.

The bill also authorizes permanently the Pain Consortium at the National Institutes of Health, NIH, to establish a coordinated clinical research agenda and promote pain research across NIH institutes, centers, and programs. The Consortium will convene annual conferences to make recommendations on pain research and activities at the NIH. The legislation also establishes a multidisciplinary Advisory Committee

The National Pain Care Policy Act of 2008 addresses the lack of pain care education by creating a grant program for the development and implementation of programs to educate and train health care professionals in pain assessment and management. It also requires the Agency for Healthcare Research and Quality, AHRQ, to collect evidence-based practices regarding pain and disseminate such information to the pain care community.

This bill also will break down barriers to pain care access by raising awareness among people who suffer from pain, and helping them and their families find the proper information about pain management. A national pain management public outreach and awareness campaign will be developed and implemented by the Department of Health and Human Services, HHS, to focus on the significance of pain as a national public health problem.

The National Pain Care Policy Act of 2008 contains provisions that will help the millions of Americans who live everyday with pain by heightening awareness, enhancing coordination of research, and advancing education. Similar legislation was introduced in the House by Representatives LOIS CAPPS and MIKE ROGERS last year. The House bill is supported by more than 100 organizations in the pain care community, including the America Pain Society, the American Academy of Pain Medicine, and the American Cancer Society. I thank Senator DODD for his leadership on and interest in this issue, and I urge my colleagues to support our bill.

Mr. DODD. Mr. President, I rise today to join my colleague from Utah, Senator ORRIN HATCH, in introducing the National Pain Care Policy Act of 2008. This important legislation would make significant strides in the understanding and treatment of pain as a medical condition. Pain is the most common symptom leading to medical care and a leading health issue. Yet people suffering through pain often struggle to get relief because of a variety of issues. This is why we are introducing this important legislation.

Each year pain results in more than 50 million lost workdays estimated to cost the United States $100 billion. Beyond the economic impact, pain is a leading cause of disability, with back pain alone causing chronic disability in 1 percent of the population of this country. In the United States 40 million people suffer from arthritis, more than 26 million, ages 20 to 64, experience frequent back pain, more than 25 million experience migraine headaches, and 20 million have jaw and lower facial pain each year. It is estimated that 70 percent of cancer patients have significant pain as they fight the disease. And half of all patients in hospitals suffer through moderate to severe pain in their last days. As with many medical conditions, this is a problem that is likely to become worse as the baby boom generation approaches retirement and the population ages.

Sadly, though most pain can be relieved, it often is not. Many suffering patients are reluctant to tell their medical provider about the pain they are experiencing, for fear of being identified as a ''bad patient,'' and concern about addiction often leads patients to avoid seeking or using medications to treat their pain. But even if patients were more forthcoming about their condition, few medical providers are equipped to do something about it. Often they have not been trained in assessment techniques or pain management, and are unaware of the latest research, guidelines, and standards for treatment. There is also concern among most providers that prescribing treatment for pain will lead to greater scrutiny by regulatory agencies and insurers.

But we can do something about these barriers and help individuals suffering from pain. The National Pain Care Policy Act would lead to improvements in pain care across the country. The legislation would call for an Institute of Medicine conference on pain care to increase awareness of this issue as a public health problem, identify barriers to pain care and determine action for overcoming those barriers. A number of years ago, my good friend Senator HATCH helped establish a Pain Consortium at the National Institutes of Health to establish a coordinated pain research agenda. This legislation will codify that consortium and update its mission. The bill addresses the training and education of health care professionals through new grant programs at the Agency for Health Research and Quality, AHRQ, and the Health Resources and Services Administration, HRSA. And finally this legislation creates a national outreach and awareness campaign at the Department of Health and Human Services to educate patients, families, and caregivers about

the significance of pain and the importance of treatment.

I want to thank Senator HATCH for his leadership on this issue and urge my colleagues to join us on this important effort to help the millions of Americans suffering from severe pain.

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By Mr. DURBIN:

S. 3390. 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 rise today to introduce the Student Voter Opportunity to Encourage Registration Act of 2008—the Student VOTER Act.

The success of America's experiment in democracy lies in broad participation and deep civic engagement. From the Reconstruction Amendments, to women's suffrage, to the abolition of the poll tax, and finally the ratification of the 26th amendment, we have witnessed a steady but difficult march toward a more inclusive nation.

To realize the full potential of these great strides, the Student VOTER Act provides a pathway to participation for America's youth.

The need for this bill is clear. Despite a small rise in youth voting in the current Presidential election cycle, the larger trend is unmistakable. Young voters—historically independent-minded—are far less likely to cast a ballot than older voters. In the 2004 Presidential election, only 47 percent of 18 to 24-year-old citizens voted, compared to 66 percent of citizens 25 and older. This marked the eighth straight Presidential contest in which less than half of these young Americans actually participated. In fact, the percentage of young Americans who vote today is lower than it was in the first Presidential election following the 26th amendment's ratification.

Several obstacles stand in the way of youth voting. Because so many students are first-time voters, they often are unfamiliar with how to register. In some States, first-time voters must register in person in order to cast an absentee ballot. For students who attend college outside of their home State or who do not have access to transportation, these requirements can be cumbersome, confusing, and insurmountable.

Of course, apathy contributes to the fact that young voters tend to stay home on election day. But studies show that when an effort is made to reach out to young voters, they will cast a ballot. If we fail to reach out to the youth, we may lose a generation of civically minded Americans.

Congress already tried to encourage youth voting with a provision in the Higher Education Act of 1998, which requires colleges and universities to make a ''good faith effort'' to register students to vote. Many universities fulfill that obligation. For example, even before orientation begins, Brown University in Providence provides its students with voter registration materials not only for Rhode Island but also for each student's home State.

Unfortunately, too many colleges and universities have failed to follow Brown's lead. According to a 2004 Harvard University study, only 17 percent of colleges and universities nationwide fully comply with the Higher Education Act. The health of our democracy suffers as a result.

The Student VOTER Act offers a straightforward solution: it requires colleges and universities that receive Federal funds to offer voter registration services to students. The Student VOTER Act simply amends the National Voter Registration Act of 1993, popularly known as the Motor Voter Act, to designate colleges and universities that receive Federal funds as voter registration agencies.

That designation is fitting. Our institutions of higher education are among the wealthiest in the world, and they lead the globe in producing Nobel laureates and scientific breakthroughs. But colleges and universities also have a special obligation to educate an active, informed citizenry.

The act does not impose a heavy burden on colleges and universities. We know this because the Student VOTER Act builds on the successful model of the Motor Voter Act, which brought voter registration to DMV offices across the country, adding 5 million voters—mainly independents—to the rolls in the 8 months after its passage. While some DMV offices simply mail completed registration forms to the appropriate clerk or registrar, others now use efficient, easy-to-use computer software to submit registrations electronically.

This means that the price tag of the Student VOTER Act to colleges and universities is at most a 42-cent stamp for each student. I know most of my fellow Senators would agree that this is not too high a price to pay for a lifetime of civic engagement.

In reality, costs should be even lower. Colleges and universities can provide voter registration services at student orientation or during class registration using the same technology that DMV offices already have implemented.

Like the Motor Voter Act, this bill should pass with broad bipartisan support. It is a low-cost, commonsense solution to the very real problem of low youth voter turnout. It represents a natural but modest extension of the Higher Education Act and the Motor Voter Act without changing or amending any other State or Federal voting regulations in any way.

The bill may also serve to depoliticize voter registration efforts on college campuses. Polls consistently show that young voters are less likely to identify with a political party than older voters. Polls generally show that more than 4 in 10 young voters identify as independents, with roughly 3 in 10 young voters identifying with each of the two major political parties. In a July 30, 2008 letter sent to Congress in support of this bill, the U.S. Student Association explained that under the present system, ''partisan student groups often become the main voter registrants, which can alienate undecided and independent voters. The Student VOTER Bill of 2008 seeks to institutionalize the dissemination of voting procedure and register more young people in a systematic and non-partisan capacity.''

In addition to the U.S. Student Association, this bill is supported by U.S. PIRG and the Student Association for Voter Empowerment, SAVE. In particular, I would like to recognize Matthew Segal, SAVE's founder and a Chicago native, with whom my office worked closely to prepare this bill.

I would also like to applaud the efforts of Representative JAN SCHAKOWSKY, a Democrat, and Representative STEVEN LATOURETTE, a Republican, who will introduce a companion bill today in the House of Representatives. The Student VOTER Bill of 2008 is a bipartisan effort that is an important step toward empowering our Nation's youth. I look forward to working with my Democratic and Republican colleagues in Congress to ensure its enactment into law.

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. 3390

*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 2008'' or the ''Student VOTER Act of 2008''.

**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).

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By Mr. REID (for himself and Mr. ENSIGN):

S. 3393. A bill to promote conservation and provide for sensible development in Carson City, Nevada, and for

other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I rise with my good friend Senator ENSIGN to introduce the Carson City Vital Community Act of 2008.

The origins of this legislation can be found in Carson City's collaborative master planning effort, ''Envision Carson City.'' In 2004, the elected officials in Carson City started a dialogue with their citizens to determine how the city should grow and change over the next 20 years. At the end of a 2-year public process, city leaders had a clear message from their residents. The community wants to keep growth compact, maintain the integrity of the Bureau of Land Management (BLM) and Forest Service lands surrounding the town, enhance open space opportunities and maintain easy access to public lands. The Carson City Vital Community Act of 2008 was developed in close partnership with Carson City and other key stakeholders to help fulfill these goals.

Before I describe this legislation and its importance, it might be helpful for me to explain that Carson City is both a city and a county. It wasn't always this way. For over a hundred years the town of Carson City was the county seat of Ormsby County. But in 1969 the county dissolved and the government functions were consolidated into what we now simply call Carson City.

Like all but one of our counties in Nevada, Carson City is mostly Federal land. The town of Carson City is bounded on the west by Forest Service lands that stretch to the shores of Lake Tahoe and by BLM lands on the east. These open landscapes create a dramatic western backdrop for Nevada's State capital but also mean that the Federal Government is intimately involved in what would normally be local community decisions.

This legislation makes much needed adjustments to the pattern of Federal land ownership in Carson City. We have strived to make changes that will improve the ability of the Federal land management agencies to focus on their core goals. All too often, the BLM and the Forest Service are distracted from proper forest and range management by urban encroachment issues. We have a unique situation in Carson City where the community has offered to take on the responsibilities of managing the wildland-urban interface, while also offering to convey a major inholding to the Forest Service for incorporation into the Humboldt-Toiyabe National Forest. This is a major step in the right direction and hopefully will serve as a model for other communities around the west.

Our legislation also provides lands to the Washoe Tribe, strengthening the Tribe's conservation and commercial efforts in Carson City. Additionally, nearly 20,000 acres of BLM lands surrounding Carson City will be permanently withdrawn from future develop to protect local viewsheds and public access. All of these actions will move Carson City one step closer to realizing the vision that it worked hard to develop through a public process that has now spanned over four years.

Title I of this legislation aims to create a sensible land ownership pattern in Carson City, aligned with the community's vision of keeping growth compact and maintaining the integrity of the surrounding public lands. It also addresses two serious concerns facing the community: wildfires in the foothills of the Sierras and flooding along the Carson River.

Under this title, roughly 2,200 acres of Carson City land will be transferred to the Forest Service. This prime, forested land is far removed from Carson City and is surrounded by state park lands and the Humboldt-Toiyabe National Forest. Incorporating this large inholding into the Humboldt-Toiyabe will allow for improved management for wildlife habitat, watershed protection, and other important uses. It will also ensure that the land remains undeveloped and open for public access.

This title also makes important adjustments to the pattern of city and Federal lands on the west side of the town. Roughly 1,000 acres of Forest Service land bordering urban areas will be conveyed to Carson City as protected open space. This conveyance will let both Carson City and the Forest Service do what they do best. Carson City can more actively manage urban interface uses and the Forest Service can focus on their core responsibilities of resource protection and forest health.

Proper management of this buffer area between Carson City's neighborhoods and businesses and the broader public lands is an issue of great concern to the community. On July 14, 2004, thirty-one homes and three businesses were destroyed or damaged in the Waterfall Fire which spanned nearly 9,000 acres of public and private land. Through our legislation, the Forest Service land that currently borders neighborhoods will be conveyed to Carson City, allowing the city to take a more prominent role in managing fuel loads in this critical area.

There is a different threat on the east side of Carson Valley. The Carson River has a long history of dramatic flooding. Over the last 150 years the river has flooded over 30 times, with half of those floods causing extensive damage. Two 100-year flood events have struck just in the last decade, one of which caused over $5 million in damage. In a show of real vision and leadership, Carson City has started an aggressive campaign to acquire land along the Carson River, recognizing the value of protecting the natural function of the local floodplains.

Our legislation will enhance Carson City's efforts to acquire lands in the river corridor by conveying the 3,500-acre Silver Saddle Ranch and Prison Hill area from BLM to the city. Transferring these properties to Carson City will help create a large regional park along the Carson River, support the community's flood control efforts and address the community's call for open space. The city has been a key partner in the management of the Silver Saddle Ranch for over a decade. Along with the Friends of Silver Saddle, Carson City has taken the lead on the day-to-day management of the property, including providing law enforcement patrols and caring for facilities.

It is important to note that when this land is conveyed to the city it will come with conditions. The Federal Government will hold a conservation easement on these parcels to ensure that the scenic and natural qualities of the Silver Saddle Ranch and Prison Hill are protected in perpetuity. The details of the conservation easement, which will focus on protecting the river corridor and the important wildlife habitat associated with the property, will be worked out by BLM, Carson City and key stakeholders like Friends of Silver Saddle and The Nature Conservancy.

In addition to supporting Carson City's forward-looking plans for the Carson River and its floodplain, conveying the Silver Saddle and Prison Hill area to Carson City also makes sense from a resource management perspective. BLM's Carson City District Office manages over 5 million acres of public land in western Nevada and eastern California. Their strength is managing Nevada's wide open spaces—not urban interface. Carson City, on the other hand, has far more resources to bring to bear in managing the Silver Saddle Ranch and Prison Hill area. Carson City has over 20 employees working on parks and open space, including two park rangers. They also have contracts in place with some of Nevada's most respected natural resource experts. The BLM will also keep a light hand in the management of this property by virtue of the conservation easement.

There is one unique provision related to the Silver Saddle Ranch and Prison Hill conveyance that deserves special mention. A small section of this land was once owned by Carson City. This 62-acre property, known as the Bernhard parcel, was slated to be subdivided into 35 home sites in 2001. The BLM and Carson City both recognized that the acquisition of this land was a priority for the protection of the Carson River corridor. Carson City responded quickly and acquired the parcel for open space before it could be developed. Their purchase price in 2001 was roughly $1 million. Later, in 2006, the BLM purchased the Bernhard parcel from Carson City for fair market value, which by that time had reached $2.5 million.

Under this legislation, we transfer the Bernhard parcel back to Carson City as part of the Silver Saddle Ranch and Carson River Area. We feel it is important that Carson City pay back 25 percent of the $1.5 million profit they made on their transaction with the

BLM. Why just 25 percent? The 25 percent reflects the remaining value of the land that is being conveyed back to Carson City after the conservation easement is taken into account. In western Nevada, conservation easements restricting development typically reduce property values by anywhere from 75 percent to 90 percent. We have required Carson City to come up with 25 percent, the most generous estimate of remaining value for the Bernhard parcel. When received, these funds will be placed into an endowment account for the BLM to use for the monitoring and enforcement of the conservation easement on the Silver Saddle Ranch and Prison Hill Area.

Our legislation also conveys roughly 1,700 acres of BLM land to Carson City for recreation and public purposes and open space. These are scattered parcels of BLM land in and around Carson City that would be used for primarily for parks, but also for flood control structures, municipal infrastructure like water tanks, and to give residents room to roam. Carson City already controls roughly a third of these acres through Recreation and Public Purpose Act leases. This bill would quickly and efficiently transfer these lands to the city.

Another provision of Title I deals with 53 acres of land that Carson City acquired from BLM years ago, under the Recreation and Public Purposes Act. The city now believes the land is better suited for commercial development. Although Carson City already owns these lands, by statute, if the city uses the land for something other than public purposes, the land reverts back to the BLM. Our legislation would remove the reversionary interest on these 50 acres so that Carson City can sell the land at an appropriate time. If the City decides to sell the land, we require that it be auctioned, with proceeds returning to the Carson City special account which provides funding for federal acquisition of sensitive lands and protection of noted cultural resources.

One of the parcels where the federal interest would be released is home to the Carson City Gun Club. Once on the edge of town, the shooting range is now surrounded by commercial development and the Eagle Valley Golf Course. Although our legislation would allow Carson City to sell this land, we have asked for and received a commitment that Carson City will not sell this property until the shooting facility has been relocated to another, more appropriate location.

The first title of our legislation also transfers 50 acres of Forest Service land to the BLM. The Forest Service is also authorized to develop and implement, in partnership with Carson City, a plan for managing its land in a way that minimizes the impact of flood events on nearby residential areas.

Under Title II, 150 acres of federal lands would be made available for sale through an open and competitive process. This includes the 50 acres transferred from the Forest Service to the BLM in Title 1. All of the lands identified for sale in our legislation are isolated or seriously impacted by nearby commercial or residential development. Both agencies have concluded that these parcels should be disposed of and that this action is consistent with their respective management plans.

Similar to past Nevada land bills, this legislation directs the Secretary of Interior to reinvest the proceeds of these limited land sales back into important public projects. Ninety-five percent of the proceeds will be used to acquire environmentally sensitive lands in Carson City and to protect archaeological resources. The remaining five percent of the proceeds will go to Nevada's general education program.

This title also permanently withdraws nearly 20,000 acres of BLM lands in Carson City from land sales and mineral development. These same lands, located north and east of Carson City are already administratively withdrawn by the BLM. This bill would make the withdrawal permanent, preserving foothill views, open space and access to public lands, in line with ''Envision Carson City.''

Our bill also provides guidance that Off-Highway Vehicle (OHV) use on BLM lands in Carson City should be restricted to existing roads and trails until the BLM completes their travel management planning process. The Pine Nut Mountains east of Carson City are a favorite destination for local and visiting OHV enthusiasts. This provision will better protect this area until routes can be designated.

Finally, the second title of the bill opens a new avenue for Carson City to continue their conservation efforts along the Carson River. The Southern Nevada Public Land Management Act (SNPLMA) will be amended to authorize funds for Carson City to acquire land for parks and trails along the Carson River and to authorize conservation initiatives, also along the Carson River. In addition, we make a small change to SNPLMA which will only affect Washoe County. In the White Pine County bill of 2006 (P. L. 109–432), Washoe County was given access to SNPLMA through 2011 to acquire part of the Ballardini Ranch. The county has made good progress towards this acquisition, but may not make the 2011 deadline. We are pleased to extend the authorization to 2015.

Title III addresses the Washoe Tribe's pressing need for more land for residential and commercial development. Tribal lands adjacent to both of the colonies in Carson City, Stewart and Carson, would be expanded by this legislation. Carson Colony tribal lands would grow by over 280 acres. On this parcel, the lands located below the 5,200-foot elevation contour would be available for residential or commercial development. The lands above the 5,200-foot contour would only be available for traditional tribal uses, like ceremonial gatherings, hunting and plant collecting. Tribal lands at the Stewart Colony would grow by only 5 acres, all of which would be available for commercial and residential development.

In 2003, Senator ENSIGN and I passed legislation that conveyed 25 acres of Forest Service land at Skunk Harbor, on the shores of Lake Tahoe, to the Washoe Tribe. Unfortunately, the parcel was not accurately described in the legislation and consequently the land that was conveyed did not fully reflect our commitment to the Tribe. This bill includes a technical correction that will provide a long overdue fix to the Washoe Indian Tribe Trust Land Conveyance (P. L. 108–67).

Lastly, this bill directs the Forest Service to develop a cooperative agreement with the Washoe Tribe to ensure the Tribe's access across Forest Service land for their traditional ''lifeway'' walk to Lake Tahoe. For centuries the Washoe people have moved from the Pine Nut Mountains east of Carson City in the fall to Lake Tahoe in the summer. Our legislation ensures that they are able to continue this important tradition.

This bill, is built on years of public input. We believe it is a model piece of legislation and appreciate the support of our colleagues in this effort. We look forward to working with Chairman BINGAMAN, Ranking Member DOMENICI and the other distinguished members of the Energy and Natural Resources Committee to move this bill forward during the time we have remaining in this legislative session.

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. 3393

*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 ''Carson City Vital Community Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PUBLIC CONVEYANCES

Sec. 101. Conveyances of Federal land and City land.
Sec. 102. Transfer of administrative jurisdiction from the Forest Service to the Bureau of Land Management.

TITLE II—LAND DISPOSAL

Sec. 201. Disposal of Carson City land.
Sec. 202. Disposition of proceeds.
Sec. 203. Withdrawal.
Sec. 204. Availability of funds.

TITLE III—TRANSFER OF LAND TO BE HELD IN TRUST FOR THE WASHOE TRIBE, SKUNK HARBOR CONVEYANCE CORRECTION, FOREST SERVICE AGREEMENT, AND ARTIFACT COLLECTION

Sec. 301. Transfer of land to be held in trust for Washoe Tribe.

Sec. 302. Correction of Skunk Harbor conveyance.
Sec. 303. Agreement with Forest Service.
Sec. 304. Artifact collection.
TITLE IV—AUTHORIZATION OF APPROPRIATIONS
Sec. 401. Authorization of appropriations.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) CITY.—The term ''City'' means Carson City Consolidated Municipality, Nevada.

(2) MAP.—The term ''Map'' means the map entitled ''Carson City, Nevada Area'', dated July 17, 2008, and on file and available for public inspection in the appropriate offices of—

(A) the Bureau of Land Management;

(B) the Forest Service; and

(C) the City.

(3) SECRETARY.—The term ''Secretary'' means—

(A) with respect to land in the National Forest System, the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) with respect to other Federal land, the Secretary of the Interior.

(4) TRIBE.—The term ''Tribe'' means the Washoe Tribe of Nevada and California, which is a federally recognized Indian tribe.

## TITLE I—PUBLIC CONVEYANCES

**SEC. 101. CONVEYANCES OF FEDERAL LAND AND CITY LAND.**

(a) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), if the City offers to convey to the United States title to the non-Federal land described in subsection (b)(1) that is acceptable to the Secretary of Agriculture—

(1) the Secretary of Agriculture shall accept the offer; and

(2) not later than 180 days after the date on which the Secretary of Agriculture receives acceptable title to the non-Federal land described in subsection (b)(1), the Secretary of Agriculture and the Secretary of Interior shall convey to the City, subject to valid existing rights and for no consideration, except as provided in subsection (c)(1), all right, title, and interest of the United States in and to the Federal land or interest in land described in subsection (b)(2).

(b) DESCRIPTION OF LAND.—

(1) NON-FEDERAL LAND.—The parcels of non-Federal land referred to in subsection (a) are the approximately 2,260 acres of land administered by the City and identified on the Map as ''To the U.S. Forest Service''.

(2) FEDERAL LAND.—The parcels of Federal land referred to in subsection (a)(2) are—

(A) the approximately 1,012 acres of Forest Service land identified on the Map as ''To Carson City for Natural Areas'';

(B) the approximately 3,526 acres of Bureau of Land Management land identified on the Map as ''Silver Saddle Ranch and Carson River Area'';

(C) the approximately 1,746 acres of Bureau of Land Management land identified on the Map as ''To Carson City for Parks and Public Purposes''; and

(D) the approximately 53 acres of City land in which the Bureau of Land Management has a reversionary interest that is identified on the Map as ''Reversionary Interest of United States Released''.

(c) CONDITIONS.—

(1) CONSIDERATION.—Before the conveyance of the 62–acre Bernhard parcel to the City, the City shall deposit in the special account established by section 202(b)(1) an amount equal to 25 percent of the difference between—

(A) the amount for which the Bernhard parcel was purchased by the City on July 18, 2001; and

(B) the amount for which the Bernhard parcel was purchased by the Secretary on March 17, 2006.

(2) CONSERVATION EASEMENT.—As a condition of the conveyance of the parcels of land described in subsection (b)(2)(B), the Secretary, in consultation with Carson City and affected local interests, shall reserve a perpetual conservation easement to the parcels to protect, preserve, and enhance the conservation values of the parcels, consistent with subsection (d)(2).

(3) COSTS.—Any costs relating to the conveyance under subsection (a), including any costs for surveys and other administrative costs, shall be paid by the recipient of the land being conveyed.

(d) USE OF LAND.—

(1) NATURAL AREAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the parcel of land described in subsection (b)(2)(A) shall be managed by the City to maintain undeveloped open space and to preserve the natural characteristics of the parcel of land in perpetuity.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the City may—

(i) conduct projects on the parcel of land to reduce fuels;

(ii) construct and maintain trails, trailhead facilities, and any infrastructure on the parcel of land that is required for municipal water and flood management activities; and

(iii) maintain or reconstruct any improvements on the parcel of land that are in existence on the date of enactment of this Act.

(2) SILVER SADDLE RANCH AND CARSON RIVER AREA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the parcel of land described in subsection (b)(2)(B) shall—

(i) be managed by the City to protect and enhance the Carson River, the floodplain and surrounding upland, and important wildlife habitat; and

(ii) be used for undeveloped open space, passive recreation, customary agricultural practices, and wildlife protection.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the City may—

(i) construct and maintain trails and trailhead facilities on the parcel of land;

(ii) conduct projects on the parcel of land to reduce fuels;

(iii) maintain or reconstruct any improvements on the parcel of land that are in existence on the date of enactment of this Act; and

(iv) allow the use of motorized vehicles on designated roads, trails, and areas in the south end of Prison Hill.

(3) PARKS AND PUBLIC PURPOSES.—The parcel of land described in subsection (b)(2)(C) shall be managed by the City for—

(A) undeveloped open space; or

(B) recreation or other public purposes in accordance with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(4) REVERSIONARY INTEREST.—

(A) RELEASE.—The reversionary interest described in subsection (b)(2)(D) shall terminate on the date of enactment of this Act.

(B) CONVEYANCE BY CITY.—

(i) IN GENERAL.—If the City sells, leases, or otherwise conveys any portion of the land described in subsection (b)(2)(D), the sale, lease, or conveyance of land shall be—

(I) through a competitive bidding process; and

(II) except as provided in clause (ii), for not less than fair market value.

(ii) CONVEYANCE TO GOVERNMENT OR NONPROFIT.—A sale, lease, or conveyance of land described in subsection (b)(2)(D) to the Federal Government, a State government, a unit of local government, or a nonprofit organization shall be for consideration in an amount equal to the price established by the Secretary of the Interior under section 2741.8 of title 43, Code of Federal Regulation (or successor regulations).

(iii) DISPOSITION OF PROCEEDS.—The gross proceeds from the sale, lease, or conveyance of land under clause (i) shall be distributed in accordance with section 202(a).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses described in paragraph (1), (2), (3), or (4) of subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

(f) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—On conveyance of the non-Federal land under subsection (a) to the Secretary of Agriculture, the non-Federal land shall—

(A) become part of the Humboldt-Toiyabe National Forest; and

(B) be administered in accordance with the laws (including the regulations) and rules generally applicable to the National Forest System.

(2) MANAGEMENT PLAN.—The Secretary of Agriculture, in consultation with the City and other interested parties, may develop and implement a management plan for National Forest System land that ensures the protection and stabilization of the National Forest System land to minimize the impacts of flooding on the City.

**SEC. 102. TRANSFER OF ADMINISTRATIVE JURISDICTION FROM THE FOREST SERVICE TO THE BUREAU OF LAND MANAGEMENT.**

(a) CONVEYANCE.—Notwithstanding the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), administrative jurisdiction over the approximately 50 acres of Forest Service land identified on the Map as ''Parcel #1'' is transferred, from the Secretary of Agriculture to the Secretary of the Interior.

(b) COSTS.—Any costs relating to the transfer under subsection (a), including any costs for surveys and other administrative costs, shall be paid by the Secretary of the Interior.

(c) USE OF LAND.—

(1) RIGHT-OF-WAY.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior shall grant to the City a right-of-way for the maintenance of flood management facilities located on the land.

(2) DISPOSAL.—The land referred to in subsection (a) shall be disposed of in accordance with section 201.

(3) DISPOSITION OF PROCEEDS.—The gross proceeds from the disposal of land under paragraph (2) shall be distributed in accordance with section 202(a).

## TITLE II—LAND DISPOSAL

**SEC. 201. DISPOSAL OF CARSON CITY LAND.**

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior shall, in accordance with that Act, this title, and other applicable law, and subject to valid existing rights, conduct sales of the parcels of Federal land described in subsection (b) to qualified bidders.

(b) DESCRIPTION OF LAND.—The parcels of Federal land referred to in subsection (a) are—

(1) the approximately 103 acres of Bureau of Land Management land identified as ''Lands for Disposal'' on the Map; and

(2) the approximately 50 acres of Bureau of Land Management land identified as ''Parcel #1'' on the Map.

(c) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.—Before a sale of Federal land under subsection (a), the City shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

(1) City zoning ordinances; and

(2) any master plan for the area approved by the City.

(d) METHOD OF SALE; CONSIDERATION.—The sale of Federal land under subsection (a) shall be—

(1) consistent with subsections (d) and (f) of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713);

(2) unless otherwise determined by the Secretary, through a competitive bidding process; and

(3) for not less than fair market value.

(e) WITHDRAWAL.—Subject to valid existing rights, the Federal land described in subsection (b) is withdrawn from—

(1) all forms of entry and appropriation under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(f) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act, if there is a qualified bidder for the land described in paragraphs (1) and (2) of subsection (b), the Secretary of the Interior shall offer the land for sale to the qualified bidder.

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY CARSON CITY FOR POSTPONEMENT OR EXCLUSION.—At the request of the City, the Secretary shall postpone or exclude from the sale under paragraph (1) all or a portion of the land described in paragraphs (1) and (2) of subsection (b).

(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the City, a postponement under subparagraph (A) shall not be indefinite.

**SEC. 202. DISPOSITION OF PROCEEDS.**

(a) IN GENERAL.—Of the proceeds from the sale of land under sections 101(d)(4)(B) and 201(a)—

(1) 5 percent shall be paid directly to the State for use in the general education program of the State; and

(2) the remainder shall be deposited in a special account in the Treasury of the United States, to be known as the ''Carson City Special Account'', and shall be available without further appropriation to the Secretary until expended to—

(A) reimburse costs incurred by the Bureau of Land Management for preparing for the sale of the Federal land described in section 201(b), including the costs of—

(i) surveys and appraisals; and

(ii) compliance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);

(B) reimburse costs incurred by the Bureau of Land Management and Forest Service for preparing for, and carrying out, the transfers of land to be held in trust by the United States under section 301;

(C) acquire land or an interest in environmentally sensitive land; and

(D) conduct an inventory of, evaluate, and protect unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) of the City.

(b) SILVER SADDLE ENDOWMENT ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a special account, to be known as the ''Silver Saddle Endowment Account'', consisting of such amounts are deposited under section 101(c)(1).

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the account established by paragraph (1) shall be available to the Secretary, without further appropriation, for the oversight and enforcement of the conservation easement established under section 101(c)(2).

(c) INVESTMENT OF ACCOUNTS.—

(1) IN GENERAL.—Amounts deposited as principal in the Carson City Special Account established by subsection (a)(2) and the Silver Saddle Endowment Account established by subsection (b)(1) shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(2) AVAILABILITY.—Any interest earned under paragraph (1) shall be—

(A) added to the principal of the applicable account; and

(B) expended in accordance with subsection (a)(2) or (b)(2), as applicable.

**SEC. 203. WITHDRAWAL.**

(a) IN GENERAL.—Subject to valid existing rights, the Federal land described in subsection (b) is permanently withdrawn from—

(1) all forms of entry and appropriation under the public land laws and mining laws;

(2) location and patent under the mining laws; and

(3) operation of the mineral laws, geothermal leasing laws, and mineral material laws.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 19,747 acres, which is identified on the Map as ''Urban Interface Withdrawal''.

(c) OFF-HIGHWAY VEHICLE MANAGEMENT.—Until the date on which the Secretary, in consultation with the State, the City, and any other interested persons, completes a transportation plan for Federal land in the City, the use of motorized and mechanical vehicles on Federal land within the City shall be limited to roads and trails in existence on the date of enactment of this Act unless the use of the vehicles is needed—

(1) for administrative purposes; or

(2) to respond to an emergency.

**SEC. 204. AVAILABILITY OF FUNDS.**

Section 4(e) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317; 118 Stat. 2414; 120 Stat. 3045) is amended—

(1) in paragraph (3)(A)(iv), by striking ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4))'' and inserting ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4)) and Carson City (subject to paragraph (5))'';

(2) in paragraph (3)(A)(v), by striking ''Clark, Lincoln, and White Pine Counties'' and inserting ''Clark, Lincoln, and White Pine Counties and Carson City (subject to paragraph (5))'';

(3) in paragraph (4), by striking ''2011'' and inserting ''2015''; and

(4) by adding at the end the following:

''(5) LIMITATION FOR CARSON CITY.—Carson City shall be eligible to nominate for expenditure amounts to acquire land or an interest in land for parks or natural areas and for conservation initiatives—

''(A) adjacent to the Carson River; or

''(B) within the floodplain of the Carson River.''.

## TITLE III—TRANSFER OF LAND TO BE HELD IN TRUST FOR THE WASHOE TRIBE, SKUNK HARBOR CONVEYANCE CORRECTION, FOREST SERVICE AGREEMENT, AND ARTIFACT COLLECTION

**SEC. 301. TRANSFER OF LAND TO BE HELD IN TRUST FOR WASHOE TRIBE.**

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)—

(1) shall be held in trust by the United States for the benefit and use of the Tribe; and

(2) shall be part of the reservation of the Tribe.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 293 acres, which is identified on the Map as ''To Washoe Tribe''.

(c) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under subsection (a).

(d) USE OF LAND.—

(1) GAMING.—Land taken into trust under subsection (a) shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

(2) TRUST LAND FOR CEREMONIAL USE AND CONSERVATION.—With respect to the use of the land taken into trust under subsection (a), the Tribe—

(A) shall limit the use of the land above the 5,200′ elevation contour to—

(i) traditional and customary uses; and

(ii) stewardship conservation for the benefit of the Tribe; and

(B) shall not permit any—

(i) permanent residential or recreational development on the land; or

(ii) commercial use of the land, including commercial development or gaming.

(3) TRUST LAND FOR COMMERCIAL AND RESIDENTIAL USE.—With respect to the use of the land identified as ''To Washoe Tribe'' on the Map, the Tribe shall limit the use of the land below the 5,200′ elevation to—

(A) traditional and customary uses;

(B) stewardship conservation for the benefit of the Tribe; and

(C)(i) residential or recreational development; or

(ii) commercial use.

(4) THINNING; LANDSCAPE RESTORATION.—With respect to the land taken into trust under subsection (a), the Secretary of Agriculture, in consultation and coordination with the Tribe, may carry out any thinning and other landscape restoration activities on the land that is beneficial to the Tribe and the Forest Service.

**SEC. 302. CORRECTION OF SKUNK HARBOR CONVEYANCE.**

(a) PURPOSE.—The purpose of this section is to amend Public Law 108–67 (117 Stat. 880) to make a technical correction relating to the land conveyance authorized under that Act.

(b) TECHNICAL CORRECTION.—Section 2 of Public Law 108–67 (117 Stat. 880) is amended—

(1) by striking ''Subject to'' and inserting the following:

''(a) IN GENERAL.—Subject to'';

(2) in subsection (a) (as designated by paragraph (1)), by striking ''the parcel'' and all that follows through the period at the end and inserting the following: ''and to approximately 23 acres of land identified as 'Parcel #1' on the map entitled 'Skunk Harbor Conveyance Correction' and dated June 24, 2008, the western boundary of which is the low water line of Lake Tahoe at elevation 6,223.0 (Lake Tahoe Datum).''; and

(3) by adding at the end the following:

''(b) SURVEY.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Agriculture shall complete a survey of the boundary lines to establish the boundaries of the trust land.

''(c) PUBLIC ACCESS AND USE.—Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to, or use of, land remaining within the Lake Tahoe Basin Management Unit after the conveyance of the land to the Secretary of the Interior, in trust for the Tribe, under subsection (a), including access to, and use of, the beach and shoreline areas adjacent to the portion of land conveyed under that subsection.''.

(c) DATE OF TRUST STATUS.—The trust land described in section 2(a) of Public Law 108–67 (117 Stat. 880) shall be considered to be taken into trust as of August 1, 2003.

(d) TRANSFER.—The Secretary of the Interior, acting on behalf of and for the benefit of the Tribe, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land identified as ''Parcel #2'' on the map entitled ''Skunk Harbor Conveyance Correction'' and dated June 24, 2008.

**SEC. 303. AGREEMENT WITH FOREST SERVICE.**

The Secretary of Agriculture, in consultation with the Tribe, shall develop and implement a cooperative agreement that ensures regular access by members of the Tribe and other people in the community of the Tribe across National Forest System land from the City to Lake Tahoe for cultural and religious purposes.

**SEC. 304. ARTIFACT COLLECTION.**

(a) NOTICE.—At least 180 days before conducting any ground disturbing activities on the land identified as ''Parcel #2'' on the Map, the City shall notify the Tribe of the proposed activities to provide the Tribe with adequate time to inventory and collect any artifacts in the affected area.

(b) AUTHORIZED ACTIVITIES.—On receipt of notice under subsection (a), the Tribe may collect and possess any artifacts relating to the Tribe in the land identified as ''Parcel #2'' on the Map.

**TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

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By Mr. INHOFE:

S. 3395. A bill to provide for marginal well production preservation an enhancement; to the Committee on Finance.

Mr. INHOFE. Mr. President, a marginal well is defined as one which produces 15 barrels or less of oil per day. Yet, according to the Interstate Oil and Gas Compact Commission, IOGCC, these marginal wells contribute nearly 18 percent of the oil and 9 percent of the natural gas produced in America.

In fact, marginal wells produced more than 335 million barrels of oil in 2006. That's equivalent to more than 60 percent as much as the United States imports annually from Saudi Arabia or 67 percent as much as the Nation imports annually from Venezuela. In my own State of Oklahoma, it is the small independents, basically mom-and-pop operations, that produce the majority of oil and natural gas, with 85 percent of Oklahoma's oil coming from marginal wells.

In addition to reducing our dependence on foreign oil, a producing well provides both State and Federal taxes, pays royalties to land and mineral owners, and keeps jobs and dollars on American soil and in American pockets. A plugged well provides none of this. On the contrary, the IOGCC reported that in 2006, plugged and abandoned marginal wells resulted in the loss of $1.77 billion in economic output, $369.2 million in earnings reductions, and 8,223 lost jobs.

These statistics testify to the importance of America's marginal well production. With gasoline prices at record highs, Congress must ensure that government policies do not discourage, and instead prolong and enhance, production from these low volume wells.

That is why today I am glad to join with my fellow Oklahoman, Congressman DAN BOREN, to introduce the Marginal Well Production Preservation and Enhancement Act. This bill will streamline and clarify government regulations, prolong economic feasibility, and enhance production volumes from marginal wells. Every onshore oil and gas well in the Nation eventually declines into marginal production. The Marginal Well Production Preservation and Enhancement Act ensures that the Nation's policies recognize and reflect the economic importance of marginal well production. It's good for America's small producers, as well as America's consumers.

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By Mr. KOHL (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. CASEY):

S. 3396. A bill to amend the Public Health Service Act to provide grants or contracts for prescription drug education and outreach for healthcare providers and their parents; to the Committee on Health, Education, Labor, and Pensions.

Mr. KOHL. Mr. President, I rise today to introduce the Independent Drug Education and Outreach Act. Over the past year, the Committee on Aging has been taking a close look at the relationship between the pharmaceutical industry and our Nation's physicians. Not only does the interaction between these two parties seem to be fraught with conflicts of interest, but it is likely that the marketing methods employed by drug companies—and the manner in which they educate doctors about their products—have an impact on the rising costs of prescription drugs in America.

When it comes to knowing what treatment options are available to doctors, pharmaceutical sales reps are currently one of the most common ways physicians learn about the latest drugs on the market. However, these sales reps often seem to confuse educating with selling, and evidence shows that doctors' prescribing patterns can be heavily influenced by the sometimes biased information handed out by these sales representatives.

The Independent Drug Education and Outreach Act offers an alternative method of providing information to doctors. It's called academic detailing, and we believe it can have a positive impact on both quality and cost of healthcare nationwide. Academic detailing provides physicians and other prescribers with an objective source of unbiased information on all prescription drugs, based on scientific research certified by HHS. The information is presented to doctors in their own offices by trained clinicians and pharmacists. Academic detailing ensures that physicians have access to the most comprehensive data available on drug safety of the full array of pharmaceutical treatment options, including low-cost generic alternatives.

The proposed legislation would provide two sets of grants. The first grant program would create educational materials for doctors on the safety, efficacy, and cost of prescription drugs, including generic drugs and over-the-counter alternatives. A second set of up to ten grants would be used to dispatch trained medical staff—such as pharmacists, nurses, and other health care professionals—into physicians' offices to distribute and discuss the independent information. To ensure their neutrality, all grant recipients would be prohibited from receiving financial support from drug manufacturers.

When doctors are better informed about the full range of drugs available on the market, they are more likely to prescribe the most effective treatment, as opposed to the latest brand-name blockbuster drug. The result is also lower health care costs. A study in the *New England Journal of Medicine* projected that for every dollar spent on academic detailing, two dollars can be saved in drug costs, due in part to the increased use of generic drugs. In this way, a Federal academic detailing program will likely pay for itself, while saving the government, consumers, and employers a considerable amount of money.

I would like to thank my cosponsors in the Senate, Majority Whip DICK DURBIN, HELP Committee Chairman TED KENNEDY, and Senator BOB CASEY. I would also like to thank Representatives HENRY WAXMAN and FRANK PALLONE, who are introducing a companion bill today in the House. We stand together with the goal of providing doctors with unbiased information on prescription drugs, and ensuring Americans receive the quality health care they deserve.

Mr. DURBIN. Prescription drugs can restore health, prevent illness, and extend lives. But deciding whether to prescribe a drug, and which one, requires a careful balancing of potential benefits, risks, and costs.

Prescribing should not be determined by how heavily a drug is promoted by a pharmaceutical company. Sadly, this is largely what happens today.

Our health care system does not generate objective, easy-to-access information for doctors to guide them when it comes to prescribing options.

New drugs are constantly entering the marketplace, but there's very little objective information about what drug might be marginally safer or more effective than existing drugs.

Even the most vigilant doctors would be challenged to monitor the dozens of medical journals that could contain a helpful study comparing the safety and effectiveness of drugs.

The pharmaceutical industry has taken advantage of this information void.

It spends about $7 billion a year marketing to physicians and sends over 90,000 sales representatives, called detailers, to pitch their company's latest and most expensive drugs.

What the drug industry is doing is not education. It is promotion. And there's a big difference between the two.

The drug company sales representatives are hired more for their charisma than their scientific knowledge, and they provide doctors with information skewed to portray their company's product in the most favorable light.

The sales representatives arrive with free lunches and free drug samples. Lucrative speaking and consulting fees are possible for doctors who change their prescribing to the liking of a drug company.

The consequence of such a system is clear: an over-reliance on prescribing the latest, most expensive drugs even when existing drugs are as effective, as safe, or cost less.

The pain-reliever Vioxx provides a cautionary tale of what can happen when marketing prowess trumps evidence-based medicine.

Heavy marketing quickly made Vioxx a blockbuster drug with $3 billion a year in sales, despite a lack of evidence that it could provide any greater pain relief for most patients than Advil and despite early indications that it increased the risk of heart attacks. Many Americans needlessly paid more and placed themselves at risk because the benefits of Vioxx were oversold and the risks minimized.

Another example is the marketing of calcium-channel blockers in 1990s. Heavy marketing increased the sales of the new patent-protected calcium-channel blockers but decreased sales of other blood-pressure drugs, such as thiazide diuretics and betablockers, that were cheaper and often more effective.

A more recent example is the cholesterol drug Vytorin. The new drug has been heavily marketed since it was introduced in 2004. But a study released earlier this year did not find that Vytorin was any better at limiting plaque buildup in the arteries than Zocor, an older cholesterol drug that recently came out in a lower-priced generic form.

We have to find a better way to educate physicians about prescription drug options and fill the void of medical information that the drug industry is now taking advantage of.

Part of the solution is academic detailing, an idea first developed by Jerry Avorn, a physician at Harvard Medical School and Brigham and Women's Hospital in Boston.

Academic detailing programs use some of the marketing tools that the drug industry has used so effectively, such as office visits to physicians and easy-to-read materials, but employs them to promote appropriate prescribing, based on an objective analysis of the medical literature.

These programs—which send trained nurses and pharmacists, armed with unbiased information, to doctors' office—have been shown to generate $2 in savings for every $1 that it costs to implement them.

Pennsylvania's PACE program is the State's pharmacy assistance program for low- and moderate-income seniors, and it runs the most notable publicly funded academic detailing program.

The PACE academic detailing program has reduced costs associated with the overuse of Nexium, an acid-reflux drug for which there are similar lower-cost alternatives, and reduced the use of Cox–2 inhibitors such as Vioxx.

Today, I am joining Senator KOHL and Senators KENNEDY and CASEY in introducing legislation that would promote additional academic detailing programs.

The Independent Drug Education and Outreach Act would provide funds to medical schools, schools of pharmacies, and others for the development of educational materials based on what unbiased, peer-reviewed medical literature says about appropriate prescribing for a particular condition.

The bill also would provide funds to ten governmental or non-profit groups to train nurses and pharmacists and to send them to physician offices to present and discuss this information directly with physicians.

The bill includes protections against financial conflicts of interest and calls on the Agency for Health Care Research and Quality to review the accuracy of the information provided to doctors.

The Independent Drug Education and Outreach Act would begin to fix one of the glaring shortcomings of our current health care system: the lack of a systematic way of disseminating information on the relative benefits, risks, and costs of various treatment options directly to doctors.

When it comes to prescription drugs, newer isn't necessarily better. In many cases, they are not.

We can no longer afford to rely on drug company salespersons to be doctors' primary source of information about new drugs.

I urge my colleagues to support this bill.

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By Mr. REID (for Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mrs. MURRAY, Mr. REED, Mrs. CLINTON, Mr. OBAMA, Mr. SANDERS, Mr. BROWN, and Mr. WHITEHOUSE)):

S. 3398. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am proud to join my colleagues in introducing the Medical Device Safety Act. This legislation reverses the Supreme Court's erroneous decision in Riegel v. Medtronic. There, the Court misread a statute designed to protect consumers by giving the Food and Drug Administration the authority to approve medical devices as preempting state tort claims when a medical device causes harm. Riegel prevents consumers from receiving fair compensation for injuries sustained, medical expenses incurred and lost wages, and it must be reversed.

Congressional action should be unnecessary. When Congress passed the Medical Device Amendments, or MDA, in 1976, it did so ''[t]o provide for the safety and effectiveness of medical devices intended for human use.'' In other words, Congress passed the MDA precisely to protect consumers from dangerous medical devices. Toward that end, Congress gave the FDA the authority to approve, prior to a product entering the market, certain medical devices. For over 30 years the MDA has been in effect, and over that period FDA regulation and tort liability have complemented each other in protecting consumers.

Given the MDA's purpose, and the fact it has operated successfully for 30 years, I was disheartened to find the Court twist the meaning of the statute to strip from consumers all remedies when a medical device fails. In contorted logic, the Court found that the FDA's requirements in approving a medical device preempted state laws designed to ensure that manufacturers marketed safe devices. In other words, the Court believes that a company's responsibility to its patients ends when it receives FDA approval. I strenuously disagree.

In fact, there is absolutely no evidence that Congress intended that under the MDA, consumers would lose their only avenue for receiving compensation for injuries caused by negligent or inadequately labeled devices. Not a single member or committee report articulated the view that the statute would preempt state tort law.

Nevertheless, because of the Court's decision, it is imperative that Congress act to ensure that those harmed by flawed medical devices can seek compensation. The bill introduced today addresses the Court's action by explicitly stating that actions for damages under state law are preserved. Specifically, it amends section 521 of the Federal Food, Drug, and Cosmetic Act to state that the section shall not be construed to modify or otherwise affect any action for damages or the liability

of any person under the law of any State. And, the bill applies retroactively to the date of the enactment of the MDA, consistent with Congress's intent when it passed that act over 30 years ago. Practically, that means that it applies to cases pending on the date of enactment of this legislation or claims for injuries sustained prior to enactment.

The harm from Riegel, unless Congress acts, cannot be more real. Take Riegel itself. In 1996, Charles Riegel had an angioplasty performed on his right coronary artery. During the procedure, Mr. Reigel's surgeon used Medtronic's Evergreen Balloon Catheter. The catheter burst inside Mr. Reigel's artery, causing him severe and permanent injuries and disabilities.

Under our system of law, when someone is injured, he or she can normally seek redress from the entity that caused him or her harm. Yet, because of the Court's decision, Mr. Riegel and his wife will receive no compensation for the defective design and inadequate warning.

It is not just Mr. Riegel. In 2002, Gary Despain was implanted with a defective hearing aid Soundtec manufactured. While working as a welder, he suffered damage to his right ear, apparently as a result of interference between a magnet in his hearing device and some electronic welding equipment being used in the plant. The device caused severe ringing in his ear, but the labeling for the device failed to warn of this potential risk. Mr. Despain had to have the device surgically removed and he remains unemployed and disabled as a result of the device.

Nevertheless, two weeks after the Court's Riegel decision, Mr. Despain's lawsuit against Soundtec was dismissed and Mr. Despain has no ability to seek remedies for his injuries.

The result of Riegel, therefore, is that in the event the FDA does an inadequate job of inspecting and assuring the safety of medical devices—and because tort actions are now precluded—then consumers are left at extreme risk.

While FDA approval of medical devices, moreover, is important, it cannot be the sole protection for consumers. FDA approval is simply inadequate to replace the long-standing safety incentives and consumer protections that state tort law provides.

As a senior member of the Health, Education, Labor and Pension Committee, which has oversight over FDA, I have worked hard to ensure that the FDA performs its job. No matter how effective the FDA is, however, the FDA simply cannot guarantee that no defective, dangerous and deadly medical device will reach consumers. As the former Director of the FDA's Center for Devices and Radiological Health acknowledged, the FDA's ''system of approving devices isn't perfect, and that unexpected problems [with approved devices] do arise.'' In 1993, a House report identified a ''number of cases in which the FDA [had] approved devices that proved unsafe in use.''

The fact is, the FDA conducts the approval process with minimal resources and simply does not have adequate funds to genuinely ensure that devices are safe or to properly and effectively reevaluate approvals as new information becomes available.

Further, the FDA approval process is based on partial information. A principal shortcoming is that the device's manufacturer compiles the studies and data supporting an application, and the data is often unreliable. And, the FDA does not conduct independent investigations into a device's safety. A manufacturer, moreover, is not required to submit information about development of the device, including alternative designs, manufacturing methods and labeling possibilities that the manufacturer considered, but rejected.

In 1993, an FDA committee found flaws in the design, conduct and analysis of the clinical studies used to support applications that were ''sufficiently serious to impede the agency's ability to make the necessary judgments about [device] safety and effectiveness.'' It added, ''[o]ne of the main reasons [problems arise after approval] is that the data upon which we base our safety and effectiveness decisions isn't perfect.'' Likewise, in 1996, the Inspector General of the Department of Health and Human Services reported ''serious deficiencies . . . in the clinical data submitted as part of pre-market applications.''

FDA review, moreover, is a one-time event with no reevaluation and very little FDA oversight once a device reaches doctors and patients. In fact, even the best-designed and most reliable clinical studies by their very nature cannot duplicate all aspects and hazards of everyday use. Moreover, while manufacturers are supposed to report defects and injuries, the FDA has admitted that there is ''severe underreporting'' of defects and injuries.

Given the FDA's limitations, it is crucial that an individual have a right to seek redress. When defective medical devices reach the market, whether or not approved by the FDA, patients are often injured. Those injured are often left temporarily unable to work or to enjoy normal lives, and in many cases never fully recover. State tort law provides the only relief for patients injured by defective medical devices and should not be foreclosed.

Not only does access to State court mean that a person injured can receive fair compensation, but there are other advantages. Such suits aid in exposing dangers and serve as a catalyst to address their consequences. Through discovery, litigation can help uncover previously unavailable information on adverse effects of products that might not have been caught during the regulatory system. Litigants can demand documents and information on product risks that might not have been shared with the FDA. In this way, the public as a whole is alerted to dangers in medical products.

Finally, providing the ability to sue when injured provides an important incentive to manufacturers to use the utmost care. Additionally, threat of product liability suits creates continuing incentives for product manufacturers to improve the safety of their device, even after FDA approval.

The Court fundamentally misread Congress's intent in passing the Medical Device Amendments in 1976, and Reigel represents yet another victory by big business over consumers. Those injured, however, deserve to have their day in court and are entitled to compensation when they are injured by faulty medical devices, have medical expenses to pay and lost wages, regardless of whether FDA approved a device or not. We must reverse this erroneous decision and ensure that those who have suffered serious injury at the hands of others receive justice.

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By Mrs. LINCOLN (for herself, Mr. SMITH, Ms. CANTWELL, Mr. CORNYN, Mrs. MURRAY, Mrs. DOLE, Ms. LANDRIEU, Mr. CHAMBLISS, Mr. WICKER, and Mr. VITTER):

S. 3399. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am very pleased to rise today to introduce the Timber Revitalization and Economic Enhancement Act II of 2008 with my good friend, Senator SMITH of Oregon. I also want to say a special thanks to our cosponsors, Senators CANTWELL, MURRAY, DOLE, CHAMBLISS, CORNYN, LANDRIEU, WICKER and VITTER.

This legislation has commonly been referred to as the TREE Act. I appreciate that Congress understood the importance of the TREE Act with its inclusion and enactment in the Farm Bill earlier this year. But, unfortunately, this tax policy is already set to expire in less than one year. So today, my colleagues and I introduce the TREE Act II to make this important forest policy permanent.

In my home State of Arkansas, the est products industry is a foundation of our economy and culture. More than 50 percent of Arkansas land is forested. Much of this is sustainably managed to create products we use every day. In addition, there are jobs associated with the growing of these forests and manufacture of these great products. More than 32,000 Arkansas men and women work in our woods, at our sawmills and in our paper mills. These are good jobs located in our small rural towns.

However, these jobs and this industry continue to face many challenges. The TREE Act II addresses one of these challenges. Just as it is important to have diversity in our forests, it is also important to maintain diversity in our forestry industry, and we must ensure

that all business forms have the necessary tools so they can be successful in the global marketplace. Timber companies that are organized as corporations continue to be under intensifying pressure to reorganize. In that case, a corporation that owns substantial manufacturing facilities would be forced to sell some of those facilities and to make other structural changes in order to comply with the relevant tax rules that it would newly become subject to. This would be likely to cause disruptions in some of these communities and also would make it harder for U.S. companies to compete internationally.

In Arkansas, like so many other States across our Nation, a strong forest product industry is essential to having a strong economy. A permanent solution to the TREE Act II is imperative for this industry and supporting the jobs it provides. I look forward to working with my colleagues on the Senate Finance Committee to ensure this important tax policy is made permanent.

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By Mr. FEINGOLD (for himself and Mr. WHITEHOUSE):

S. 3405. A bill to prohibit secret modifications and revocations of the law, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, today, the junior Senator from Rhode Island, Senator WHITEHOUSE, and I will introduce the Executive Order Integrity Act of 2008. The bill prevents secret changes to published Executive Orders by requiring the President to place a notice in the Federal Register when he has modified or revoked a published Order. Through this simple measure, the bill takes an important step toward stemming the growth of secret law in the executive branch.

The principle behind this bill is straightforward. It is a basic tenet of democracy that the people have a right to know the law. Indeed, the notion of ''secret law'' has been described in court opinions and law treatises as ''repugnant'' and ''an abomination.'' That is why the laws passed by Congress have historically been matters of public record.

But the law that applies in this country includes more than just statutes. It includes regulations, the controlling legal interpretations of courts and the executive branch, and certain Presidential directives. As we learned at a hearing of the Judiciary Committee's Constitution Subcommittee that I chaired in April, some of this body of executive and judicial law is increasingly being kept secret from the public, and too often from Congress as well. The Bush administration has concealed Department of Justice legal opinions, interpretations of the Foreign Intelligence Surveillance Court, and even the agency rule that requires Americans to show identification at airports.

The shroud of secrecy extends to Executive Orders and other Presidential directives that carry the force of law. The Federal Register Act requires the President to publish any Executive Orders that have general applicability and legal effect. But through the diligent efforts of my colleague Senator Whitehouse, we learned last December that the Department of Justice has taken the position that a President can ''waive'' or ''modify'' any Executive Order without any notice to the public or Congress—simply by not following it. In other words, even in cases where the President is required to make the law public, the President can change the law in secret.

The Office of Legal Counsel memorandum that contains this position is still classified, but Senator Whitehouse convinced the Department of Justice to declassify certain statements in the memorandum. The Senator from Rhode Island spoke on the floor last December, and many times since then, about these statements. They include the statement that ''[w]henever [the President] wishes to depart from the terms of a previous executive order,'' he may do so, because ''an executive order cannot limit a President.'' And he doesn't have to change the executive order, or give notice that he's violating it, because by ''depart[ing] from the executive order,'' the President ''has instead modified or waived it.''

Now, no one disputes that a President can withdraw or revise an Executive Order at any time; that is every President's prerogative. But abrogating a published Executive order without any public notice works a secret change in the law. Worse, because the published Order stays on the books, it actively misleads Congress and the public as to what the law is.

This is not just a hypothetical problem dreamed up by the Office of Legal Counsel. It has happened, and it could happen again. To list just one example, the administration's warrantless wiretapping program not only violated the Foreign Intelligence Surveillance Act; it was inconsistent with several provisions of Executive Order 12333, the longstanding executive order governing electronic surveillance and other intelligence activities. Apparently, the administration believed its actions constituted a tacit amendment of that Executive Order. And who knows how many other Executive Orders have been secretly revoked or amended by the conduct of this Administration.

The bill that Senator Whitehouse and I will introduce provides a simple solution to this problem. If the President revokes, modifies, waives, or suspends a published Executive Order or similar directive, notice of this change in the law must be placed in the Federal Register within 30 days. The notice must specify the Order or the provision that has been affected; whether the change is a revocation, a modification, a waiver, or a suspension; and the nature and circumstances of the change. If information about the nature and circumstances of the change is classified, it is exempt from the publication requirement, but the information still must be provided to Congress so that we, as legislators, know how the law has been changed.

That is what our bill does; now let me talk briefly about what our bill does not do. First, it does not expand the existing legal requirements, under the Federal Register Act, that determine which Executive Orders must be published. To the extent the Federal Register Act permits a certain amount of ''secret law'' in the form of unpublished Executive Orders, our bill leaves that framework in place.

Second, our bill does not require public notice when the President revokes or modifies an unpublished Executive Order—even if the substance of the unpublished order is well-known to Congress and even the American people. This bill is narrowly aimed at the situation in which the American people have been given official notice of one version of the law, but a different version is being implemented.

Third, the bill does not require the President to adhere to the terms of an Executive Order. Many scholars have argued that a President must adhere to a formally promulgated Executive Order unless or until the Order is formally withdrawn or amended, just as the head of an agency must adhere to the agency's regulations. I happen to agree. But this bill does not take a position on OLC's assertion that any deviation from the Executive Order by the President is a permissible amendment of that Order. It simply requires public notice that the amendment has occurred.

Fourth, the bill does not require the publication of classified information about intelligence sources and methods or similar information. The basic fact that the published law is no longer in effect, however, cannot be classified. On rare occasions, national security can justify elected officials keeping some information secret, but it can never justify lying to the American people about what the law is. Maintaining two different sets of laws, one public and one secret, is just that—deceiving the American people about what law applies to the government's conduct.

I commend Senator WHITEHOUSE for his tireless work to bring this issue to light, and I urge all of my colleagues in the Senate to support this modest effort to ensure the integrity of our published laws.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 3405

*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 ''Executive Order Integrity Act of 2008''.

**SEC. 2. REVOCATIONS, MODIFICATIONS, WAIVERS, AND SUSPENSIONS OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.**

Section 1505 of title 44, United States Code, is amended by adding at the end the following:

''(d) REVOCATIONS, MODIFICATIONS, WAIVERS, AND SUSPENSIONS OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.—

''(1) NOTICE REQUIRED.—If the President, whether formally or informally, and whether through express order, conduct, or other means—

''(A) revokes, modifies, waives, or suspends any portion of a Presidential proclamation, Executive Order, or other Presidential directive that was published in the Federal Register; or

''(B) authorizes the revocation, modification, waiver, or suspension of any portion of such Presidential proclamation, Executive Order, or other Presidential directive;

notice of such revocation, modification, waiver, or suspension shall be published in the Federal Register within 30 days after the revocation, modification, waiver, or suspension, in accordance with the terms under paragraph (2).

''(2) CONTENT OF NOTICE.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), the notice required under paragraph (1) shall specify—

''(i) the Presidential proclamation, Executive Order, or other Presidential directive, and any particular portion thereof that is affected;

''(ii) for each affected directive or portion thereof, whether that directive or portion thereof was revoked, modified, waived, or suspended; and

''(iii) except where such information is classified, the specific nature and circumstances of the revocation, modification, waiver, or suspension.

''(B) REVISED EXECUTIVE ORDER.—Where the revocation, modification, waiver, or suspension of a Presidential proclamation, Executive Order, or other Presidential directive is accomplished through the publication in the Federal Register of a revised Presidential proclamation, Executive Order, or other Presidential directive that replaces or amends the one that was revoked, modified, waived, or suspended, that revised Presidential proclamation, Executive Order, or other Presidential directive shall constitute notice for purposes of paragraph (1).

''(3) CLASSIFIED INFORMATION.—If the information specified under paragraph (2)(A)(iii) is classified, such information shall be provided to Congress, using the security procedures established under section 501(d) of the National Security Act of 1947 (50 U.S.C. 413(d)), in the form of a classified annex delivered to—

''(A) the majority and minority leader of the Senate;

''(B) the Speaker, majority leader, and minority leader of the House of Representatives;

''(C) the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

''(D) if the information pertains to national security matters, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as either authorizing or prohibiting the revocation, modification, waiver, or suspension of any Presidential proclamation, Executive Order, or other Presidential directive that was published in the Federal Register through means other than a formal directive issued by the President and published in the Federal Register.''.

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By Mr. HARKIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. ENZI, Mr. SPECTER, Mr. OBAMA, Mr. MCCAIN, Mr. DODD, Mr. GREGG, Mrs. CLINTON, Mr. ALEXANDER, Mr. JOHNSON, Mr. ROBERTS, Mr. KERRY, Mr. COLEMAN, Mr. FEINGOLD, Ms. SNOWE, Mr. LEAHY, Mr. BURR, Mr. BROWN, Mr. SMITH, Mr. DURBIN, Ms. MURKOWSKI, Mr. LAUTENBERG, Mr. WARNER, Mr. SANDERS, Mr. BROWNBACK, Mr. REED, Mr. MARTINEZ, Ms. MIKULSKI, Mr. ISAKSON, Mr. CASEY, Mr. CRAIG, Mrs. MURRAY, Mr. BENNETT, Ms. LANDRIEU, Ms. COLLINS, Mr. BIDEN, Mr. ALLARD, Mr. NELSON of Florida, Mr. SUNUNU, Mr. CARDIN, Mr. THUNE, Mr. LEVIN, Mr. BARRASSO, Mrs. MCCASKILL, Mr. CRAPO, Mr. SCHUMER, Mr. STEVENS, Mr. SALAZAR, Mr. VOINOVICH, Mr. TESTER, Mr. COCHRAN, Mr. REID, Mr. LUGAR, and Mr. CHAMBLISS):

S. 3406. A bill to restore the intent and protections of the Americans with Disabilities Act of 1990; read the first time.

Mr. HARKIN. Mr. President, I am pleased to join with Senators HATCH, OBAMA, and MCCAIN in introducing the ADA Amendments Act of 2008. This bipartisan legislation will allow us to advance and fulfill the original promise of the Americans with Disabilities Act, which was signed into law 18 years ago this month.

I am especially grateful to the distinguished senior Senator from Utah, Senator HATCH, for his partnership and leadership in helping to craft our bill here in the Senate and to Senator KENNEDY for his career-long leadership in fighting for the rights of people with disabilities. Senator KENNEDY has worked from the beginning to help craft this bill.

This bill is similar to bipartisan legislation introduced in the other body by House Majority Leader STENY HOYER and Congressman JIM SENSENBRENNER. That bill passed by a 402–17 margin last month.

I am also grateful that, from the outset, these bills have been conceived and crafted in a spirit of genuine bipartisanship, with members of both parties coming together to do the right thing for all Americans with disabilities.

Of course, passage of the Americans with Disabilities Act was also a bipartisan effort. As chief sponsor in the Senate, I worked very closely with Senator Bob Dole and others on both sides of the aisle. We received invaluable support from President George Herbert Walker Bush and key members of his administration, including White House Counsel Boyden Gray, Attorney General Richard Thornburgh, and Transportation Secretary Sam Skinner.

The fact is that Americans of all walks of life take enormous pride in the progress we have made since the ADA was passed 18 years ago. Nobody wants to go backward.

The Americans with Disabilities Act was one of the landmark civil rights laws of the 20th century—a long-overdue emancipation proclamation for Americans with disabilities. Thanks to that law, we have removed most physical barriers to movement and access for more than 50 million Americans with disabilities. We have required employers to provide reasonable accommodations so that people with disabilities can have equal opportunity in the workplace. And we have advanced the four goals of the ADA—equality of opportunity, full participation, independent living, and economic self-sufficiency.

The reach—the triumph—of the ADA revolution struck home to me, some time back, when I attended a Washington convention of several hundred disability rights advocates, many with significant disabilities. They arrived in Washington on trains and airplanes built to accommodate people with mobility impairments. They came to the hotel on Metro and in regular busses, all seamlessly accessible by wheelchair. They navigated city streets equipped with curb cuts and ramps. The hotel where the convention took place was equipped in countless ways to accommodate people with disabilities. There was a sign language interpreter on the dais so that people with hearing disabilities could be full participants.

For those of us who do not have disabilities, these many changes are all but invisible. But for individuals with disabilities, they are transforming and liberating. So are provisions in the ADA outlawing discrimination against qualified individuals with disabilities in the workplace, and requiring employers to provide ''reasonable accommodations.''

But despite this progress, we face a challenge. In recent years, the courts have narrowed the definition of who qualifies as an ''individual with a disability.'' As a consequence, people with conditions that common sense tells us are disabilities are being told by courts that they are not in fact disabled, and are not eligible for the protections of the law. In a ruling last year, the 11th Circuit Court even concluded that a person with an intellectual disability was not ''disabled'' under the ADA.

When I explain to people what the Supreme Court has done, they are shocked. Impairments that the Court says are not to be considered disabilities under the law include amputation, intellectual disabilities, epilepsy, diabetes, muscular dystrophy, and multiple sclerosis.

In three rulings in 1999—Sutton v. United Airlines, Murphy v. United Parcel Service, and Albertson's v. Kirkingburg—the Court held that corrective and mitigating measures must be considered in determining whether an individual has a disability under the ADA.

In Sutton, the Supreme Court held that if a person is taking corrective

measures to mitigate a physical or mental impairment, the effects of those measures must be taken into account when judging whether a person is ''disabled.'' Corrective measures could include anything from visual aids to a prosthesis. The Court went on to say that the approach adopted by the Equal Employment Opportunity Commission—that persons are to be evaluated in their hypothetical uncorrected state—was an impermissible interpretation of the ADA.

In Murphy, the Court applied the same analysis to medication used to treat hypertension, and concluded that an employee who was fired because he had hypertension was not protected under the ADA, because medication alleviated some of his symptoms.

In Kirkingburg, the Supreme Court went further and declared that mitigating measures to be included in the determination of whether someone is disabled included not only artificial aids such as devices and medications, but also subconscious measures an individual may use to compensate for his or her impairment. Kirkingburg was an individual who was blind in one eye, and the court found that he was not ''disabled'' under the ADA.

Moreover, in another Supreme Court case, Toyota v. Williams 2002, the Court held that there must be a ''demanding standard for qualifying as disabled.'' This too, has resulted in a much more restrictive requirement than Congress intended. It has had the effect of excluding countless individuals with disabilities from the protections of the law.

Together, these Supreme Court cases have created a supreme absurdity: The more successful a person is at coping with a disability, the more likely it is for a court to find that they are no longer sufficiently disabled to be protected by the ADA. And if these individuals are no longer protected under the ADA, then their requests for a reasonable accommodation at work can be denied. Or they can be fired—without recourse.

Think about it this way: Imagine that you are an individual with a disability who has a job. Due to your disability, you take some medication or maybe you use an assistive device. The use of the medication or the assistive device allows you to be qualified to do your job. It's a job that you really love. At some point, you need to request a reasonable accommodation from your employer—maybe, if you have diabetes, it is 10 minutes a day to take your insulin and check your blood levels.

Or perhaps you use a prosthesis. Your employer says no, they don't want to give you an accommodation. Eventually you get fired as a result. When you go to court, your employer argues that you aren't really a person with a disability so you aren't entitled to the protections of the ADA. Then, under these Supreme Court cases, the employer prevails by convincing the court that because of the mitigating measure—the prosthesis—you can't meet the test of being ''disabled'' under the law.

So what are you supposed to do in these cases? If you don't take the medication or use the assistive device, then you are not qualified to do the job. On the other hand, if you stop taking the medication, or stop using your prosthesis, you will be considered a person with a disability under the ADA, but you will be unable to do your job.

What would you do? This is the Catch 22 situation that, today, confronts countless people with disabilities. This is clearly not what I intended, or what Congress intended, when we passed the ADA in 1990.

It boggles the mind that any court would rule that, for instance, multiple sclerosis or muscular dystrophy, is not a disability covered by the ADA. But that is where we are today. And that is why we are introducing this bill today.

This Senate bill builds on the success of the House bill. However, it seeks to broaden the definition of disability in a way that maximizes bipartisan consensus and minimizes unintended consequences.

Our bill leaves the ADA's familiar disability definition language intact: A person with a disability is one who has a physical or mental impairment that ''substantially limits'' one or more of the major life activities of the individual. It does not substitute the term ''materially restricts'' as in the House bill. Instead, the bill takes several specific and general steps that, individually and in combination, direct courts toward a more generous meaning and application of the definition.

This bill will overturn the basis for the reasoning in the Supreme Court decisions—the Sutton trilogy and the Toyota case—that have been so problematic for so many people with very real disabilities.

This bill fixes the ''mitigating measures'' problem by clearly stating that mitigating measures—like the medication or assistive devices I talked about earlier—are not to be considered in determining whether someone is entitled to the protections of the ADA.

This bill will make it easier for people with disabilities to be covered by the ADA because it effectively expands the definition of disability to include many more major life activities, as well as a new category of major bodily functions. This latter point is important for those with immune disorders, or cancer, or kidney disease, or liver disease, because they no longer need to show what specific activity they are limited in, in order to meet the statutory definition of disability.

This bill rejects the current EEOC regulation which says that ''substantially limits'' means ''significantly restricted'' as too high a standard. We indicate Congress's expectation that the regulation be rewritten in a less stringent way, and we provide the authority to do so.

This bill revives the ''regarded as'' prong of the definition of disability, and makes it easier for those with physical or mental impairments to be able to seek relief if they have been subjected to an adverse action because of their disability.

This bill has a broad construction provision which instructs the courts and the agencies that the definition of disability is to be interpreted broadly, to the maximum extent permitted by the ADA.

Mr. President, 18 years ago, the Americans with Disabilities Act passed with overwhelming bipartisan support. Likewise, today, with the introduction of this bill, we are building a strong bicameral, bipartisan majority to support the ADA Amendments Act of 2008.

Let me say, again, that I am grateful for the bipartisan spirit with which we are approaching this legislation. We have an opportunity to come together and make an important difference for millions of Americans with disabilities.

This bill also enjoys strong support out in the country. It is supported by most national disability organizations, as well as the U.S. Chamber of Commerce, the National Association of Manufacturers, the Society for Human Resource Management, and the Human Resources Policy Association.

I look forward to working with my colleagues on both sides of the aisle to pass this bill, and to advance and fulfill the original promise of the Americans with Disabilities Act.

Mr. President, I ask unanimous consent 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. 3406

*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 ''ADA Amendments Act of 2008''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act ''provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities'' and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

(5) the holding of the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

(7) in particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), interpreted the term ''substantially limits'' to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term ''substantially limits'' as ''significantly restricted'' are inconsistent with congressional intent, by expressing too high a standard.

(b) PURPOSES.—The purposes of this Act are—

(1) to carry out the ADA's objectives of providing ''a clear and comprehensive national mandate for the elimination of discrimination'' and ''clear, strong, consistent, enforceable standards addressing discrimination'' by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court's reasoning in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms ''substantially'' and ''major'' in the definition of disability under the ADA ''need to be interpreted strictly to create a demanding standard for qualifying as disabled,'' and that to be substantially limited in performing a major life activity under the ADA ''an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives'';

(5) to convey congressional intent that the standard created by the Supreme Court in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) for ''substantially limits'', and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term ''substantially limits'' as ''significantly restricted'' to be consistent with this Act, including the amendments made by this Act.

**SEC. 3. CODIFIED FINDINGS.**

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;'';

(2) by striking paragraph (7); and

(3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

**SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.**

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

**''SEC. 3. DEFINITION OF DISABILITY.**

''As used in this Act:

''(1) DISABILITY.—The term 'disability' means, with respect to an individual—

''(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

''(B) a record of such an impairment; or

''(C) being regarded as having such an impairment (as described in paragraph (3)).

''(2) MAJOR LIFE ACTIVITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

''(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

''(3) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

''(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

''(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

''(4) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

''(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.

''(B) The term 'substantially limits' shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

''(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

''(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

''(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

''(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

''(II) use of assistive technology;

''(III) reasonable accommodations or auxiliary aids or services; or

''(IV) learned behavioral or adaptive neurological modifications.

''(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

''(iii) As used in this subparagraph—

''(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

''(II) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.''.

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

**''SEC. 4. ADDITIONAL DEFINITIONS.**

''As used in this Act:

''(1) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

''(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

''(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

''(C) acquisition or modification of equipment or devices; and

''(D) other similar services and actions.

''(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.''.

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

''Sec. 3. Definition of disability.

''Sec. 4. Additional definitions.''.

**SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.**

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking ''with a disability because of the disability of such individual'' and inserting ''on the basis of disability''; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking ''discriminate'' and inserting ''discriminate against a qualified individual on the basis of disability''.

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

''(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(4)(E)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(A) in the paragraph heading, by striking ''WITH A DISABILITY''; and

(B) by striking ''with a disability'' after ''individual'' both places it appears.

(2) Section 104(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12114(a)) is amended by striking ''the term 'qualified individual with a disability' shall'' and inserting ''a qualified individual with a disability shall''.

**SEC. 6. RULES OF CONSTRUCTION.**

(a) Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201 et seq.) is amended—

(1) by adding at the end of section 501 the following:

''(e) BENEFITS UNDER STATE WORKER'S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

''(f) FUNDAMENTAL ALTERATION.—Nothing in this Act alters the provision of section 302(b)(2)(A)(ii), specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

''(g) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

''(h) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C) of such section.'';

(2) by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

**''SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.**

''The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions of disability in section 3 (including rules of construction) and the definitions in section 4, consistent with the ADA Amendments Act of 2008.''; and

(3) in section 511 (as redesignated by paragraph (2)) (42 U.S.C. 12211), in subsection (c), by striking ''511(b)(3)'' and inserting ''512(b)(3)''.

(b) The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by redesignating the items relating to sections 506 through 514 as the items relating to sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

''Sec. 506. Rule of construction regarding regulatory authority.''.

**SEC. 7. CONFORMING AMENDMENTS.**

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking ''a physical'' and all that follows through ''major life activities'', and inserting ''the meaning given it in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)''; and

(2) in paragraph (20)(B), by striking ''any person who'' and all that follows through the period at the end, and inserting ''any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).''.

**SEC. 8. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall become effective on January 1, 2009.

Mr. HATCH. Mr. President, I am proud to rise today, as I did 18 years ago, and stand beside my good friend from Iowa, Senator HARKIN, to introduce legislation advancing opportunities for our disabled fellow citizens. Our commitment to that cause never ends. We must always remain open to learn from experience, to observe and evaluate how laws we put on the books work in practice, and to be ready to do our part with appropriate legislation. We are doing our part today by introducing the ADA Amendments Act.

The Americans with Disabilities Act is perhaps the most comprehensive piece of civil rights legislation we have ever enacted. It prohibits discrimination based on present, past, or perceived disabilities. It affirmatively requires accommodations in the workplace and modifications and assistance to ensure that persons with disabilities can access and enjoy places of public accommodation. That combination of the negative prohibition and the affirmative obligation makes the ADA truly unique and able to make such a positive contribution to the lives of so many across our great Nation.

This legislation responds to Supreme Court decisions that have had the effect of narrowing the ADA's definition of disability and thereby restricting its coverage. Its goal is to once again broaden the definition of disability in a way that maximizes bipartisan consensus and minimizes unintended consequences. I am sure that my friend from Iowa, Senator HARKIN, joins me in thanking so many people and organizations who have been part of this process, offering countless suggestions and ideas and input about how to achieve this goal.

This effort has been neither simple nor easy. Because the ADA is such a comprehensive statute, virtually any change we make can have effects in areas beyond where a problem might have occurred. In addition, Members on both sides of the aisle, with liberal or conservative perspectives, equally want to help the disabled but have very different views about how to do it.

And so the bill we introduce today is really the third phase in a process that began more than a year ago with introduction of the ADA Restoration Act and continued with passage last month of the House ADA Amendments Act. I am glad to say that it enjoys the support of the broad coalitions of disability and business groups that have provided valuable input and analysis along the way. It also takes steps to address concerns expressed by the education community. While the problems this legislation addresses arose in the employment arena, the solution this legislation represents will certainly impact the education arena.

Finally, let me say that like the original ADA, this bill is the result of negotiation and compromise on all sides. That is the nature of the legislative process and the more important the goal, the greater the effort to continue the process until we reach a good result. We have done that here and I hope and trust that when this legislation passes here and in the other body that the margin of the votes will reflect the breadth of the consensus behind this new effort to advance opportunities for the disabled to participate in all that this great country has to offer.

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By Mr. BURR (for himself, Mr. WICKER, Mr. ALEXANDER, and Mr. INHOFE):

S. 3407. A bill to amend title 10, United States Code, to authorize commanders of wounded warrior battalions to accept charitable gifts on behalf of the wounded members of the Armed Forces assigned to such battalions; to the Committee on Armed Services.

Mr. BURR. Mr. President, in the years since the War on Terror began, we have seen the creation of new Wounded Warrior Battalions and Warrior Transition Battalions in the Marines and the Army. These units were built from the ground up with one purpose in mind: to ensure that seriously wounded service members receive the medical care and benefits that they have earned. The service personnel who command and administer these units are some of the most competent and dedicated professionals in our armed forces, and they deserve our praise.

These professionals have done much to improve the quality of care that is given to our Nation's wounded service members, but many of the young men and women who find themselves assigned to a Wounded Warrior Battalion still face a tough journey on their road to recovery. Thankfully, the challenges that these men and women face rarely go unnoticed in their communities. Over the past several years we have heard countless stories of private citizens, church congregations and other community groups stepping forward to donate their time, money and other charitable gifts to our wounded service personnel. It is not uncommon to hear about donations of $10,000 or more being offered to help provide additional resources to help our wounded recover.

Unfortunately, the military's gift-acceptance rules have not been updated

to take into account the generosity of the American people. For example, if a North Carolinian wished to provide a gift of just over $12,000 to the Wounded Warrior Battalion at Camp Lejeune, the acceptance paperwork for this donation would spend months working its way through a complicated bureaucracy before finally arriving on the desk of the Commandant of the Marine Corps. Our taxpayers and our wounded veterans are not being served very well when gifts of such a small dollar amount must be approved at the very highest levels of command.

That is why I am introducing the Friends of Wounded Warriors Act. This legislation will streamline the gift-acceptance process by empowering the commanders of Wounded Warrior Battalions and similar units with the authority to accept charitable gifts of up to $100,000 for the benefit of the members of their unit. This will enable these commanders to cut through the red tape that is currently the cause of needless delay in getting extra resources to our wounded service men and women. I hope you will join me in making a commitment to ensure that out-dated processes for accepting gifts do not stand in the way of the generosity of concerned citizens and communities seeking to contribute to the care of our wounded and ill service members.

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By Mr. BAUCUS (for himself and Mr. CONRAD):

S. 3408. A bill to amend title XI of the Social Security Act to provide for the conduct of comparative effectiveness research and to amend the Internal Revenue Code of 1986 to establish a Comparative Effectiveness Research Trust Fund, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, in 2006, America spent more than $2 trillion on health care. By any standard, $2 trillion is an enormous figure. Health care accounts for 16 percent of our Nation's economy. That means that for every $100 in goods and services produced and consumed in America in 2006, $16 were for health care. And the health care share of the economy is expected to reach 20 percent in just 10 years.

These projections are cause for concern. If so much of our Nation's resources are devoted to heath care, we need to ask ourselves what we are—or are not—getting for it.

The answer is that we are getting a mixed bag of goods. Some patients receive medical treatments that work well. Some patients receive treatments that don't work well. In many cases, doctors and patients don't have enough reliable evidence to know whether treatments work or don't.

Of the $2 trillion spent on health in 2006, only 1/10 of 1 percent was spent to assess what works and what doesn't. At the Federal level, only $15 million was directly appropriated to compare the effectiveness of health interventions and services. People who purchase other goods—anything from cars to computers—use information to compare the value of the different products before they purchase. Physicians and patients deserve better. We should devote more than 1/10 of 1 percent of health spending to study how well health goods and services actually work.

Rapid innovation has led to an ever-changing array of new and sometimes expensive technologies. The age of personalized medicine and genetic engineering will provide even more choices for patients and their physicians. Indeed, patients and physicians can face great difficulty in choosing among treatment options.

But much of the information about those options is biased. Much information about those options is of poor quality. And for many treatments, there are large gaps in what is known to be most effective.

With a paucity of sound evidence, clinical guidelines and treatment protocols can vary widely. If there has ever been a need for better information—on what works, for which patients, under which circumstances—it is in this age of rapid innovation of technology.

Several august bodies—including the Institute of Medicine, the Medicare Payment Advisory Commission, and the Congressional Budget Office—have called on Congress to create a national entity charged with conducting research to determine what works in health care.

Today, I am proud to introduce the Comparative Effectiveness Research Act of 2008. I am joined by the Chairman of the Budget Committee, Senator CONRAD. He and I share a deep concern about rising health care costs. And we share a deep commitment to finding ways to address it.

This bill does what the experts suggest. It would create a new entity responsible for generating better information on the effectiveness of health care treatments.

Specifically, the bill would create a nonprofit corporation responsible for setting national priorities for comparative effectiveness research. The corporation, which would be called the Health Care Comparative Effectiveness Research Institute, would be a private entity. But it would be governed by a public-private sector Board of Governors. It would not be an agency of the Federal Government.

In addition to setting national priorities, the Institute would provide for the conduct of research studies that answer the most pressing questions about what works in health care. The Institute would have the authority to contract with experienced Federal agencies, such as the Agency for Healthcare Research and Quality, or AHRQ, and the National Institutes for Health, or NIH, or with private researchers if appropriate, for the conduct of the actual research. The Institute would also be charged with disseminating the findings of the research in ways that patients and providers can understand.

The Institute would be required to assess the full spectrum of health interventions, including pharmaceuticals, medical devices, medical procedures, medical services, and other therapies. This type of research is often called ''comparative effectiveness research,'' because it evaluates and compares the clinical effect of alternative medical treatments. This type of research provides better quality evidence concerning the best treatment, prevention, and management of the health conditions. Most importantly, this type of research helps patients, providers, and payers of health care to make more informed decisions.

While many experts have called for creation of a new entity, they do not specify how the entity should be structured. This bill would create a private, nonprofit institute rather than a new entity within the executive branch or legislative. Keeping it private would remove the potential for political influence on the development of national research priorities. Comparative effectiveness research will be more credible, and more useful, if it is done independently of political influence and with broad stakeholder input.

This bill includes stringent requirements for public input, transparency of process and findings, and integrity of the research. For example, the Institute would be required to publish its rules, proceedings, and reports on a public Internet site. Its meetings would be open to the public. It would be required to provide public comment periods at key stages, in addition to open forums to solicit and obtain public input on the Institute's activities.

This bill would also require accountability and government oversight of finances and the mission. The Institute would be subject to annual financial audits. And the Comptroller General would perform periodic audits of the activities of the Institute to ensure that the Institute would meet its statutory mission and would do so in a fair, open, and credible way.

Finally, this bill would provide a stable source of funding for the Institute. For the first 3 years, general revenues would be used to start up the Institute. In the 4th year, funding would move to an all-payer system—from both public and private sources. Annual contributions would be made from the Medicare Trust Funds, from revenues generated by a fee on private health insurance policies, and from general revenues. The work of the new Institute would benefit Americans who receive health care through the public and private sources. Therefore, public and private sources should contribute to this type of research. The private insurance fee would be $1 per insured person per year. Funding from Medicare would also be $1 per beneficiary per year.

All sources of funding for the Institute would sunset after 10 years. That

way, Congress could review a report from the Comptroller General on the value of the research to the public and private insurance sectors. Total funding for the first year would be $5 million, and funding would increase to $300 million a year by the year 2013.

It is high time that America invested more than a fraction of a percent to generate knowledge about what works in health care, to improve the efficiency and the quality of our health care system, and to give patients and doctors better information to make treatment decisions. It is high time that we built a foundation of evidence for the trillions of dollars spent on health in America each year.

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. 3408

*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 ''Comparative Effectiveness Research Act of 2008''.

**SEC. 2. COMPARATIVE EFFECTIVENESS RESEARCH.**

(a) IN GENERAL.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new part:

''PART D—COMPARATIVE EFFECTIVENESS RESEARCH

''COMPARATIVE EFFECTIVENESS RESEARCH

''SEC. 1181. (a) DEFINITIONS.—In this section:

''(1) BOARD.—The term 'Board' means the Board of Governors established under subsection (f).

''(2) COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH.—

''(A) IN GENERAL.—The term 'comparative clinical effectiveness research' means research evaluating and comparing the clinical effectiveness, risks, and benefits of 2 or more medical treatments, services, and items described in subparagraph (B).

''(B) MEDICAL TREATMENTS, SERVICES, AND ITEMS DESCRIBED.—The medical treatments, services, and items described in this subparagraph are health care interventions, protocols for treatment, procedures, medical devices, diagnostic tools, pharmaceuticals (including drugs and biologicals), and any other processes or items being used in the treatment and diagnosis of, or prevention of illness or injury in, patients.

''(3) COMPARATIVE EFFECTIVENESS RESEARCH.—The term 'comparative effectiveness research' means research evaluating and comparing the implications and outcomes of 2 or more health care strategies to address a particular medical condition.

''(4) CONFLICTS OF INTEREST.—The term 'conflicts of interest' means associations, including financial and personal, that may be reasonably assumed to have the potential to bias an individual's decisions in matters related to the Institute or the conduct of activities under this section.

''(5) INSTITUTE.—The term 'Institute' means the 'Health Care Comparative Effectiveness Research Institute' established under subsection (b)(1).

''(b) HEALTH CARE COMPARATIVE EFFECTIVENESS RESEARCH INSTITUTE.—

''(1) ESTABLISHMENT.—There is authorized to be established a nonprofit corporation, to be known as the ''Health Care Comparative Effectiveness Research Institute'' which is neither an agency nor establishment of the United States Government.

''(2) APPLICATION OF PROVISIONS.—The Institute shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

''(3) FUNDING OF COMPARATIVE EFFECTIVENESS RESEARCH.—For fiscal year 2009 and each subsequent fiscal year, amounts in the Comparative Effectiveness Research Trust Fund (referred to in this section as the 'CERTF') under section 9511 of the Internal Revenue Code of 1986 shall be available, without further appropriation, to the Institute to carry out this section.

''(c) PURPOSE.—The purpose of the Institute is to improve health care delivered to individuals in the United States by advancing the quality and thoroughness of evidence concerning the manner in which diseases, disorders, and other health conditions can effectively and appropriately be prevented, diagnosed, treated, and managed clinically through research and evidence synthesis, and the dissemination of research findings with respect to the relative outcomes, effectiveness, and appropriateness of the medical treatments, services, and items described in subsection (a)(2)(B).

''(d) DUTIES.—

''(1) IDENTIFYING RESEARCH PRIORITIES AND ESTABLISHING RESEARCH PROJECT AGENDA.—

''(A) IDENTIFYING RESEARCH PRIORITIES.—The Institute shall identify national priorities for comparative clinical effectiveness research, taking into account factors, including—

''(i) disease incidence, prevalence, and burden in the United States;

''(ii) evidence gaps in terms of clinical outcomes;

''(iii) practice variations, including variations in delivery and outcomes by geography, treatment site, provider type, and patient subgroup;

''(iv) the potential for new evidence concerning certain categories of health care services or treatments to improve patient health and well-being, and the quality of care; and

''(v) the effect or potential for an effect on health expenditures associated with a health condition or the use of a particular medical treatment, service, or item.

''(B) ESTABLISHING RESEARCH PROJECT AGENDA.—

''(i) IN GENERAL.—The Institute shall establish and update a research project agenda to address the priorities identified under subparagraph (A), taking into consideration the types of research that might address each priority and the relative value (determined based on the cost of conducting such research compared to the potential usefulness of the information produced by such research) associated with such different types of research, and such other factors as the Institute determines appropriate.

''(ii) CONSIDERATION OF NEED TO CONDUCT A SYSTEMATIC REVIEW.—In establishing and updating the research project agenda under clause (i), the Institute shall consider the need to conduct a systematic review of existing research before providing for the conduct of new research under paragraph (2)(A).

''(2) CARRYING OUT RESEARCH PROJECT AGENDA.—

''(A) COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH.—In carrying out the research project agenda established under paragraph (1)(B), the Institute shall provide for the conduct of appropriate research and the synthesis of evidence, in accordance with the methodological standards adopted under paragraph (9), using methods, including the following:

''(i) Systematic reviews and assessments of existing research and evidence.

''(ii) Clinical research, such as randomized controlled trials and observational studies.

''(iii) Any other methodologies recommended by the methodology committee established under paragraph (6) that are adopted by the Board under paragraph (9).

''(B)(i) CONTRACTS WITH FEDERAL AGENCIES AND INSTRUMENTALITIES.—The Institute shall give preference to agencies and instrumentalities of the Federal Government that have experience in conducting comparative clinical effectiveness research, such as the Agency for Healthcare Research and Quality, when entering into contracts for the management and conduct of research in accordance with the research project agenda established under paragraph (1)(B), to the extent that such contracts are authorized under the governing statutes of such agencies and instrumentalities.

''(ii) CONTRACTS WITH OTHER ENTITIES.—The Institute may enter into contracts with appropriate private sector research or study-conducting entities for the conduct of research described in clause (i).

''(iii) CONDITIONS FOR CONTRACTS.—A contract entered into under this subparagraph shall require that the agency, instrumentality, or other entity—

''(I) abide by the transparency and conflicts of interest requirements that apply to the Institute with respect to the research managed or conducted under such contract;

''(II) comply with the methodological standards adopted under paragraph (9) with respect to such research; and

''(III) take into consideration public comments on the study design that are transmitted by the Institute to the agency, instrumentality, or other entity under subsection (i)(1)(B) during the finalization of the study design and transmit responses to such comments to the Institute, which will publish such comments, responses, and finalized study design in accordance with subsection (i)(3)(A)(iii) prior to the conduct of such research.

''(iv) COVERAGE OF COPAYMENTS OR COINSURANCE.—A contract entered into under this subparagraph may allow for the coverage of copayments or co-insurance, or allow for other appropriate measures, to the extent that such coverage or other measures are necessary to preserve the validity of a research project, such as in the case where the research project must be blinded.

''(C) REVIEW AND UPDATE OF EVIDENCE.—The Institute shall review and update evidence on a periodic basis, in order to take into account new research and evolving evidence as they become available, as appropriate.

''(D) TAKING INTO ACCOUNT POTENTIAL DIFFERENCES.—Research shall—

''(i) be designed, as appropriate, to take into account the potential for differences in the effectiveness of health care treatments, services, and items as used with various subpopulations, such as racial and ethnic minorities, women, different age groups, and individuals with different comorbidities; and

''(ii) seek to include members of such subpopulations as subjects in the research as feasible and appropriate.

''(3) STUDY AND REPORT ON FEASIBILITY OF CONDUCTING RESEARCH IN-HOUSE.—

''(A) STUDY.—The Institute shall conduct a study on the feasibility of conducting research in-house.

''(B) REPORT.—Not later than 5 years after the date of enactment of this section, the Institute shall submit a report to Congress containing the results of the study conducted under subparagraph (A).

''(4) DATA COLLECTION.—

''(A) IN GENERAL.—The Secretary shall, with appropriate safeguards for privacy, make available to the Institute such data collected by the Centers for Medicare & Medicaid Services under the programs under titles XVIII, XIX, and XXI as the Institute may require to carry out this section. The Institute may also request and, if such request is granted, obtain data from Federal, State, or private entities.

''(B) USE OF DATA.—The Institute shall only use data provided to the Institute under subparagraph (A) in accordance with laws and regulations governing the release and use of such data, including applicable confidentiality and privacy standards.

''(5) APPOINTING ADVISORY PANELS.—

''(A) IN GENERAL.—The Institute may appoint permanent or ad hoc advisory panels as determined appropriate by the Institute to assist in the establishment and carrying out of the research project agenda under paragraphs (1) and (2), respectively. Panels may advise or guide the Institute in matters such as identifying gaps in and updating medical evidence and identifying research priorities and potential study designs in order to ensure that the information produced from such research is clinically relevant to decisions made by clinicians and patients at the point of care and may provide advice throughout the conduct of research.

''(B) COMPOSITION.—An advisory panel appointed under subparagraph (A) shall include representatives of clinicians and patients and may include experts in scientific and health services research, health services delivery, and the manufacture of health items who have experience in the relevant topic, project, or category for which the panel is established.

''(6) ESTABLISHING METHODOLOGY COMMITTEE.—

''(A) IN GENERAL.—The Institute shall establish a standing methodology committee to carry out the functions described in subparagraph (C).

''(B) APPOINTMENT AND COMPOSITION.—Members shall be appointed to the methodology committee established under subparagraph (A) by the Comptroller General of the United States. Members appointed to the methodology committee shall be experts in their scientific field, such as health services research, clinical research, comparative effectiveness research, biostatistics, and research methodologies. Stakeholders with such expertise may be appointed to the methodology committee.

''(C) FUNCTIONS.—Subject to subparagraph (D), the methodology committee shall work to develop and improve the science of comparative effectiveness research by undertaking the following activities:

''(i) Not later than 1 year after the date on which the members of the methodology committee are appointed under subparagraph (B), developing and periodically updating methodological standards regarding outcomes measures, risk adjustment, statistical protocols, evaluation of evidence, conduct of research, and other aspects of research and assessment to be used when conducting research on comparative clinical effectiveness (and procedures for the use of such standards) in order to help ensure accurate and effective comparisons. Such standards shall also include methods by which new information, data, or advances in technology are considered and incorporated into ongoing research projects by the Institute, as appropriate. In developing and updating methodological standards under this clause, the methodology committee shall ensure that such standards are scientifically based.

''(ii) Not later than 5 years after such date, examining the following:

''(I) Methods by which various aspects of the health care delivery system (such as benefit design and performance, and health services organization, management, and delivery) could be assessed and compared for their relative effectiveness, benefits, risks, advantages, and disadvantages in a scientifically valid and standardized way.

''(II) Methods by which cost-effectiveness and value could be assessed in a scientifically valid and standardized way.

''(D) CONSULTATION AND CONDUCT OF EXAMINATIONS.—

''(i) IN GENERAL.—Subject to clause (iii), in undertaking the activities described in subparagraph (C), the methodology committee shall—

''(I) consult or contract with 1 or more of the entities described in clause (ii); and

''(II) consult with stakeholders and other entities knowledgeable in relevant fields, as appropriate.

''(ii) ENTITIES DESCRIBED.—The following entities are described in this clause:

''(I) The Institute of Medicine of the National Academies.

''(II) The Agency for Healthcare Research and Quality.

''(III) The National Institutes of Health.

''(iii) CONDUCT OF EXAMINATIONS.—The methodology committee shall contract with the Institute of Medicine of the National Academies for the conduct of the examinations described in subclauses (I) and (II) of subparagraph (C)(ii).

''(E) REPORTS.—The methodology committee shall submit reports to the Board on the committee's performance of the functions described in subparagraph (C). Reports submitted under the preceding sentence with respect to the functions described in clause (i) of such subparagraph shall contain recommendations—

''(i) for the Institute to adopt methodological standards developed and updated by the methodology committee under such subparagraph; and

''(ii) for such other action as the methodology committee determines is necessary to comply with such methodological standards.

''(7) PROVIDING FOR A PEER-REVIEW PROCESS.—

''(A) IN GENERAL.—The Institute shall ensure that there is a process for peer review of the research conducted under this section. Under such process—

''(i) evidence from research conducted under this section shall be reviewed to assess scientific integrity and adherence to methodological standards adopted under paragraph (9); and

''(ii) a list of the names of individuals contributing to any peer-review process during the preceding year or years shall be made public and included in annual reports in accordance with paragraph (11)(D).

''(B) COMPOSITION.—Such peer-review process shall have been designed in a manner so as to avoid bias and conflicts of interest on the part of the reviewers and shall be composed of experts in the scientific field relevant to the research under review.

''(C) USE OF EXISTING PROCESSES.—In the case where the Institute enters into a contract or other agreement with another entity for the conduct or management of research under this section, the Institute may utilize the peer-review process of such entity if such process meets the requirements under subparagraphs (A) and (B).

''(8) DISSEMINATION OF RESEARCH FINDINGS.—

''(A) IN GENERAL.—The Institute shall disseminate research findings to clinicians, patients, and the general public in accordance with the dissemination protocols and strategies adopted under paragraph (9). Research findings disseminated—

''(i) shall convey findings of research so that they are comprehensible and useful to patients and providers in making health care decisions;

''(ii) shall discuss findings and other considerations specific to certain subpopulations, risk factors, and comorbidities, as appropriate;

''(iii) shall include considerations such as limitations of research and what further research may be needed, as appropriate;

''(iv) shall not include practice guidelines or policy recommendations; and

''(v) shall not include any data the dissemination of which would violate the privacy of research participants or violate any confidentiality agreements made with respect to the use of data under this section.

''(B) DISSEMINATION PROTOCOLS AND STRATEGIES.—The Institute shall develop protocols and strategies for the appropriate dissemination of research findings in order to ensure effective communication of such findings and the use and incorporation of such findings into relevant activities for the purpose of informing higher quality and more effective and efficient decisions regarding medical treatments, services, and items. In developing and adopting such protocols and strategies, the Institute shall consult with stakeholders concerning the types of dissemination that will be most useful to the end users of the information and may provide for the utilization of multiple formats for conveying findings to different audiences.

''(C) DEFINITION OF RESEARCH FINDINGS.—In this paragraph, the term 'research findings' means the results of a study, appraisal, or assessment.

''(9) ADOPTION.—Subject to subsection (i)(1)(A)(i), the Institute shall adopt the national priorities identified under paragraph (1)(A), the research project agenda established under paragraph (1)(B), the methodological standards developed and updated by the methodology committee under paragraph (6)(C)(i), any peer-review process provided under paragraph (7), and dissemination protocols and strategies developed under paragraph (8)(B) by majority vote. In the case where the Institute does not adopt such national priorities, research project agenda, methodological standards, peer-review process, or dissemination protocols and strategies in accordance with the preceding sentence, the national priorities, research project agenda, methodological standards, peer-review process, or dissemination protocols and strategies shall be referred to the appropriate staff or entity within the Institute (or, in the case of the methodological standards, the methodology committee) for further review.

''(10) COORDINATION OF RESEARCH AND RESOURCES AND BUILDING CAPACITY FOR RESEARCH.—

''(A) COORDINATION OF RESEARCH AND RESOURCES.—The Institute shall coordinate research conducted, commissioned, or otherwise funded under this section with comparative clinical effectiveness and other relevant research and related efforts conducted by public and private agencies and organizations in order to ensure the most efficient use of the Institute's resources and that research is not duplicated unnecessarily.

''(B) BUILDING CAPACITY FOR RESEARCH.—The Institute may build capacity for comparative clinical effectiveness research and other relevant research and related efforts through appropriate activities, such as making payments, up to 5 percent of the amounts appropriated or credited to the CERTF under section 9511(b) of the Internal Revenue Code of 1986 with respect to the fiscal year, to The Cochrane Collaboration (or a successor organization) to support the infrastructure of The Cochrane Collaboration (or a successor

organization) or to provide for sets of reviews related to a particular topic or associated with a particular review group.

''(C) INCLUSION IN ANNUAL REPORTS.—The Institute shall report on any coordination and capacity building conducted under this paragraph in annual reports in accordance with paragraph (11)(E).

''(11) ANNUAL REPORTS.—The Institute shall submit an annual report to Congress and the President, and shall make the annual report available to the public. Such report shall contain—

''(A) a description of the activities conducted under this section during the preceding year, including the use of amounts appropriated or credited to the CERTF under section 9511(b) of the Internal Revenue Code of 1986 to carry out this section, research projects completed and underway, and a summary of the findings of such projects;

''(B) the research project agenda and budget of the Institute for the following year;

''(C) a description of research priorities identified under paragraph (1)(A), dissemination protocols and strategies developed by the Institute under paragraph (8)(B), and methodological standards developed and updated by the methodology committee under paragraph (6)(C)(i) that are adopted under paragraph (9) during the preceding year;

''(D) the names of individuals contributing to any peer-review process provided under paragraph (7) during the preceding year or years, in a manner such that those individuals cannot be identified with a particular research project; and

''(E) a description of efforts by the Institute under paragraph (10) to—

''(i) coordinate the research conducted, commissioned, or otherwise funded under this section and the resources of the Institute with research and related efforts conducted by other private and public entities; and

''(ii) build capacity for comparative clinical effectiveness research and other relevant research and related efforts through appropriate activities.

''(F) any other relevant information (including information on the membership of the Board, advisory panels appointed under paragraph (5), the methodology committee established under paragraph (6), and the executive staff of the Institute, any conflicts of interest with respect to the members of such Board, advisory panels, and methodology committee, or with respect to any individuals selected for employment as executive staff of the Institute, and any bylaws adopted by the Board during the preceding year).

''(e) ADMINISTRATION.—

''(1) IN GENERAL.—Subject to paragraph (2), the Board shall carry out the duties of the Institute.

''(2) NONDELEGABLE DUTIES.—The activities described in subsections (b)(3)(D), (d)(1), and (d)(9) are nondelegable.

''(f) BOARD OF GOVERNORS.—

''(1) IN GENERAL.—The Institute shall have a Board of Governors, which shall consist of the following members:

''(A) The Secretary of Health and Human Services (or the Secretary's designee).

''(B) The Director of the Agency for Healthcare Research and Quality (or the Director's designee).

''(C) The Director of the National Institutes of Health (or the Director's designee).

''(D) 18 members appointed by the Comptroller General of the United States not later than 6 months after the date of enactment of this section, as follows:

''(i) 3 members representing patients and health care consumers.

''(ii) 3 members representing practicing physicians, including surgeons.

''(iii) 3 members representing agencies that administer public programs, as follows:

''(I) 1 member representing the Centers for Medicare & Medicaid Services who has experience in administering the program under title XVIII.

''(II) 1 member representing agencies that administer State health programs (who may represent the Centers for Medicare & Medicaid Services and have experience in administering the program under title XIX or the program under title XXI or be a governor of a State).

''(III) 1 member representing agencies that administer other Federal health programs (such as a health program of the Department of Defense under chapter 55 of title 10, United States Code, the Federal employees health benefits program under chapter 89 of title 5 of such Code, a health program of the Department of Veterans Affairs under chapter 17 of title 38 of such Code, or a medical care program of the Indian Health Service or of a tribal organization).

''(iv) 3 members representing private payers, of whom at least 1 member shall represent health insurance issuers and at least 1 member shall represent employers who self-insure employee benefits.

''(v) 3 members representing pharmaceutical, device, and technology manufacturers or developers.

''(vi) 1 member representing nonprofit organizations involved in health services research.

''(vii) 1 member representing organizations that focus on quality measurement and improvement or decision support.

''(viii) 1 member representing independent health services researchers.

''(2) QUALIFICATIONS.—

''(A) DIVERSE REPRESENTATION OF PERSPECTIVES.—The Board shall represent a broad range of perspectives and collectively have scientific expertise in clinical health sciences research, including epidemiology, decisions sciences, health economics, and statistics.

''(B) CONFLICTS OF INTEREST.—

''(i) IN GENERAL.—In appointing members of the Board under paragraph (1)(D), the Comptroller General of the United States shall take into consideration any conflicts of interest of potential appointees. Any conflicts of interest of members appointed to the Board under paragraph (1) shall be disclosed in accordance with subsection (i)(4)(B).

''(ii) RECUSAL.—A member of the Board shall be recused from participating with respect to a particular research project or other matter considered by the Board in carrying out its research project agenda under subsection (d)(2) in the case where the member (or an immediate family member of such member) has a financial or personal interest directly related to the research project or the matter that could affect or be affected by such participation.

''(3) TERMS.—

''(A) IN GENERAL.—A member of the Board appointed under paragraph (1)(D) shall be appointed for a term of 6 years, except with respect to the members first appointed under such paragraph—

''(i) 6 shall be appointed for a term of 6 years;

''(ii) 6 shall be appointed for a term of 4 years; and

''(iii) 6 shall be appointed for a term of 2 years.

''(B) LIMITATION.—No individual shall be appointed to the Board under paragraph (1)(D) for more than 2 terms.

''(C) EXPIRATION OF TERM.—Any member of the Board whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

''(D) VACANCIES.—

''(i) IN GENERAL.—Any member appointed to fill a vacancy prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

''(ii) VACANCIES NOT TO AFFECT POWER OF BOARD.—A vacancy on the Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

''(4) CHAIRPERSON AND VICE-CHAIRPERSON.—

''(A) IN GENERAL.—The Comptroller General of the United States shall designate a Chairperson and Vice-Chairperson of the Board from among the members of the Board appointed under paragraph (1)(D).

''(B) TERM.—The members so designated shall serve as Chairperson and Vice-Chairperson of the Board for a period of 3 years.

''(5) COMPENSATION.—

''(A) IN GENERAL.—A member of the Board shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(B) TRAVEL EXPENSES.—While away from home or regular place of business in the performance of duties for the Board, each member of the Board may receive reasonable travel, subsistence, and other necessary expenses.

''(6) DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.—The Board may—

''(A) employ and fix the compensation of an executive director and such other personnel as may be necessary to carry out the duties of the Institute;

''(B) seek such assistance and support as may be required in the performance of the duties of the Institute from appropriate departments and agencies of the Federal Government;

''(C) enter into contracts or make other arrangements and make such payments as may be necessary for performance of the duties of the Institute;

''(D) provide travel, subsistence, and per diem compensation for individuals performing the duties of the Institute, including members of any advisory panel appointed under subsection (d)(5), members of the methodology committee established under subsection (d)(6), and individuals selected to contribute to any peer-review process under subsection (d)(7); and

''(E) prescribe such rules, regulations, and bylaws as the Board determines necessary with respect to the internal organization and operation of the Institute.

''(7) MEETINGS AND HEARINGS.—The Board shall meet and hold hearings at the call of the Chairperson or a majority of its members. In the case where the Board is meeting on matters not related to personnel, Board meetings shall be open to the public and advertised.

''(8) QUORUM.—A majority of the members of the Board shall constitute a quorum for purposes of conducting the duties of the Institute, but a lesser number of members may meet and hold hearings.

''(g) FINANCIAL OVERSIGHT.—

''(1) CONTRACT FOR AUDIT.—The Institute shall provide for the conduct of financial audits of the Institute on an annual basis by a private entity with expertise in conducting financial audits.

''(2) REVIEW OF AUDIT AND REPORT TO CONGRESS.—The Comptroller General of the United States shall—

''(A) review the results of the audits conducted under paragraph (1); and

''(B) submit a report to Congress containing the results of such audits and review.

''(h) GOVERNMENTAL OVERSIGHT.—

''(1) REVIEW AND REPORTS.—

''(A) IN GENERAL.—The Comptroller General of the United States shall review the following:

''(i) Processes established by the Institute, including those with respect to the identification of research priorities under subsection (d)(1)(A) and the conduct of research projects under this section. Such review shall determine whether information produced by such research projects—

''(I) is objective and credible;

''(II) is produced in a manner consistent with the requirements under this section; and

''(III) is developed through a transparent process.

''(ii) The overall effect of the Institute and the effectiveness of activities conducted under this section, including an assessment of—

''(I) the utilization of the findings of research conducted under this section by health care decision makers; and

''(II) the effect of the Institute and such activities on innovation and on the health economy of the United States.

''(B) REPORTS.—Not later than 5 years after the date of enactment of this section, and not less frequently than every 5 years thereafter, the Comptroller General of the United States shall submit a report to Congress containing the results of the review conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

''(2) FUNDING ASSESSMENT.—

''(A) IN GENERAL.—The Comptroller General of the United States shall assess the adequacy and use of funding for the Institute and activities conducted under this section under the CERTF under section 9511 of the Internal Revenue Code of 1986. Such assessment shall include a determination as to whether, based on the utilization of findings by public and private payers, each of the following are appropriate sources of funding for the Institute, including a determination of whether such sources of funding should be continued or adjusted:

''(i) The transfer of funds from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 to the CERTF under section 1182.

''(ii) The amounts appropriated under subparagraphs (A), (B), (C), (D)(ii), and (E)(ii) of subsection (b)(1) of such section 9511.

''(iii) Private sector contributions under subparagraphs (D)(i) and (E)(i) of such subsection (b)(1).

''(B) REPORT.—Not later than 8 years after the date of enactment of this section, the Comptroller General of the United States shall submit a report to Congress containing the results of the assessment conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

''(i) ENSURING TRANSPARENCY, CREDIBILITY, AND ACCESS.—The Institute shall establish procedures to ensure that the following requirements for ensuring transparency, credibility, and access are met:

''(1) PUBLIC COMMENT PERIODS.—

''(A) IN GENERAL.—The Institute shall provide for a public comment period of not less than 30 and not more than 60 days at the following times:

''(i) Prior to the adoption of the national priorities identified under subsection (d)(1)(A), the research project agenda established under subsection (d)(1)(B), the methodological standards developed and updated by the methodology committee under subsection (d)(6)(C)(i), the peer-review process generally provided under subsection (d)(7), and dissemination protocols and strategies developed by the Institute under subsection (d)(8)(B) in accordance with subsection (d)(9).

''(ii) Prior to the finalization of individual study designs.

''(B) TRANSMISSION OF PUBLIC COMMENTS ON STUDY DESIGN.—The Institute shall transmit public comments submitted during the public comment period described in subparagraph (A)(ii) to the entity conducting research with respect to which the individual study design is being finalized.

''(2) ADDITIONAL FORUMS.—The Institute shall, in addition to the public comment periods described in paragraph (1)(A), support forums to increase public awareness and obtain and incorporate public feedback through media (such as an Internet website) on the following:

''(A) The identification of research priorities and the establishment of the research project agenda under subparagraphs (A) and (B), respectively, of subsection (d)(1).

''(B) Research findings.

''(C) Any other duties, activities, or processes the Institute determines appropriate.

''(3) PUBLIC AVAILABILITY.—The Institute shall make available to the public and disclose through the official public Internet website of the Institute, and through other forums and media the Institute determines appropriate, the following:

''(A) The process and methods for the conduct of research under this section, including—

''(i) the identity of the entity conducting such research;

''(ii) any links the entity has to industry (including such links that are not directly tied to the particular research being conducted under this section);

''(iii) draft study designs (including research questions and the finalized study design, together with public comments on such study design and responses to such comments);

''(iv) research protocols (including measures taken, methods of research, methods of analysis, research results, and such other information as the Institute determines appropriate);

''(v) the identity of investigators conducting such research and any conflicts of interest of such investigators; and

''(vi) any progress reports the Institute determines appropriate.

''(B) Public comments submitted during each of the public comment periods under paragraph (1)(A).

''(C) Bylaws, processes, and proceedings of the Institute, to the extent practicable and as the Institute determines appropriate.

''(D) Not later than 90 days after receipt by the Institute of a relevant report or research findings, appropriate information contained in such report or findings.

''(4) CONFLICTS OF INTEREST.—The Institute shall—

''(A) in appointing members to an advisory panel under subsection (d)(5) and the methodology committee under subsection (d)(6), and in selecting individuals to contribute to any peer-review process under subsection (d)(7) and for employment as executive staff of the Institute, take into consideration any conflicts of interest of potential appointees, participants, and staff; and

''(B) include a description of any such conflicts of interest and conflicts of interest of Board members in the annual report under subsection (d)(11), except that, in the case of individuals contributing to any such peer review process, such description shall be in a manner such that those individuals cannot be identified with a particular research project.

''(j) RULES.—

''(1) GIFTS.—The Institute, or the Board and staff of the Institute acting on behalf of the Institute, may not accept gifts, bequeaths, or donations of services or property.

''(2) ESTABLISHMENT AND PROHIBITION ON ACCEPTING OUTSIDE FUNDING OR CONTRIBUTIONS.—The Institute may not—

''(A) establish a corporation other than as provided under this section; or

''(B) accept any funds or contributions other than as provided under this part.

''(k) RULES OF CONSTRUCTION.—

''(1) COVERAGE.—Nothing in this section shall be construed—

''(A) to permit the Institute to mandate coverage, reimbursement, or other policies for any public or private payer; or

''(B) as preventing the Secretary from covering the routine costs of clinical care received by an individual entitled to, or enrolled for, benefits under title XVIII, XIX, or XXI in the case where such individual is participating in a clinical trial and such costs would otherwise be covered under such title with respect to the beneficiary.

''(2) REPORTS AND FINDINGS.—None of the reports submitted under this section or research findings disseminated by the Institute shall be construed as mandates, guidelines, or recommendations for payment, coverage, or treatment.

''TRUST FUND TRANSFERS TO COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND

''SEC. 1182. (a) IN GENERAL.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841, in proportion (as estimated by the Secretary) to the total expenditures during such fiscal year that are made under title XVIII from the respective trust fund, to the Comparative Effectiveness Research Trust Fund (referred to in this section as the 'CERTF') under section 9511 of the Internal Revenue Code of 1986, the following:

''(1) For fiscal year 2012, an amount equal to 50 cents multiplied by the average number of individuals entitled to benefits under part A, or enrolled under part B, of title XVIII during such fiscal year.

''(2) For each of fiscal years 2013, 2014, 2015, 2016, 2017, and 2018, an amount equal to $1 multiplied by the average number of individuals entitled to benefits under part A, or enrolled under part B, of title XVIII during such fiscal year.

''(b) ADJUSTMENTS FOR INCREASES IN HEALTH CARE SPENDING.—In the case of any fiscal year beginning after September 30, 2013, the dollar amount in effect under subsection (a)(2) for such fiscal year shall be equal to the sum of such dollar amount for the previous fiscal year (determined after the application of this subsection), plus an amount equal to the product of—

''(1) such dollar amount for the previous fiscal year, multiplied by

''(2) the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.''.

(b) COORDINATION WITH PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Section 1889(a) of the Social Security Act (42 U.S.C. 1395zz(a)) is amended by inserting ''and to enhance the understanding of and utilization by providers of services and suppliers of research findings disseminated by the Health Care Comparative Effectiveness Research Institute established under section 1181'' before the period at the end.

(c) COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND; FINANCING FOR TRUST FUND.—

(1) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to establishment of trust funds) is amended by adding at the end the following new section:

**"SEC. 9511. COMPARATIVE EFFECTIVENESS RESEARCH TRUST FUND.**

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Comparative Effectiveness Research Trust Fund' (hereafter in this section referred to as the 'CERTF'), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

''(b) TRANSFERS TO FUND.—

''(1) APPROPRIATION.—There are hereby appropriated to the Trust Fund the following:

''(A) For fiscal year 2009, $5,000,000.

''(B) For fiscal year 2010, $25,000,000.

''(C) For fiscal year 2011, $75,000,000.

''(D) For fiscal year 2012—

''(i) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

''(ii) $75,000,000.

''(E) For each of fiscal years 2013, 2014, 2015, 2016, 2017, and 2018—

''(i) an amount equivalent to the net revenues received in the Treasury from the fees imposed under subchapter B of chapter 34 (relating to fees on health insurance and self-insured plans) for such fiscal year; and

''(ii) $75,000,000.

The amounts appropriated under subparagraphs (A), (B), (C), (D)(ii), and (E)(ii) shall be transferred from the general fund of the Treasury, from funds not otherwise appropriated.

''(2) TRUST FUND TRANSFERS.—In addition to the amounts appropriated under paragraph (1), there shall be credited to the CERTF the amounts transferred under section 1182 of the Social Security Act.

''(3) LIMITATION ON TRANSFERS TO CERTF.—No amount may be appropriated or transferred to the CERTF on and after the date of any expenditure from the CERTF which is not an expenditure permitted under this section. The determination of whether an expenditure is so permitted shall be made without regard to—

''(A) any provision of law which is not contained or referenced in this chapter or in a revenue Act, and

''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

''(c) TRUSTEE.—The Secretary of Health and Human Services shall be a trustee of the CERTF.

''(d) EXPENDITURES FROM FUND.—Amounts in the CERTF are available, without further appropriation, to the Health Care Comparative Effectiveness Research Institute established by section 2(a) of the Comparative Effectiveness Research Act of 2008 for carrying out part D of title XI of the Social Security Act (as in effect on the date of enactment of the Comparative Effectiveness Research Act of 2008).

''(e) NET REVENUES.—For purposes of this section, the term 'net revenues' means the amount estimated by the Secretary of the Treasury based on the excess of—

''(1) the fees received in the Treasury under subchapter B of chapter 34, over

''(2) the decrease in the tax imposed by chapter 1 resulting from the fees imposed by such subchapter.

''(f) TERMINATION.—No amounts shall be available for expenditure from the CERTF after September 30, 2018, and any amounts in such Trust Fund after such date shall be transferred to the general fund of the Treasury.''.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:

''Sec. 9511. Comparative Effectiveness Research Trust Fund.''.

(2) FINANCING FOR FUND FROM FEES ON INSURED AND SELF-INSURED HEALTH PLANS.—

(A) GENERAL RULE.—Chapter 34 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

**"Subchapter B—Insured and Self-Insured Health Plans**

''Sec. 4375. Health insurance.
''Sec. 4376. Self-insured health plans.
''Sec. 4377. Definitions and special rules.

**"SEC. 4375. HEALTH INSURANCE.**

''(a) IMPOSITION OF FEE.—There is hereby imposed on each specified health insurance policy for each policy year ending after September 30, 2011, a fee equal to the product of $1 (50 cents in the case of policy years ending during fiscal year 2012) multiplied by the average number of lives covered under the policy.

''(b) LIABILITY FOR FEE.—The fee imposed by subsection (a) shall be paid by the issuer of the policy.

''(c) SPECIFIED HEALTH INSURANCE POLICY.—For purposes of this section:

''(1) IN GENERAL.—Except as otherwise provided in this section, the term 'specified health insurance policy' means any accident or health insurance policy (including a policy under a group health plan) issued with respect to individuals residing in the United States.

''(2) EXEMPTION FOR CERTAIN POLICIES.—The term 'specified health insurance policy' does not include any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

''(3) TREATMENT OF PREPAID HEALTH COVERAGE ARRANGEMENTS.—

''(A) IN GENERAL.—In the case of any arrangement described in subparagraph (B)—

''(i) such arrangement shall be treated as a specified health insurance policy, and

''(ii) the person referred to in such subparagraph shall be treated as the issuer.

''(B) DESCRIPTION OF ARRANGEMENTS.—An arrangement is described in this subparagraph if under such arrangement fixed payments or premiums are received as consideration for any person's agreement to provide or arrange for the provision of accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided.

''(d) ADJUSTMENTS FOR INCREASES IN HEALTH CARE SPENDING.—In the case of any policy year ending in any fiscal year beginning after September 30, 2013, the dollar amount in effect under subsection (a) for such policy year shall be equal to the sum of such dollar amount for policy years ending in the previous fiscal year (determined after the application of this subsection), plus an amount equal to the product of—

''(1) such dollar amount for policy years ending in the previous fiscal year, multiplied by

''(2) the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary of Health and Human Services before the beginning of the fiscal year.

''(e) TERMINATION.—This section shall not apply to policy years ending after September 30, 2018.

**"SEC. 4376. SELF-INSURED HEALTH PLANS.**

''(a) IMPOSITION OF FEE.—In the case of any applicable self-insured health plan for each plan year ending after September 30, 2011, there is hereby imposed a fee equal to $1 (50 cents in the case of plan years ending during fiscal year 2012) multiplied by the average number of lives covered under the plan.

''(b) LIABILITY FOR FEE.—

''(1) IN GENERAL.—The fee imposed by subsection (a) shall be paid by the plan sponsor.

''(2) PLAN SPONSOR.—For purposes of paragraph (1) the term 'plan sponsor' means—

''(A) the employer in the case of a plan established or maintained by a single employer,

''(B) the employee organization in the case of a plan established or maintained by an employee organization,

''(C) in the case of—

''(i) a plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations,

''(ii) a multiple employer welfare arrangement, or

''(iii) a voluntary employees' beneficiary association described in section 501(c)(9),

the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, or

''(D) the cooperative or association described in subsection (c)(2)(F) in the case of a plan established or maintained by such a cooperative or association.

''(c) APPLICABLE SELF-INSURED HEALTH PLAN.—For purposes of this section, the term 'applicable self-insured health plan' means any plan for providing accident or health coverage if—

''(1) any portion of such coverage is provided other than through an insurance policy, and

''(2) such plan is established or maintained—

''(A) by one or more employers for the benefit of their employees or former employees,

''(B) by one or more employee organizations for the benefit of their members or former members,

''(C) jointly by 1 or more employers and 1 or more employee organizations for the benefit of employees or former employees,

''(D) by a voluntary employees' beneficiary association described in section 501(c)(9),

''(E) by any organization described in section 501(c)(6), or

''(F) in the case of a plan not described in the preceding subparagraphs, by a multiple employer welfare arrangement (as defined in section 3(40) of Employee Retirement Income Security Act of 1974), a rural electric cooperative (as defined in section 3(40)(B)(iv) of such Act), or a rural telephone cooperative association (as defined in section 3(40)(B)(v) of such Act).

''(d) ADJUSTMENTS FOR INCREASES IN HEALTH CARE SPENDING.—In the case of any plan year ending in any fiscal year beginning after September 30, 2013, the dollar amount in effect under subsection (a) for such plan year shall be equal to the sum of such dollar amount for plan years ending in the previous fiscal year (determined after the application of this subsection), plus an amount equal to the product of—

''(1) such dollar amount for plan years ending in the previous fiscal year, multiplied by

''(2) the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary of Health and Human Services before the beginning of the fiscal year.

''(e) TERMINATION.—This section shall not apply to plan years ending after September 30, 2018.

**''SEC. 4377. DEFINITIONS AND SPECIAL RULES.**

''(a) DEFINITIONS.—For purposes of this subchapter—

''(1) ACCIDENT AND HEALTH COVERAGE.—The term 'accident and health coverage' means any coverage which, if provided by an insurance policy, would cause such policy to be a specified health insurance policy (as defined in section 4375(c)).

''(2) INSURANCE POLICY.—The term 'insurance policy' means any policy or other instrument whereby a contract of insurance is issued, renewed, or extended.

''(3) UNITED STATES.—The term 'United States' includes any possession of the United States.

''(b) TREATMENT OF GOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—For purposes of this subchapter—

''(A) the term 'person' includes any governmental entity, and

''(B) notwithstanding any other law or rule of law, governmental entities shall not be exempt from the fees imposed by this subchapter except as provided in paragraph (2).

''(2) TREATMENT OF EXEMPT GOVERNMENTAL PROGRAMS.—In the case of an exempt governmental program, no fee shall be imposed under section 4375 or section 4376 on any covered life under such program.

''(3) EXEMPT GOVERNMENTAL PROGRAM DEFINED.—For purposes of this subchapter, the term 'exempt governmental program' means—

''(A) any insurance program established under title XVIII of the Social Security Act,

''(B) the medical assistance program established by title XIX or XXI of the Social Security Act,

''(C) any program established by Federal law for providing medical care (other than through insurance policies) to individuals (or the spouses and dependents thereof) by reason of such individuals being—

''(i) members of the Armed Forces of the United States, or

''(ii) veterans, and

''(D) any program established by Federal law for providing medical care (other than through insurance policies) to members of Indian tribes (as defined in section 4(d) of the Indian Health Care Improvement Act).

''(c) TREATMENT AS TAX.—For purposes of subtitle F, the fees imposed by this subchapter shall be treated as if they were taxes.

''(d) NO COVER OVER TO POSSESSIONS.—Notwithstanding any other provision of law, no amount collected under this subchapter shall be covered over to any possession of the United States.''.

(B) CLERICAL AMENDMENTS.—

(i) Chapter 34 of such Code is amended by striking the chapter heading and inserting the following:

**''CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES**

''SUBCHAPTER A. POLICIES ISSUED BY FOREIGN INSURERS

''SUBCHAPTER B. INSURED AND SELF-INSURED HEALTH PLANS

**''Subchapter A—Policies Issued By Foreign Insurers''.**

(ii) The table of chapters for subtitle D of such Code is amended by striking the item relating to chapter 34 and inserting the following new item:

''CHAPTER 34—TAXES ON CERTAIN INSURANCE POLICIES''.

**SEC. 3. GAO REPORT ON NATIONAL COVERAGE DETERMINATIONS PROCESS.**

Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the process for making national coverage determinations (as defined in section 1869(f)(1)(B) of the Social Security Act (42 U.S.C. 1395ff(f)(1)(B)) under the Medicare program under title XVIII of the Social Security Act. Such report shall include a determination whether, in initiating and conducting such process, the Secretary of Health and Human Services has complied with applicable law and regulations, including requirements for consultation with appropriate outside experts, providing appropriate notice and comment opportunities to the public, and making information and data (other than proprietary data) considered in making such determinations available to the public and to nonvoting members of any advisory committees established to advise the Secretary with respect to such determinations.

Mr. CONRAD. Mr. President, today I join my good friend and colleague, Senator BAUCUS, in introducing the Comparative Effectiveness Research Act of 2008. This proposal is the product of months of careful deliberations regarding the best way to expand the quality and quantity of evidence available to health consumers about the comparative clinical effectiveness of health care services and treatments. We have met with dozens of key stakeholders and thought leaders to discuss various aspects of this legislation. I am proud of the result. This legislation lays the groundwork for improving health care outcomes, enhancing patient safety, and reducing overall health care costs in the long-run.

As chairman of the Senate Budget Committee, I am acutely aware of the long-term budget challenges facing our nation. Health care spending is growing at an unsustainable rate. Although demographic changes associated with the retirement of the baby boom generation contribute to this spending growth, the most significant factor is growth in health care costs in excess of per capita GDP growth. According to Congressional Budget Office projections, by 2050, Medicare and Medicaid spending alone will consume 12 percent of our Nation's gross domestic product.

But excess growth in per capita health care costs is not just a challenge for Federal health spending and the federal budget. If we continue on the current trajectory, the private sector will also be overwhelmed by rising health care costs. In fact, total health care spending is projected to grow from about 16 percent of GDP in 2007—which is far higher than in other industrialized countries—to more than 37 percent of GDP in 2050.

Clearly, we need to address the underlying causes of rising health care costs, not just in the Medicare and Medicaid programs, but in the overall health care system. Simply cutting Medicare and Medicaid without making other changes will do little to solve the larger problem we face. As GAO Comptroller General David Walker pointed out in testimony before the House Budget Committee, in 2005, ''[F]ederal health spending trends should not be viewed in isolation from the health care system as a whole . . . . Rather, in order to address the long-term fiscal challenge, it will be necessary to find approaches that deal with health care cost growth in the overall health care system.''

A key problem we must confront is that our health care system does not deliver care as efficiently or effectively as it should. In fact, the United States spends far more on health expenditures as a percent of GDP than any other country in the Organization for Economic Cooperation and Development. For example, the United States spent 16 percent of GDP on health expenditures in 2006, compared to 9 percent in Italy. And the disparity is even starker today. Despite this additional health care spending, health outcomes in the United States are no better than health outcomes in the other OECD countries. In fact, by some measures, they are worse.

We can and must find ways to deliver health care more efficiently, reduce ineffective or unnecessary care, and get better health outcomes without harming patients.

One solution is to generate better information about the relative effectiveness of alternative health strategies—and encourage patients and providers to use that information to make better choices about their health. Many newer, more expensive health care services and treatments are absorbed quickly into routine medical care—yet there is little evidence that these services and treatments are any more clinically effective than existing treatments and services.

The Federal Government currently funds some comparative effectiveness research through the Agency for Healthcare Research and Quality. The Effective Health Care Program has been a successful initiative, and we commend AHRQ for its work, but comparative effectiveness research is not the primary focus of any federal agency—nor is this federal funding occurring on a large-scale. The Congressional Budget Office, CBO, the Medicare Payment Advisory Commission, MedPAC, and the Institute of Medicine, IOM, have all discussed the positive impact of creating a new entity charged solely with conducting research on the comparative effectiveness of health interventions, including pharmaceuticals, medical devices, medical procedures, diagnostic tools, medical services and other therapies.

In its June 2007 report to Congress, MedPAC issued a unanimous recommendation that ''Congress should charge an independent entity to sponsor credible research on comparative effectiveness of health care services and disseminate this information to patients, providers, and public and private payers.''

And the Congressional Budget Office agrees. In a recent report, entitled, ''Research on the Comparative Effectiveness of Medical Treatments: Issues and Options for an Expanded Federal

Role,'' CBO Director Peter Orszag wrote that, ''generating better information about the costs and benefits of different treatment options—through research on the comparative effectiveness of those options—could help reduce health care spending without adversely affecting health overall.''

The IOM also supports getting better information into the hands of patients and providers. As part of its report, ''Learning What Works Best: The Nation's Need for Evidence on Comparative Effectiveness in Health Care,'' the Institute concluded that,

> ''[A] SUBSTANTIALLY INCREASED CAPACITY TO CONDUCT AND EVALUATE RESEARCH ON CLINICAL EFFECTIVENESS OF INTERVENTIONS BRINGS MANY POTENTIAL OPPORTUNITIES FOR IMPROVEMENT ACROSS A WIDE SPECTRUM OF HEALTHCARE NEEDS.''

This bill that Senator BAUCUS and I are introducing today represents an important step in expanding comparative effectiveness research. The bill would significantly expand the conduct of comparative clinical effectiveness research to get better information into the hands of patients and providers in the hopes of improving health outcomes and reducing unnecessary or ineffective care.

The purpose of this bill is to provide health care providers and patients with objective and credible evidence about which health care treatments, services, and items are most clinically effective for particular patient populations. The research conducted under our bill would evaluate and compare the clinical effectiveness of two or more health care interventions, treatment protocols, procedures, medical devices, diagnostic tools, pharmaceuticals, and other processes or items used in the treatment or diagnosis of patients. Access to better evidence about what works best will help patients and health care providers make better-informed decisions about how best to treat particular diseases and conditions. Our hope is that the evidence generated by this research could lead to savings in the overall health care system over the long-term by allowing providers to avoid treatments that may be clinically ineffective, while at the same time improving health care outcomes.

Specifically, our bill creates a private, nonprofit corporation, known as the Health Care Comparative Effectiveness Research Institute, which would be responsible for organizing and implementing a national comparative effectiveness research agenda. In conducting the research, the Institute would contract with the Agency for Healthcare Research and Quality, the National Institutes of Health and other appropriate public and private entities and could use a variety of research methods, including clinical trials, observational studies and systematic reviews of existing evidence.

Many thought leaders on this issue, such as the Medicare Payment Advisory Committee, had concerns that a large entity within the Federal Government would be vulnerable to political interference that could hamper the Institute's credibility, and, therefore, limit the usefulness of its research. As a result, we chose a model outside of the Federal Government, but subject to government oversight.

In order to ensure that the information developed is credible and unbiased, our bill establishes a 21-Member Board of Governors to oversee the Institute's activities. Permanent board members would include the Secretary of Health and Human Services and the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, NIH. The remaining 18 board members would be appointed by the Comptroller General of the United States and would include a balanced mix of patients, physicians, drug, device, and technology manufacturers, public and private payers, academic researchers, philanthropic organizations and quality improvement entities.

To ensure further credibility, the Institute is also required to appoint advisory panels of patients, clinicians, and other stakeholders that would assist in the development and carrying out of the research agenda; establish a methodology committee that would help create standards by which all research commissioned by the Institute must be conducted; create a peer review process through which all research findings must be assessed; and develop protocols to help translate and disseminate the evidence in the most effective, user-friendly way.

Moreover, Senator BAUCUS and I want to ensure that the operations of the Institute are transparent. Therefore, we built in a strong role for public comment prior to all key decisions made by the Institute. For example, the bill requires public comment periods prior to the approval of the overall research agenda and the individual study designs. In addition, the bill calls for periodic public forums to seek input, requires that all proceedings of the Institute be made public and available through annual reports, and requires that any conflicts of interest be made public and that board members recuse themselves from matters in which they have a financial or personal interest.

Because all health care users will benefit from this research, our legislation funds the Institute with contributions from both public and private payers. These contributions will include mandatory general revenues from the Federal Government, amounts from the Medicare Trust Funds equal to $1 per beneficiary annually, and amounts from a $1 fee per-covered life assessed annually on insured and self-insured health plans. Funding will ramp up over a series of years. By the fifth year, we expect the Institute's total annual funding to exceed $300 million per year and continue to grow thereafter.

The concept of an all-payer approach for comparative effectiveness research has been embraced by a number of health care experts. For example, on the subject of comparative effectiveness information in its June 2008 report, MedPAC stated: ''The Commission supports funding from federal and private sources as the research findings will benefit all users—patients, providers, private health plans, and federal health programs. The Commission also supports a dedicated funding mechanism to help ensure the entity's independence and stability. Dedicated broadly based financing would reduce the likelihood of outside influence and would best ensure the entity's stability . . .''

To ensure accountability for these funds and to the Institute's mission, our bill requires an annual financial audit of the Institute. In addition, the bill requires GAO to report to Congress every five years on the processes developed by the Institute and its overall effectiveness, including how the research findings are used by health care consumers and what impact the research is having on the health economy. Finally, the bill requires a review after eight years of the adequacy of the Institute's funding, which will include a review of the appropriateness and adequacy of each funding source.

Let me take a moment to address some of the criticisms that might be levied against this proposal. Some may say this Institute will impede access to care and will deny coverage for high-cost health care services. That is not the case. Our proposal explicitly prohibits the Institute from making coverage decisions or setting practice guidelines. It will be up to specialty societies and patient groups to use the research findings as they see fit. Moreover, to the extent that high-cost health care services or new technologies are studied by the Institute and found to be clinically ineffective compared to other services and technologies, such evidence will be made public to consumers and providers so that they can make the best possible health care decisions. Other critics may claim that this proposal will result in one-size-fits-all approach to comparative clinical effectiveness research. We recognize that different health care treatments may have different levels of effectiveness for different subpopulations. That is why our bill requires that the Institute's research be designed, as appropriate, to take into account the potential differences in the effectiveness of health care services as used with various subpopulations, such as women, racial and ethnic minorities, different age groups, and individuals with different comorbidities.

This bill is a balanced, carefully crafted proposal that has taken into consideration the recommendations of a broad range of stakeholders and thought-leaders. We welcome further discussion and suggested improvements. But we refuse to allow this proposal to get bogged down in political

maneuvering or scare tactics. Our nation needs to ramp up comparative effectiveness research immediately to improve health outcomes and reduce ineffective and inefficient care.

Senator BAUCUS and I will work jointly to push for the expeditious enactment of this bill. I urge all of my colleagues to join our effort and cosponsor the Comparative Effectiveness Research Act of 2008. There is no time to waste.

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By Mr. REID (for Mr. KENNEDY (for himself and Mr. GRASSLEY)):

S. 3409. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure the safety and quality of medical products and enhance the authorities of the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President, as Ranking Member of the Senate Finance Committee, I view my role as working to ensure the safety and well-being of the more than 80 million Americans who are beneficiaries of the Medicare and Medicaid programs. These programs spend a lot of taxpayers' money on prescription drugs and medical devices, and that money should be spent on drugs and devices that are safe and effective.

Over the last four years I have conducted extensive oversight of the Food and Drug Administration. I have reviewed and questioned how the FDA handles the pre-market review and post-market surveillance of drugs, biologics, devices and veterinary medicines to assess whether or not the agency is fulfilling its mission to protect the public health. As a result of my oversight activities, I identified serious problems at the FDA that included the quashing of scientific opinion within the agency, delays in informing the public of emerging safety problems, too cozy a relationship between the FDA and the industries it is supposed to regulate, and a failure to be adequately transparent and accountable to the public.

Last year, when the Senate Health, Education, Labor, and Pensions Committee and the House Energy and Commerce Committee were working on FDA legislation, I encouraged them to take that opportunity to reform, improve, and re-establish the FDA as the gold standard for drug safety. I believed the FDA needed additional tools, resources, and authorities to do its work.

The Congress passed the Food and Drug Administration Amendments Act last September. While we did not fix a fundamental problem at the FDA that's been shown through my investigations over the last few years, the new legislation did provide additional tools in FDA's toolbox to better protect the American people. It was a positive step toward restoring the public's trust in the FDA.

Today, I am here to talk about another FDA bill. Last summer, I started examining FDA's program for inspection of foreign pharmaceutical manufacturing plants. I expressed concerns to the FDA regarding, among other things, inspection funding, emerging exporters, and weaknesses in the inspection process.

An increasing amount of the drugs and active pharmaceutical ingredients (API) Americans use are being manufactured in foreign countries. Yet, as reported by the Government Accountability Office in November 2007, the Food and Drug Administration does not know how many foreign establishments are subject to inspection and the agency conducts relatively few inspections each year.

From fiscal year 2002 through fiscal year 2007, the FDA conducted fewer than 1,400 inspections of foreign pharmaceutical facilities, often focused in countries with few reported quality concerns. In China, the world's largest producer of active pharmaceutical ingredients, and where export safety appears to be a growing problem, only 11 inspections were conducted during FY 2007, compared to 14 in Switzerland, 18 in Germany, and 24 in France, all countries with advanced regulatory infrastructures. I was troubled by these numbers.

Then came the wake-up call in January of this year. FDA announced that Baxter International Inc. temporarily suspended production of its blood thinner heparin because of an increase in the reports of adverse events that may be associated with its drug. It was discovered that the active ingredient in heparin was contaminated and that the ingredient was produced at a facility in the People's Republic of China. Soon more recalls were announced. After several months, the FDA established a link between the contaminant found in heparin and the serious adverse events seen in patients that were given heparin. FDA's investigation of the source of the contamination highlighted significant weaknesses in oversight of the production and supply chain.

With limited inspection resources, the FDA is charged with ensuring the safety and efficacy of drugs and pharmaceutical ingredients produced in nearly every corner of the globe. To make matters worse, as the FDA's challenges multiply, its resources for foreign inspections are shrinking. It is troubling that the FDA is grossly under-resourced at a time when foreign production of drugs and active pharmaceutical ingredients is growing at record rates. Adding to the difficulty of this task, it appears that many foreign pharmaceutical plants register with the FDA as a means to bolster their own standing and with no intention of exporting products to the United States market.

That is why I am introducing the Drug and Device Accountability Act today with Senator KENNEDY, chairman of the Committee on Health, Education, Labor, and Pensions.

This legislation would augment FDA's resources through the collection of registration and inspection fees. The bill also expands the agency's authority for ensuring the safety of drugs and medical devices, including foreign manufactured drugs and devices, by expanding FDA's authority to inspect foreign manufacturers and importers, allowing the FDA to issue subpoenas, and allowing the FDA to detain a device or drug when its inspectors have reason to believe the product is adulterated or misbranded.

In addition, the bill includes a provision that expands on an amendment I filed last spring to the Senate bill, S. 1082 Food and Drug Administration Revitalization Act. That amendment provided for a certification by drug manufacturers that the information submitted as part of a new drug or supplemental application is accurate.

Under the Drug and Device Accountability Act, individuals responsible for the submission of a drug or device application or a report related to safety or effectiveness would have to certify that the application or report is compliant with applicable regulations and not false or misleading. Civil as well as criminal penalties could be imposed for false or misleading certifications. I believe this is an important provision, especially in light of the troubling findings presented in the Journal of the American Medical Association in April. Based on a review of documents from recent litigation involving the pain medication Vioxx, the authors of those articles concluded that the maker of Vioxx was not forthcoming in its communication with the Food and Drug Administration about the mortality risks seen in clinical trials of Vioxx conducted in patients with Alzheimer disease or cognitive impairment.

Last year, Congress passed legislation that would strengthen FDA's ability to act on emerging safety problems. Now we need legislation that will enhance FDA's oversight of drugs and devices if the Agency is to ensure that America's increasingly foreign-produced drug and device supply is both safe and effective.

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By Mr. AKAKA (for himself, Mr. SCHUMER, Mr. LIEBERMAN, and Mr. INOUYE):

S. 3410. A bill to authorize a grant program to provide for expanded access to mainstream financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

Mr. AKAKA. President, as a member of the Banking Committee, I have worked to improve the financial literacy of our country. My interest in financial literacy dates back to when my fourth grade teacher required me to have a piggy bank. We were made to understand how money saved, a little at a time, can grow into a large amount—enough to buy things that would have been impossible to obtain without savings. My experience with a piggy bank taught me important lessons about money management that

have stayed with me throughout my life. More people need to be taught these important lessons so that they are better able to manage their resources.

Too many Americans lack basic financial literacy. Americans of all ages and backgrounds face increasingly complex financial decisions as members of the nation's workforce, managers of their families' resources, and voting citizens. Many find these decisions confusing and frustrating because they lack the tools necessary that would enable them to make wise, personal choices about their finances.

Without a sufficient understanding of economics and personal finance, individuals will not be able to appropriately manage their finances, effectively evaluate credit opportunities, successfully invest for long-term financial goals in an increasingly complex marketplace, or be able to cope with difficult financial situations. Unfortunately, today too many working families are struggling as they are confronted with increases in energy and food costs or the loss of a job.

It is essential that we work toward improving education, consumer protections, and empowering individuals and families through economic and financial literacy in order to build stronger families, businesses, and communities.

Today I am introducing the Improving Access to Mainstream Financial Institutions Act of 2008. This bill provides economic empowerment and educational opportunities for working families by helping bank the unbanked. It will also encourage the use of mainstream financial institutions for working families that need small loans. I thank my cosponsors, Senators SCHUMER, LIEBERMAN, and INOUYE.

Millions of working families do not have a bank or credit union account. The unbanked rely on alternative financial service providers to obtain cash from checks, pay bills, and send remittances. Many of the unbanked are low- and moderate-income families that can ill afford to have their earnings diminished by reliance on these high-cost and often predatory financial services. In addition, the unbanked are unable to save securely to prepare for the loss of a job, a family illness, a down payment on a first home, or education expenses.

My bill authorizes grants intended to help low- and moderate-income unbanked individuals establish bank or credit union accounts. Providing access to a bank or credit union account can empower families with tremendous financial opportunities. An account at a bank or credit union provides consumers with alternatives to rapid refund loans, check cashing services, and lower cost remittances. In addition, bank and credit union accounts provide access to saving and borrowing services.

Low- and moderate-income individuals are often challenged with a number of barriers that limit their ability to open up and or maintain accounts. Regular checking accounts may be too costly for some consumers unable to maintain minimum balances or unable to afford monthly fees. Poor credit histories may also hinder their ability to open accounts. By providing federal resources for product development, administration, outreach, and financial education, banks and credit unions will be better able to reach out and bank the unbanked.

The second grant program authorized by my legislation provides consumers with a lower cost, short term alternative to payday loans. Payday loans are cash loans repaid by borrowers' postdated checks or borrowers' authorizations to make electronic debits against existing financial accounts. Payday loans often have triple digit interest rates that range from 390 percent to 780 percent when expressed as an annual percentage rate. Loan flipping, which is a common practice, is the renewing of loans at maturity by paying additional fees without any principal reduction. Loan flipping often leads to instances where the fees paid for a payday loan well exceed the principal borrowed. This situation often creates a cycle of debt that is hard to break.

There is a great need for working families to have access to affordable small loans. My legislation would encourage banks and credit unions to develop payday loan alternatives. Consumers who apply for these loans would be provided with financial literacy and educational opportunities. Loans extended to consumers under the grant would be subject to the annual percentage rate promulgated by the National Credit Union Administration's, NCUA, Loan Interest Rates, currently capped at an annual percentage rate of 18 percent. Several credit unions have developed similar products. One example is the Windward Community Federal Credit Union in Kailua, on the island of Oahu, which has developed an affordable alternative to payday loans to help the U.S. Marines and the other members that they serve. I am very proud of the work done by the staff of the Windward Community Federal Credit Union. This program was developed with an NCUA grant. More working families need access to affordable small loans. More needs to be done to encourage mainstream financial service providers to develop affordable small loan products. My legislation will help support the development of affordable credit products at bank and credit unions. Working families would be better off by going to their credit unions and banks, mainstream financial services providers, than payday loan shops.

I will work to enact this legislation so vital to empowering our citizens. In our current, modern, complex economy, not having a bank or credit union account severely hinders the ability of families to improve their financial condition or help them navigate difficult financial circumstances. Instead of borrowing money from payday lenders at outrageous fees, we need to encourage people to utilize their credit unions and banks for affordable small loans. Banks and credit unions have the ability to make the lives of working families better by helping them save, invest, and borrow at affordable rates.

Mr. President I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 3410

*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 ''Improving Access to Mainstream Financial Institutions Act of 2008''.

**SEC. 2. DEFINITIONS.**

In this Act, the following definitions shall apply:

(1) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as the term ''Native Corporation'' under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(2) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).

(3) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(4) LABOR ORGANIZATION.—The term ''labor organization'' means an organization—

(A) in which employees participate;

(B) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work; and

(C) which is described in section 501(c)(5) of the Internal Revenue Code of 1986.

(5) NATIVE HAWAIIAN ORGANIZATION.—The term ''Native Hawaiian organization'' means any organization that—

(A) serves and represents the interests of Native Hawaiians; and

(B) has as a primary and stated purpose, the provision of services to Native Hawaiians.

(6) PAYDAY LOAN.—The term ''payday loan'' means any transaction in which a small cash advance is made to a consumer in exchange for—

(A) the personal check or share draft of the consumer, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

(B) the authorization of the consumer to debit the transaction account or share draft account of the consumer, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(8) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the same meaning as in

section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

**SEC. 3. EXPANDED ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award grants, including multi-year grants, to eligible entities to establish an account in a federally insured depository institution for low- and moderate-income individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section, if such an entity is—

(1) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from taxation under section 501(a) of such Code;

(2) a federally insured depository institution;

(3) an agency of a State or local government;

(4) a community development financial institution;

(5) an Indian tribal organization;

(6) an Alaska Native Corporation;

(7) a Native Hawaiian organization;

(8) a labor organization; or

(9) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(c) EVALUATION AND REPORTS TO CONGRESS.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

**SEC. 4. LOW COST ALTERNATIVES TO PAYDAY LOANS.**

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities to provide low-cost, small loans to consumers that will provide alternatives to more costly, predatory payday loans.

(b) ELIGIBLE ENTITIES.—An entity is eligible to receive a grant under this section if such an entity is—

(1) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(2) a federally insured depository institution;

(3) a community development financial institution; or

(4) a partnership comprised of 1 or more of the entities described in paragraphs (1) through (3).

(c) TERMS AND CONDITIONS.—

(1) PERCENTAGE RATE.—For purposes of this section, an eligible entity that is a federally insured depository institution shall be subject to the annual percentage rate promulgated by the National Credit Union Administration's Loan Interest Rates under part 701 of title 12, Code of Federal Regulations (or any successor thereto), in connection with a loan provided to a consumer pursuant to this section.

(2) FINANCIAL LITERACY AND EDUCATION OPPORTUNITIES.—Each eligible entity awarded a grant under this section shall offer financial literacy and education opportunities, such as relevant counseling services or educational courses, to each consumer provided with a loan pursuant to this section.

(d) EVALUATION AND REPORTS TO CONGRESS.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

**SEC. 5. PROCEDURAL PROVISIONS.**

(a) APPLICATIONS.—A person desiring a grant under section 3 or 4 shall submit an application to the Secretary, in such form and containing such information as the Secretary may require.

(b) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under section 3 or 4 may use not more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

**SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out the grant programs authorized by this Act, to remain available until expended.

**SEC. 7. REGULATIONS.**

The Secretary is authorized to promulgate regulations to implement and administer the grant programs authorized by this Act.

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NATIONAL ASSOCIATION OF
FEDERAL CREDIT UNIONS,
*Arlington, VA, July 29, 2008.*

Hon. DANIEL AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: I am writing on behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association that exclusively represents the interests of our nation's Federal credit unions, to applaud your leadership on working to get low- and moderate-income unbanked individuals into mainstream financial institutions, such as credit unions, and your continued commitment to financial literacy as demonstrated in the Improving Access to Mainstream Financial Institutions Act of 2008.

We believe it is important to help the unbanked set up credit union accounts that will allow these individuals to obtain the products and services that they need, such as lower cost check cashing and remittance services, as well as financial education to encourage savings and thank you for your efforts to help this cause.

Unfortunately, payday lending has also increasingly become a precarious problem for many Americans. People that find themselves in sudden need of a financial boost and individuals unfairly subjected to higher mortgage payments with higher interest rates often rely on payday lenders to help cover their bills. These types of loans can worsen their current financial situation, making the consumer even more dependent than before. Despite our greatest efforts to prevent predatory lending in America, the evidence shows these deceptive practices still occur. Predators continue to target specific communities, such as low-income, minority, elderly and, in recent findings, the men and women of the United States military.

Luckily, credit unions continue to be part of the solution, not the problem. Many credit unions offer alternative loan programs that ensure the safety and financial reprieve that their members need. These loan programs offer consumers small unsecured loans with low interest rates and encourage financial responsibility. We greatly appreciate your continued support of these efforts.

NAFCU appreciates the opportunity to share our thoughts on this legislation and strongly support your dedication to this important matter. Please do not hesitate to contact me or NAFCU's Associate Director of Legislative Affairs, Amanda Slater at 703–522–4770 with any questions that you may have.

Sincerely,

FRED R. BECKER, Jr.,
*President/CEO.*

HAWAII CREDIT UNION LEAGUE,
*Honolulu, HI, July 28, 2008.*

Hon. DANIEL K. AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: On behalf of the Hawaii Credit Union League and its 93 affiliated credit unions representing approximately 811,000 members, I am writing in support of the proposed Improving Access to Mainstream Financial Institutions Act. This bill, which is targeted to assist low- and moderate-income unbanked individuals, would go a long way toward helping underserved people achieve financial stability and independence.

Today's volatile economic climate makes it difficult or even unrealistic for people of modest means to borrow money or open an account at an insured depository institution. This measure would establish grant programs within the Department of the Treasury to assist those who would otherwise be unqualified for banking services. In addition, this measure would provide financial literary education opportunities to those applying for loans. Financial education is an invaluable service that credit unions provide, and this legislation would open more doors to this service.

Please accept our gratitude for introducing legislation to help the unserved residents of our state and nation. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

DENNIS K. TANIMOTO,
*President.*

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COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT,
*Honolulu, HI, July 24, 2008.*

*Re Unbanked and Payday Lending*

Hon. SENATOR DANIEL AKAKA,
*Hart Senate Office Building,*
*Washington, DC.*

ALOHA SENATOR AKAKA: The Council for Native Hawaiian Advancement is a nonprofit network of over 100 Native Hawaiian organizations. Its mission is to enhance the cultural, economic and community development of Native Hawaiians. We achieve our mission through policy advocacy, grant training, consultancy, leadership development and connecting resources to challenges in our communities.

We believe in policies that promote asset building that empowers low and moderate income families to increase financial asset management, home ownership and small business development.

Senator, there is a clear need for intermediary programming that helps low and moderate income families to connect with financial services, including deposit and savings accounts, as well as loan alternatives to high cost payday lending practices.

CNHA has developed asset building products that are moving families to financial self sufficiency. For example, we developed the Homestead Individual Development Accounts (HIDA) that is assisting 30 families to open savings accounts at First Hawaiian Bank, provides financial education and helps low income families to save toward the down payment on a home purchase on Hawaiian trust lands. We also developed the Home Ownership Assistance Program (HOAP), a statewide program of the State of Hawaii, Department of Hawaiian Home Lands to expand the reach and delivery of financial literacy counseling to thousands of families.

Currently, we are in the process of developing a dedicated Earned Income Tax Credit program to assist families in filing for this important tax credit to claim wages they have earned.

We support Federal legislation that will promote further connections between families and banking services, particularly, the ''unbanked''. We also know that payday lending continues to be a detriment to families on the lowest end of the income scale and would support assistance to place alternatives to these loans in the community development marketplace.

Mahalo for your consideration. If we can provide additional information, please contact me at any time at 808.596.8155 or via email at *robinhawaiiancouncil.org*.

Sincerely,

ROBIN PUANANI DANNER,
*President and Chief Executive Officer*.

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HAWAI'I ALLIANCE FOR COMMUNITY-BASED ECONOMIC DEVELOPMENT,
*Honolulu, HI, July 30, 2008*

Re Support for ''Improving Access to Mainstream Financial Institutions Act of 2008''

Hon. DANIEL KAHIKINA AKAKA,
*U.S. Senator for Hawai'i.*

ALOHA SENATOR AKAKA: The Hawai'i Alliance for Community-Based Economic Development (HACBED) is pleased to support the bill titled, ''Improving Access to Mainstream Financial Institutions Act of 2008.''

Hawai'i needs comprehensive public policies to help people build assets. This should include a package of programs, tax incentives, regulatory changes, and other mechanisms to help people earn more, save more, protect hard earned assets, start businesses and become homeowners.

Assets are essential for three reasons:

To have financial security against difficult times; to create economic opportunities for oneself; and to leave a legacy for future generations to have a better life.

This legislation would create the following two grant programs within the Department of Treasury:

1. The first program would authorize grants intended to help low- and moderate-income unbanked individuals to establish bank or credit union accounts.

2. The second program would provide consumers with a lower cost, short term alternative to payday loans as well as financial education.

It is proven that ''banked'' households are better of financially and more likely to build and own assets than their ''unbanked'' counterparts. This bill will authorize grants to assist millions of families to enter the financial mainstream.

Programs that help low- and moderate-income unbanked individuals to establish bank accounts provide families with the opportunity to save and build their assets. Approximately 22 million U.S. households do not have a checking or savings account. These households depend on various high-cost, alternative financial service providers to meet their banking needs, including check-cashing stores, payday lenders, title lenders, rent-to-own stores, and tax preparers. Reliance on these types of financial services undermines a family's ability to survive as they can become trapped in a cycle of debt due to high fees and interest rates. These families' put nearly 13.3 billion dollars toward predatory lending scams annually.

By improving our families' access to mainstream services, we can enhance their financial security and success. Access to savings and checking accounts can provide a foundation for low- and moderate-families to begin accumulating assets. In addition, families are more likely to save for assets such as their children's college education, a home, retirement, and business startup costs. By entering the financial mainstream and having access to financial services, families are also able to establish credit and increase their access to buying power for the purchase of assets.

Payday loans and other financial services with high fees and interest rates undermine families' ability to truly save and build their assets. This bill will provide families with an alternative to payday loans as well as the opportunity to receive financial education.

Check cashing, or payday lending, is a short-term, high-interest loan that has the potential to severely impact consumers. Many consumers are often not aware of the annual percentage rate associated with the fee structure of payday loans causing millions of families to struggle to meet their most basic needs to survive.

It is extremely important to protect hard working families from financial services that are predatory in nature, and stripping them of their hard earned income. Particularly worrisome is the practice of targeting military families. According to the Center for Responsible Lending, active-duty military personnel are three times more likely than civilians to take out a payday loan and one in five active-duty personnel are payday borrowers.

The loans provided to families under the grant in this bill would be subject to the annual percentage rate promulgated by the National Credit Union Administration's (NCUA) Loan Interest Rates, which is currently capped at an annual percentage rate of 18 percent.

Several credit unions have developed similar products to assist families. In Hawai'i, the Windward Community Federal Credit Union has developed an affordable alternative to payday loans to help the Marines and the other members that they serve. This program was developed with an NCUA grant.

This bill will also provide financial education to families that apply for the loans. As the financial market expands and becomes more complex, having a financial education is extremely important for every family. More than ever, financial education can help families navigate the maze of financial services that exist. Providing families with a financial education allows them to have choice and control over their finances so they are able to save and build assets.

We urge the Senate's favorable consideration of this bill that would give millions of low- and moderate-income families the opportunity to successfully enter the financial world.

Mahalo nui loa,

LARISSA MEINECKE,
*Public Policy Associate*.

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By Mr. SANDERS (for himself, Mr. OBAMA, Mrs. CLINTON, Mr. KENNEDY, Mr. BROWN, Ms. MIKULSKI, Mr. CASEY, Mrs. BOXER, Mr. DURBIN, and Mr. INOUYE):

S. 3413. A bill to achieve access to comprehensive primary health care services for all Americans and to improve primary care delivery through an expansion of the community health center and National Health Service Corps programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANDERS. Mr. President, today there is some good news and some bad news. The bad news is that oil is at $123 a barrel and working people are paying $4 for a gallon of gas, and this coming winter residents of the Northeast could be paying over $5 for a gallon of heating oil.

But, there is some good news. Today, the CEOs of ExxonMobil, Shell, BP and ConocoPhillips are celebrating. They're feeling pretty good. And, they have good reason to feel that way.

ExxonMobil reported today that it made over $11.68 billion in profits over the 2nd quarter alone, breaking its own record for the largest quarterly profit of any American company in the history of the world.

But, ExxonMobil is not alone. Shell's 2nd quarter profit jumped by 33 percent to $11.56 billion; and BP's 2nd quarter profit jumped by 28 percent.

As a matter of fact, since George W. Bush and DICK CHENEY have been in office, the five largest oil companies have made over $640 billion in profits. This includes $212 billion for ExxonMobil; $157 billion for Shell; $125 billion for BP; $80 billion for ChevronTexaco; and $66 billion for ConocoPhillips.

Believe it or not, the Big 5 oil companies made more profits during the 2nd quarter, than they did during the entire year of 2002.

Now, with the exception of my Republican friends here in Congress, there are very few people in this country who believe the oil companies give one hoot about the well-being of the American people. Our Republican friends are saying that if we just give these huge oil companies more acres offshore to drill for oil, they will certainly do the right thing, as they always have, for the American people. Let's just trust those big oil companies because they are really staying up day after day, night after night, worrying about the well-being of the American people. That is what their full-page ads in the New York Times and all their ads on television are telling us.

Well, it is good to see there are at least some people in America who believe that. I don't, but apparently my Republican colleagues do.

Let me tell you, big oil companies are so concerned about Americans paying high prices for gas and oil that this is what they are doing with their profits:

In 2005, ExxonMobil gave its CEO, Lee Raymond, a $398 million retirement package—one of the richest compensation packages in corporate history. They weren't going out looking for new land to drill on, they weren't building more refineries, and they weren't working on energy efficiency. They gave their CEO a $398 million retirement package.

In 2006, Occidental Petroleum, gave its CEO, Ray Irani, over $400 million in total compensation.

The situation is so absurd and the greed of the oil companies is so outrageous that these companies are not only giving their executives huge compensation packages during their life here on earth, but they have also created a situation, if you can believe it, where these oil companies have carved out huge corporate payments to the heirs of senior executives if they die in office. I guess this is what happens when you have more money than you know what to do with.

According to the Wall Street Journal, if the CEO of Occidental Petroleum dies in office, his family will get $115 million. The family of the CEO of Nabors Industries, another oil company, would receive $288 million. This would be funny if it were not so pathetic in the sense of the impact this type of spending has on the American people.

Not only are huge oil companies using their record-breaking profits on big compensation benefits for their CEOs, but they are also spending large sums of money buying back their own stock. In other words, when they are making these very large profits, they are not going out drilling for more oil, as our Republican friends are suggesting.

In fact, While Americans are struggling to pay for the skyrocketing price of gasoline; big oil companies are having an entirely different problem. For the past seven years, big oil companies are struggling to figure out what they are going to do with all of their windfall profits.

Let me quote from a headline taken from the front page of the Wall Street Journal way back on July 30 of 2001, ''Pumping Money: Major Oil Companies Struggle to Spend Huge Hoards of Cash.'' According to this 2001 article, ''Royal Dutch/Shell Group said it was pumping out $1.5 million in profit an hour and sitting on more than $11 billion in the bank.'' That was in 2001. Since that time Shell's profits have more than tripled.

On April 18, 2005, Fortune Magazine published an article with the Headline ''Poor Little Rich Company,'' referring to ExxonMobil. According to this article, ''ExxonMobil CEO Lee Raymond, suddenly has a new anxiety: how to spend the windfall wrought by $55 a barrel oil. By the end of April [of 2005], Exxon will have a cash hoard of more than $25 billion. . . . At a time when domestic energy production is declining and drivers are paying a record $2.15 a gallon [remember, this was in 2005], American consumers, not to mention politicians, are likely to start focusing on whether Exxon is spending enough to find oil and gas. While Exxon is returning more money to shareholders via dividends and buying back more of its stock, its spending on drilling and other development activities actually declined in 2004—even though crude prices jumped by a third.'' That was when the price of oil was $55 a barrel and gas was $2.15 a gallon. Today oil is over $123 a barrel and gas is about $4 a gallon.

What is happening today? Big oil companies are spending even more on stock buybacks and CEO compensation and less on trying to produce more oil.

For example, ConocoPhillips recently announced that it plans to give all of the $12 billion in profits it made last year back to shareholders, paying more than $3 billion in dividends and spending the rest to buy back shares of its own stock. To put this in perspective the money that ConocoPhillips is spending on stock buybacks and dividends is enough to reduce the price of gas by 9 cents a gallon throughout the entire United States.

Now, I want my Republican friends to listen closely. They have been saying over and over again that big oil desperately needs all of these windfall profits to drill for more oil.

But, guess what? According to the CEO of ConocoPhillips, James Mulva, ''We like the discipline of the share repurchase. If we find that we have more cash flow, it's not really going to be going toward capital spending.'' In other words, ConocoPhillips won't use their windfall profits to drill for more oil, or invest in renewable energy, or explore for new sources of oil discoveries no matter how much their profits rise.

Overall, since 2005, the five biggest oil companies have made $345 billion in profits and spent over $250 billion buying back stock and paying dividends to shareholders.

Last year, ExxonMobil spent 850 percent more buying back its own stock than it did on capital expenditures in the United States.

The $38 billion in windfall profits that ExxonMobil gave back to shareholders last year could have been used to reduce gas prices at the pump throughout the United States by 27 cents a gallon for the entire year.

Mr. President, let's not kid ourselves. One of the major reasons as to why Americans are getting ripped-off at the gas pump has to do with the tremendous power and influence that big oil companies have in the Congress. As a matter of fact, since 1998, the oil and gas industry has spent over $616 million on lobbying activities.

Who have they hired? Well, on April 8 of this year, The Hill reported that Chevron hired former Majority Leader Trent Lott, a Republican; former Senator John Breaux, a Democrat; their sons Chester Trent Lott, Jr. and John Breaux, Jr.; and Trent Boyles, who was Lott's Chief of Staff to lobby Congress on issues relating to trade, climate change, and energy taxes.

ExxonMobil has hired former Senator Don Nickles, a Republican from Oklahoma, who served in this body for 24 years, to lobby Congress on behalf of their issues.

These are just a few of the hundreds of lobbyists that big oil and gas companies have hired to influence Congress, many of them former Senators, former Congressmen, and former Congressional staffers.

That is one of the reasons why, among many other reasons, this Congress, in recent years, has decided to give some $18 billion in tax breaks to oil companies despite their record-breaking profits.

In addition, since 1990 big oil companies have made over $213 million in campaign contributions. And that is a simple fact.

Lo and behold, what we are hearing today—just coincidentally, no doubt—is that the most important thing we can do in terms of the energy crisis is to provide more land offshore for the oil companies to drill at a time when they already have some 68 million acres of leased land, which they are not drilling on today.

The American people want action, and there are some things we can do—not in 15 or 20 years but that we can do right now.

First, we need to impose a windfall profits tax on big oil companies so that they would be prohibited from gouging consumers at the gas pump.

Unfortunately, instead of taking away big oil's windfall profits and giving it back to the American people, Republicans want to provide even more tax breaks to big oil. In fact, Sen. MCCAIN has a plan that would give ExxonMobil a $1.5 billion tax break.

Now, we have heard Republicans give three reasons as to why they are opposed to a windfall profits tax.

First, Republicans claim that the last time Congress enacted a windfall profits tax in 1981 it had the effect of increasing our dependence on foreign oil. Wrong. Mr. President, when Congress repealed the windfall profits tax in 1988, the U.S. was importing 7.4 million barrels of oil a day. Today, the U.S. is importing over 13.4 million barrels of oil a day. We are far more dependent on foreign oil today without a windfall profits tax than we were 20 years ago when we had a windfall profits tax.

Secondly, my Republican friends tell us that the windfall profits tax didn't work because Congress repealed it in 1988. That is also wrong. While I would have structured it differently, the fact of the matter is that from 1981 until 1988 when the windfall profits tax was repealed, the price of oil fell from $35 a barrel to less than $15 a barrel. In addition, gas prices at the pump fell from $1.35 a gallon to 90 cents a gallon—a drop of 45 cents a gallon. And the Federal Government collected over $80 billion in revenue.

The reason why the windfall profits tax was repealed was due to low oil and gas prices, which makes perfect sense. If oil and gas prices are low, big oil companies are not making windfall profits and there is no need for a windfall profits tax. If gas prices at the pump were only 90 cents a gallon, I would be one of the first Senators to say we don't need a windfall profits tax. But, they are not. They are over $4 a gallon.

Finally, Republicans claim that big oil companies need to keep their windfall profits so that they can increase production and build more refineries. That particular argument is laughable.

Big oil companies have been making windfall profits for over seven long years—and they are not using these profits to build more refineries and they are not using it to expand production. Instead, they are using this money to buy back their own stock, increase dividends to their shareholders,

and enrich their CEOs, as I have explained earlier.

Not only do we need to impose a windfall profits tax on these extremely powerful oil corporations, but we also have to address what I perceive is a growing understanding that Wall Street investment banks, such as Goldman Sachs, Morgan Stanley, JPMorgan Chase, and hedge fund managers are driving up the price of oil in the unregulated energy futures market. In other words, they are speculating on energy futures and driving up prices.

There are estimates that 25 to 50 percent of the cost of a barrel of oil is attributable to unregulated speculation on oil futures. We have heard from some leading energy economists, and we have heard from people in the oil industry themselves who tell us that 25 to 50 percent of the cost of a barrel of oil today is not due to supply and demand or the cost of production but is due to manipulation of markets and excessive speculation. In essence, Wall Street firms are making billions as they artificially drive up oil prices by buying, holding, and selling huge amounts of oil on dark unregulated markets.

Some of my Republican friends claim that the increase in the price of oil has nothing to do with speculation, but it is interesting to me that we have had executives of major oil companies—major oil companies—who have come before Congress and who are saying, ''Why is oil $125, $130, and $140 a barrel?'' Do you know what they say? The CEO of Royal Dutch Shell testified before Congress and said: ''The oil fundamentals are no problem. They are the same as they were when oil was selling for $60 a barrel.''

This is not some radical economist. It is not some left-winger. This is a guy who is the head of Royal Dutch Shell.

The CEO of Marathon Oil recently said: ''$100 oil isn't justified by the physical demand in the market.''

I know my Republican friends have a lot of respect for the oil industry, a great competence in them. They love them and give them huge tax breaks. So maybe they should listen to what some of these guys are saying in terms of oil speculation.

For those who believe that excessive speculation is not causing oil prices to climb higher, let me just say this. Over the past 7 years, Enron; BP; and Amaranth were caught redhanded manipulating the price of electricity; propane; and natural gas. Each time, supply and demand was to blame and each time the pundits were proven wrong. Excessive speculation; manipulation and greed were the cause. Enron employees are in jail for manipulating the electricity market in 2001; BP was forced to pay a $300 million fine for manipulating propane prices in 2004; and the Amaranth hedge fund collapsed after manipulating natural gas prices in 2006.

The Stop Excessive Speculation Act introduced by Majority Leader REID begins to seriously address this problem. We need to pass this bill as soon as possible.

The bottom line is that it is time for the United States Senate to say no to big oil companies and greedy hedge fund managers and yes to the American people.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 636—RECOGNIZING THE STRATEGIC SUCCESS OF THE TROOP SURGE IN IRAQ AND EXPRESSING GRATITUDE TO THE MEMBERS OF THE UNITED STATES ARMED FORCES WHO MADE THAT SUCCESS POSSIBLE

Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. MCCAIN, Mr. ENZI, Mr. MARTINEZ, Mr. BOND, Mr. WICKER, Mr. CORNYN, Mr. CRAPO, Mr. ALLARD, Mr. THUNE, Mr. BARRASSO, and Mr. INHOFE) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 636

Whereas, by the end of 2006, it had become clear that, despite exceptional efforts and sacrifices on the part of the United States Armed Forces in Iraq, the United States was pursuing a failed strategy in Iraq;

Whereas, by the end of 2006, large-scale sectarian violence was accelerating throughout Iraq, al Qaeda had established significant safe havens there, militias sponsored by the Government of Iran had seized effective control of large swaths of Iraq, and the Government of Iraq was suffering from political paralysis;

Whereas, by the end of 2006, insurgents and death squads were killing more than 3,000 civilians in Iraq each month and coalition forces were sustaining more than 1,200 attacks each week;

Whereas, in December 2006, the Iraq Study Group warned that ''the United States is facing one of its most difficult and significant international challenges in decades'' in Iraq and that ''Iraq is vital to regional and even global stability, and is critical to U.S. interests'';

Whereas, in December 2004, Osama bin Laden said the following of the war in Iraq: ''The most important and serious issue today for the whole world is this Third World War. . . . The world's millstone and pillar is Baghdad, the capital of the caliphate.'';

Whereas, on January 10, 2007, in an address to the Nation, President George W. Bush acknowledged that the situation in Iraq was ''unacceptable'' and announced his intention to put in place a new strategy, subsequently known as ''the surge'';

Whereas President Bush nominated and the Senate confirmed General David H. Petraeus as the Commander of Multi-National Forces-Iraq, a position he assumed on February 10, 2007;

Whereas General Petraeus, upon assuming command, and in partnership with Lieutenant General Raymond Odierno, the Commander of Multi-National Corps-Iraq, and United States Ambassador to Iraq Ryan Crocker, developed a comprehensive civil-military counterinsurgency campaign plan to reverse Iraq's slide into chaos, defeat the enemies of the United States in Iraq, and, in partnership with the Iraqi Security Forces and the Government of Iraq, reestablish security across the country;

Whereas, under the previous strategy, the overwhelming majority of United States combat forces were concentrated on a small number of large forward operating bases and were not assigned the mission of providing security for the people of Iraq against insurgents, terrorists, and militia fighters, in part because there were insufficient members of the United States Armed Forces in Iraq to do so;

Whereas, as an integral component of the surge, approximately 5 additional United States Army brigades and 2 United States Marine Corps battalions were deployed to Iraq;

Whereas, as an integral component of the surge, members of the United States Armed Forces were deployed out of large forward operating bases onto small bases throughout Baghdad and other key population centers, partnering with the Iraqi Security Forces to provide security for the local population against insurgents, terrorists, and militia fighters;

Whereas additional members of the United States Armed Forces began moving into Iraq in January 2007 and reached full strength in June 2007;

Whereas, as a consequence of the additional forces needed in Iraq, in April 2007 the United States Army added 3 months to the standard year-long tour for all active duty soldiers in Iraq and Afghanistan, and the United States Marine Corps added 3 months to the standard 6-month tour for all active duty Marines in Iraq and Afghanistan;

Whereas, as an integral component of the surge, members of the United States Armed Forces began simultaneous and successive offensive operations, in partnership with the Iraqi Security Forces, of unprecedented breadth, continuity, and sophistication, striking multiple enemy safe havens and lines of communication at the same time;

Whereas, as an integral component of the surge, additional members of the United States Armed Forces were deployed to Anbar province to provide essential support to the nascent tribal revolt against al Qaeda in that province;

Whereas those additional members of the United States Armed Forces played a critical role in the success and spread of anti-Qaeda Sunni tribal groups in Anbar province and subsequently in other regions of Iraq;

Whereas, since the start of the surge in January 2007, there have been marked and hopeful improvements in almost every political, security, and economic indicator in Iraq;

Whereas, in 2007, General Petraeus described Iraq as ''the central front of al Qaeda's global campaign'';

Whereas, in 2008, as a consequence of the success of the surge, al Qaeda has been dealt what Director of Central Intelligence Michael Hayden assesses as a ''near strategic defeat'' in Iraq;

Whereas, as a consequence of the success of the surge, militias backed by the Government of Iran have been routed from major population centers in Iraq and no longer control significant swaths of territory;

Whereas, as a consequence of the success of the surge, sectarian violence in Iraq has fallen dramatically and has been almost entirely eliminated;

Whereas, as a consequence of the success of the surge, overall insurgent attacks have fallen by approximately 80 percent since June 2007 and are at their lowest level since March 2004;

Whereas, as a consequence of the success of the surge, United States casualties in Iraq have dropped dramatically and United States combat deaths in Iraq in July 2008 were lower than in any other month since the beginning of the war;

Whereas, as a consequence of the success of the surge, the Government of Iraq has made significant strides in advancing sectarian reconciliation and achieving political progress, including the passage of key benchmark legislation;

Whereas, as a consequence of the success of the surge, the Iraqi Security Forces have improved markedly and approximately 70 percent of Iraqi combat battalions are now leading operations in their areas; and

Whereas, as a consequence of the success of the surge, General Petraeus concluded in 2008 that conditions on the ground in Iraq could permit the additional brigades and battalions dispatched to Iraq in 2007 as part of the surge to be safely redeployed without replacement, and all such brigades and battalions have been successfully withdrawn without replacement: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends and expresses its gratitude to the men and women of the United States Armed Forces for the service, sacrifices, and heroism that made the success of the troop surge in Iraq possible;

(2) commends and expresses its gratitude to General David H. Petraeus, General Raymond Odierno, and Ambassador Ryan Crocker for the distinguished wartime leadership that made the success of the troop surge in Iraq possible;

(3) recognizes the success of the troop surge in Iraq and its strategic significance in advancing the vital national interests of the United States in Iraq, the Middle East, and the world, in particular as a strategic victory in a central front of the war on terrorism; and

(4) recognizes that the hard-won gains achieved as a result of the troop surge in Iraq are significant but not yet permanent and that it is imperative that no action be taken that jeopardizes those gains or dishonors the service and sacrifice of the men and women of the United States Armed Forces who made those gains possible.

## SENATE RESOLUTION 637—TO HONOR THE VISIONARY AND EXTRAORDINARY WORK OF LOS ALAMOS NATIONAL LABORATORY AND IBM ON THE ROADRUNNER SUPERCOMPUTER

Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 637

Whereas on May 26, 2008, the Roadrunner supercomputer of the Los Alamos National Laboratory broke a historic barrier by being powerful enough to run at a petaflop, 1,000,000,000,000,000 calculations per second, making the Roadrunner supercomputer the fastest computer in the world;

Whereas International Business Machines Corporation (referred to in this resolution as ''IBM'') and Los Alamos National Laboratory overcame the challenges of technological innovation to achieve a petaflop ahead of schedule;

Whereas the Roadrunner supercomputer will enable the United States to tackle new and more challenging problems;

Whereas the Roadrunner supercomputer will be primarily devoted to national security in the United States and will be used for ensuring the safety and reliability of the weapons stockpile of the United States and for research in astrophysics, materials science, energy research, medicine, and biotechnology;

Whereas Cell-based supercomputer technology of IBM is the most energy efficient in the world;

Whereas the new high-performance computing capabilities enabled by hybrid Opteron-Cell machines of IBM in the Roadrunner supercomputer of Los Alamos National Laboratory enhance and improve United States competitiveness;

Whereas from maintaining employment records for millions of people of the United States, to providing technology to help the United States run the Ballistic Missile Early Warning System, land on Mars, end the physical testing of atomic weapons, and now help national security by ensuring the safety of the nuclear weapons stockpile of the United States and researching issues of critical importance such as human genome science and climate change, the partnership of IBM with the Federal Government and the dedication of that partnership to solving critical problems that are seemingly impossible have remained unrivaled and relentless for more than 80 years;

Whereas the Roadrunner supercomputer is the most recent achievement of long-standing science and technology leadership of Los Alamos National Laboratory, from the Manhattan Project to the role of the Laboratory today as a premier national security science laboratory; and

Whereas, the Roadrunner supercomputer funding was initiated with $35,000,000 in the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103): Now, therefore, be it

*Resolved*, That the Senate honors the visionary and extraordinary work of Los Alamos National Laboratory and IBM for—

(1) pushing the barriers of science and providing the United States with historical high-performance computing capabilities that will allow some of the most challenging problems in science and engineering to be solved; and

(2) achieving the capability to make petaflop calculations, which—

(A) is considered a crucial milestone internationally;

(B) is considered a sign of the competitiveness of the United States in the critical new area of high-performance computing capability; and

(C) will allow the United States to solve even bigger and more complex problems from the safety of the nuclear deterrent of the United States to human genome science and climate change.

Mr. DOMENICI. Mr. President, I come to the floor today to introduce a resolution to recognize the achievement of a major scientific milestone by two great American institutions—Los Alamos National Laboratory and IBM—to build the first supercomputer to break the ''petaflop'' barrier in supercomputing. A petaflop is a million, billion calculations per second. Think of that—a million, billion calculations in a second. If every human being on the planet were given a calculator it would take 50 years to do what this supercomputer can do in a single day.

This supercomputer is called the ''Roadrunner'' and was developed cooperatively by the Los Alamos National Laboratory and IBM—two American institutions which have a long and prestigious history in delivering major technological breakthroughs for the Nation.

The Roadrunner is the fastest computer in the world. It more than doubles the previous record. We can be very proud this achievement for American science and technology. It highlights the essential role our national laboratories play in advancing the state of the art for high performance computing—a vital component of our national security and scientific leadership.

Every year, computing power increases at a pace set by America's national laboratories. From developing advanced computing architectures and algorithms, to creating effective means for storing and viewing the enormous amounts of data generated by these machines, the laboratories have made high performance computing a reality.

These applications go well beyond security and basic science. The laboratories have worked hard to transition these capabilities to academia and industry, simulating complex industrial processes and their environmental impact, including global climate change.

Collaborations with the private sector have also driven down the cost, so that now high performance does not mean high expense. This has had an enormous impact, placing advanced computing within reach of an ever wider circle of users.

These achievements did not happen by accident. They required planning, commitment and follow through. Indeed, the Roadrunner began as an earmark in the fiscal year 2006 appropriations bill. Congress must ensure that the world class simulation capabilities within the complex are maintained and investments are made to drive future innovation.

We must continue to raise the bar, giving our best and brightest new goals to work toward, ensuring that America will retain its technical leadership in advanced computing.

I hope my colleagues will join me in recognizing Los Alamos National Laboratory and IBM for reaching yet another milestone in supercomputing.

In particular, I want to commend the members of the Roadrunner team.

From Los Alamos: Sriram Swaninarayan, Paul Henning, Adolfy Hoisie, Guy Dimonte, Darren Kerbyson, Brian Albright, Tim Germann, Ben Bergen, Ken Koch, Manuel Vigil, Randal Rheinheimer, Parks Fields, John Cerutti.

From IBM: Nicholas Donofrio, Cornell Wright, William Zeitler, David Turek, Don Grice, and Catherine Crawford.

Participants from academia included Steven Zuker of Yale University and James DiCarlo from the Massachusetts Institute of Technology.

Congratulations on a job well done.

Top 10 Fastest Supercomputers in the World (June 2008).

Name, Location, Speed (TFlop/s).

1. Roadrunner (IBM), Los Alamos, NM (NNSA), 1026.0.

2. Blue Gene/L (IBM), Livermore, CA (NNSA), 478.2.

3. Blue Gene/P (IBM), Argonne, IL (DOE), 450.3.

4. Ranger (Sun), Univ. of Texas, TX, 326.0.
5. Jaguar (Cray), Oak Ridge, TN (DOE), 205.0.
6. JUGENE (IBM), Juelich, Germany, 180.0.
7. Encanto (SGI), NMCAC, NM, 133.2.
8. EKA (HP), TATA SONS, India, 132.8.
9. Blue Gene/P (IBM), IDRIS, France, 112.5.
10. SGI Altix ICE (SGI), Total Exploration, France, 106.1.

## SENATE RESOLUTION 638—SUPPORTING LEGISLATION PROMOTING IMPROVED HEALTH CARE AND ACCESS TO HEALTH CARE FOR WOMEN

Ms. STABENOW (for herself and Mr. OBAMA, Ms. KLOBUCHAR, Ms. CANTWELL, Mrs. MCCASKILL, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mrs. BOXER, Mr. KENNEDY, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 638

Whereas women are the health care decisionmakers for themselves and their families;

Whereas women want affordable health care they can count on throughout life transitions, such as starting a family, job changes, part-time and full-time work, divorce, caring for an elderly or sick family member, having a major disease, or retiring;

Whereas women with good health coverage worry about keeping their coverage and access to their providers;

Whereas women are more likely to seek essential preventive and routine care than are men, are more likely to have a chronic health condition, and are more likely to take a prescription drug on a daily basis;

Whereas women pay 68 percent more than men for out-of-pocket medical costs, due in large part to reproductive health care needs;

Whereas more than half of underinsured women (53 percent) and ⅔ of uninsured women (68 percent) forego needed care, and about half of the underinsured (45 percent) and uninsured (51 percent) report difficulty paying medical bills;

Whereas, in 2004, 1 in 6 women with individual coverage reported postponing or going without needed care because she couldn't afford it;

Whereas high-deductible health plans are often targeted to young women as an inexpensive health coverage option, but fail to cover pregnancy-related care, the most expensive health event most young families face and the leading reason for hospital stays;

Whereas 75,000,000 adults (42 percent of the under-65 population) had either no insurance or inadequate insurance in 2007, up from 35 percent in 2003;

Whereas 47,000,000 people, nearly 16 percent of the United States population, are uninsured, including 17,000,000 adult women ages 18 to 64 (18 percent) and 9,000,000 children (12 percent);

Whereas the Institute of Medicine estimated that lack of health insurance coverage resulted in 18,000 excess deaths in the United States in 2000 (a number which the Urban Institute estimates grew to 22,000 by 2006) and that acquiring health insurance reduces mortality rates for the uninsured by 10 to 15 percent;

Whereas uninsured women with breast cancer are 30 to 50 percent more likely to die from the disease, and uninsured women are 3 times less likely to have had a Pap test in the last 3 years, with a 60 percent greater risk of late-stage cervical cancer;

Whereas 13 percent of all pregnant women are uninsured, making them less likely to seek prenatal care in the 1st trimester and to receive the optimal number of visits during their pregnancies, and 31 percent more likely to experience an adverse health outcome after giving birth;

Whereas the lack or inadequate use of prenatal care is associated with pregnancy-related mortality rates 2 to 3 times higher and infant mortality rates 6 times higher than that of women receiving early prenatal care, as well as increased risk of low birthweight and preterm birth;

Whereas heart disease is the leading cause of death for both women and men, but women are less likely to receive lifestyle counseling, diagnostic and therapeutic procedures, and cardiac rehabilitation and more likely to die or have a 2nd heart attack, demonstrating inequalities in access to care;

Whereas health care disparities persist, leaving Hispanic and Native American women and children 3 times more likely and African Americans nearly twice as likely to be uninsured as non-Hispanic Whites;

Whereas, in 2005, nearly 80 percent of the female population infected with the human immunodeficiency virus (HIV) was Black or Hispanic, and the incidence rates of HIV and acquired immunodeficiency syndrome (AIDS) are dramatically higher for Black and Hispanic women and adolescents (60.2 and 15.8 per 100,000, respectively) than for White women and adolescents (3.0 per 100,000);

Whereas women are less likely than men to be insured through their jobs and more likely to be insured as a dependent, making them more vulnerable to insurance loss in the event of divorce or death of a spouse;

Whereas 64 percent of uninsured women are in families with at least 1 adult working full-time;

Whereas health care costs are increasingly unaffordable for working families and employers, with employer-sponsored health insurance premiums increasing 87 percent since 2000;

Whereas America's 9,100,000 women-owned businesses employ 27,500,000 people, contribute $3,600,000,000 to the economy, and face serious obstacles in obtaining affordable health coverage for their employees;

Whereas the lack of affordable health coverage creates barriers for women who want to change jobs or create their own small businesses;

Whereas health care professionals and workers—a significant portion of whom are women—have a stake in achieving reform that allows them to provide the highest quality care for their patients;

Whereas 56 percent of all caregivers are women;

Whereas the United States spends twice as much on health care as the median industrialized nation, our health care system ranks near the bottom on most measures of health status among the 30 developed nations of the Organisation for Economic Co-operation and Development (OECD), and 37th in overall health performance among 191 nations; and

Whereas the National Institutes of Medicine (NIH) estimates that the cost of achieving full insurance coverage in the United States would be less than the loss in economic productivity from existing coverage gaps: Now, therefore, be it

*Resolved,* That the Senate commits to pass, and urges the President sign into law, within the next 18 months, legislation that guarantees health care for all women and health care for all people of the United States and that—

(1) recognizes the special role that women play as health care consumers, caregivers, and providers;

(2) guarantees inclusion of health care benefits essential to achieving and maintaining good health, including comprehensive reproductive health, pregnancy-related, and infant care;

(3) promotes primary and preventive care, including family planning, contraceptive equity, and care continuity;

(4) provides a choice of public and private plans and direct access to a choice of doctors and health providers that ensures continuity of coverage and a delivery system that meets the needs of women;

(5) eliminates health disparities in coverage, treatment, and outcomes on the basis of gender, culture, race, ethnicity, socioeconomic status, health status, and sexual orientation;

(6) shares responsibility for financing among employers, individuals, and the government while taking into account the needs of small businesses;

(7) ensures that access to health care is affordable;

(8) enhances quality and patient safety;

(9) promotes administrative efficiency, reduces unnecessary paperwork, and is easy for health care consumers and providers to utilize; and

(10) ensures a sufficient supply of qualified providers through expanded medical and public health education and adequate reimbursement.

Ms. STABENOW. Mr. President, I rise today to issue a challenge on the need to reform health care. The resolution I am introducing today with my friend and colleague, Representative JAN SCHAKOWSKY, calls on Congress to send a plan to the next President that will ensure high-quality and affordable health care for women and for all. I also am proud to be joined by my colleagues, Senators OBAMA, KLOBUCHAR, CANTWELL, MCCASKILL, MIKULSKI, MURRAY, CLINTON, BOXER, and KENNEDY.

We spend twice as much on health care as any other industrialized nation, yet we have an unacceptably high number of Americans without health insurance—nearly 50 million. Millions more are also underinsured and have less coverage than they need. We are blessed with the best doctors, nurses, and other health providers in the world but rank 43rd in the world in infant mortality.

We are all in this together. From working families to the uninsured, from multinational corporations to small businesses, we all face challenges in making sure Americans get the quality, affordable health care they need, when they need it. Rising costs are crippling our businesses and our economy. Health care costs make large businesses, like Michigan's automakers, less competitive globally and threaten the survival of small firms.

We must ensure that no child is denied doctor visits, no pregnant woman has to choose between prenatal care and her rent, and no working family pays high premiums every month only to find that the care they most need isn't covered. And we need to end

health care disparities that affect women. For example, heart disease is a leading cause of death for both women and men but women are less likely to receive lifestyle counseling or other medical intervention and more likely to die or have a second heart attack.

Women understand these hard choices and are calling on Congress to find a solution. As mothers with young children, women with aging parents, small business owners, health professionals and health care consumers, women confront problems in our health care system every day.

We are pleased to have the support of numerous groups representing physicians, women, and families, including the American College of Obstetricians and Gynecologists, Planned Parenthood, the National Women's Law Center, and the National Partnership for Women and Families.

There is much work to be done to change our health care system and it is going to take everyone's best effort, working together, to achieve it. America's families, businesses, and providers cannot wait any longer. This resolution is a first step and a signal that we need to roll up our sleeves and get to work.

## SENATE RESOLUTION 639—RECOGNIZING THE BENEFITS OF TRANSPORTATION IMPROVEMENTS ALONG THE UNITED STATES ROUTE 36 CORRIDOR TO COMMUNITIES, INDIVIDUALS, AND BUSINESSES IN COLORADO

Mr. SALAZAR (for himself and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 639

Whereas the Colorado communities of Westminster, Louisville, Superior, Broomfield, Denver, and Boulder have united in support of transportation improvement along the United States Route 36 corridor (in this preamble referred to as the ''U.S. 36 Corridor'');

Whereas communities in Denver, Adams, Broomfield, Jefferson, and Boulder counties, which have experienced unprecedented levels of growth since the early 1990s, are connected by the U.S. 36 Corridor;

Whereas the area's rapid growth has outpaced its transportation needs and is impeding the efficient movement of people and goods;

Whereas the U.S. 36 Corridor exemplifies the congestion challenges facing the fastest-growing sections of States in the American West;

Whereas the U.S. 36 Corridor is a dynamic travel corridor with bi-directional travel to and from the multiple communities throughout the day;

Whereas addressing congestion along the U.S. 36 Corridor is critical to the work and school commutes of thousands of Coloradans between communities in the Denver metropolitan area and Boulder;

Whereas the Colorado Department of Transportation and the Regional Transportation District, in conjunction with the Federal Highway Administration and the Federal Transit Administration, have been studying multimodal transportation improvements between Denver and Boulder in the U.S. 36 Corridor environmental impact statement since 2003;

Whereas public comments received in the process of developing the environmental impact statement sought a transportation solution that further reduced the impacts on the community and the environment, minimized project costs, and improved mobility of people and goods;

Whereas the U.S. 36 Corridor project, as developed through the environmental impact statement process, is a national model for congestion mitigation measures, which may combine tolling, public transit, technology, teleworking, and bikeway options that can be quickly implemented and have an immediate impact;

Whereas the U.S. 36 Corridor could become a premier transportation corridor, complete with bus rapid transit, high occupancy vehicle lanes, and safe bicycling lanes;

Whereas the U.S. 36 Corridor project represents a thoughtful, comprehensive approach to congestion on the Nation's roadways;

Whereas a record of decision will be issued in 2009, which will permit construction to commence on the U.S. 36 Corridor project;

Whereas the U.S. 36 Corridor project was among the highest ranked congestion mitigation proposals submitted under the Department of Transportation's Urban Partnership Agreement Program; and

Whereas it is important that Congress find innovative ways to fund regionally significant transportation projects, especially projects that will improve air quality, expand transportation choice, reduce congestion, and provide access to bicycle and pedestrian facilities: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the members of the Mayors and Commissioners Coalition, the Colorado Department of Transportation, the Regional Transportation District, and the businesses that support 36 Commuting Solutions, a public-private nonprofit organization, for their commitment, dedication, and efforts to proceed with the United States Route 36 corridor project;

(2) recognizes the benefits for mobility, the environment, and quality of life that would be gained by investing in transportation improvements along the United States Route 36 corridor, throughout Colorado and elsewhere; and

(3) supports Federal transportation investments along United States Route 36, throughout Colorado, and elsewhere that reduce congestion, reduce carbon emissions, improve mobility, improve access to transit for bicyclists and pedestrians, reduce vehicle miles traveled, reduce dependence on foreign oil, support mass transit, include intelligent transportation systems, and implement travel demand management strategies.

## SENATE RESOLUTION 640—EXPRESSING THE SENSE OF THE SENATE THAT THERE SHOULD BE AN INCREASED FEDERAL COMMITMENT TO PUBLIC HEALTH AND THE PREVENTION OF DISEASES AND INJURIES FOR ALL PEOPLE IN THE UNITED STATES

Mr. CARDIN (for himself and Mrs. CLINTON) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 640

Whereas the United States has the highest rate of preventable deaths among 19 industrialized countries and lags behind 28 other members of the United Nations in life expectancy;

Whereas various research studies suggest that nearly 60 percent of premature deaths in the United States are attributable to environmental conditions, social circumstances, or behavioral choices that could be prevented;

Whereas more money is spent each year on health care in the United States than in any other country in the world;

Whereas, of the more than $2,200,000,000,000 spent on health care in the United States each year, less than 4 cents out of every dollar are spent on improving public health and preventing diseases and injuries;

Whereas chronic diseases are the leading cause of preventable death and disability in the United States, accounting for 7 out of every 10 deaths and killing more than 1,700,000 people in the United States each year;

Whereas those often preventable chronic diseases account for approximately 75 percent of health care spending in the United States each year, including more than 96 cents out of every dollar spent under the Medicare program and more than 83 cents out of every dollar spent under the Medicaid program;

Whereas those chronic diseases cost the United States an additional $1,000,000,000,000 each year in lost productivity and are a major contributing factor to the overall poor health that is placing the Nation's economic security and competitiveness in jeopardy;

Whereas the number of people with chronic diseases is rapidly increasing, and it is estimated that by 2050 nearly half of the population of the United States will suffer from at least one chronic disease if action is not taken;

Whereas the use of clinically-based preventive services has been demonstrated to prevent or result in early detection of cancer and other diseases, save lives, and reduce overall health care costs; and

Whereas research has shown that investing in community-level interventions that promote and enable proper nutrition, increased access to physical activity, and smoking cessation programs can prevent or mitigate chronic diseases, improve quality of life, increase economic productivity, and reduce health care costs: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes that, in order to reduce the disease burden and health care costs associated with preventable diseases and injuries, it is imperative that the United States strengthen its public health system—

(A) to provide all people in the United States with the information, resources, and environment necessary to make healthier choices and live healthier lives; and

(B) to protect all people in the United States from health threats beyond their control, such as bioterrorism, natural disasters, infectious disease outbreaks, and environmental hazards;

(2) commits to creating public health strategies to eliminate health disparities and improve the health of all people in the United States, regardless of race, ethnicity, or socioeconomic status;

(3) supports the prioritizing of public policies focusing on the prevention of disease and injury;

(4) calls for community-based programs to support healthy lifestyles, including programs that promote proper nutrition and increased access to physical activity;

(5) urges the expansion of clinical preventive activities, including screenings and immunizations; and

(6) pledges to help significantly improve the health of all people in the United States by supporting increased investment in Federal public health programs.

Mr. CARDIN. Mr. President, I rise today to introduce a resolution promoting increased investment in preventive health and public health.

Our Nation's annual health expenditures have reached the astonishing total of $2.2 trillion, or approximately $7,000 for each American. Our health expenditures also represent 16 percent of the gross domestic product. That's a higher percentage of GDP than any other nation as well as a higher amount per capita.

But what are we getting for our health care dollars? Rankings from the Organisation for Economic Cooperation and Development, OECD, consistently show the United States ranking far behind most other industrialized countries in overall health status, in infant health as measured by infant mortality rates, and in life expectancy.

And if we examine the distribution of expenditures, it becomes apparent that we are dedicating the lion's share of resources to a few, chronic diseases, such as diabetes, and hypertension. From 1987 to 2000, while our overall health care spending doubled, spending on strokes nearly quadrupled and spending on hypertension rose from $8 billion to $23 billion a year. Chronic diseases are the leading cause of preventable death and disability, and are responsible for more than 1.7 million deaths each year. They are particularly costly for publicly-funded insurance programs, accounting for 96 cents of every Medicare dollar and 83 cents of every Medicaid dollar. Project HOPE has estimated that by the year 2050, nearly half the population of the United States will develop at least one chronic disease if we do not act.

But analyses also show that of the money spent on health care, fewer than 4 cents of every dollar are dedicated to public health and prevention. We need to prioritize public health and preventive approaches if we are to have a healthier America.

We already know that early detection can save lives, reduce costs, and result in a more efficient health care system for all of us. One prominent example is colorectal cancer screening. Colorectal cancer is the number two cancer killer in the United States. This year, an estimated 148,000 new cases will be diagnosed and more than 52,000 Americans will die from the disease.

The risk of colorectal cancer begins to increase after the age of 40 and rises sharply at the ages of 50 to 55, at which point the risk doubles with each succeeding decade. Despite advances in surgical techniques and adjuvant therapy, there has been only a modest improvement in survival for patients who present with advanced cancers.

The good news is that colorectal cancer can be prevented, and is highly treatable when discovered early. Most cases of the disease begin as non-cancerous polyps which can be detected and removed during routine screenings—preventing the development of colorectal cancer. Screening tests also save lives even when they detect polyps that have become cancerous by catching the disease in its earliest, most curable stages. The cure rate is up to 93 percent when colorectal cancer is discovered early.

We must also promote changes in lifestyles, community-based interventions, to improve our health status. This means encouraging and enabling proper nutrition, increasing our level of physical activity, supporting smoking cessation programs for those who smoke now, and educating youth about the dangers of smoking.

Trust for America's Health has just released a report entitled ''Prevention for a Healthier America.'' Among its conclusions is that ''an investment of $10 per person per year in community-based programs to increase physical activity, improve nutrition, and prevent smoking and other tobacco use could save the country more than $16 billion annually every five years . . . a return of $5.60 for every $1. Of the $16 billion, Medicare could save more than $5 billion, Medicaid could save more than $1.9 billion, and private payers could save more than $9 billion.''

It is clear that to make a real difference in America's health status, and to produce a far more efficient health care system, the answer is to use our health care resources more wisely. That means investing in the clinically-based and community-based interventions that will prevent the serious, chronic illnesses that are draining our health care resources now.

Finally, Mr. President, I want to thank Senator CLINTON for joining me in introducing this resolution. Her knowledge of and expertise in health care are unparalleled, and I am very appreciative of her support. I urge all my colleagues to support this resolution.

## SENATE RESOLUTION 641—CONGRATULATING THE FOCUS ON THE FAMILY RADIO PROGRAM FOR ITS INDUCTION INTO THE NATIONAL RADIO HALL OF FAME

Mr. BROWNBACK (for himself, Mr. DEMINT, Mr. HATCH, Mr. INHOFE, Mr. MARTINEZ, Mr. ROBERTS, and Mr. MCCONNELL) submitted the following resolution; which was referred to the Committee on Commerce, Science and Transportation.

S. RES. 641

Whereas the National Radio Hall of Fame & Museum was created to commemorate significant figures in the world of radio, a medium that has been integral to American society since the early 20th century;

Whereas a key element of the mission of the National Radio Hall of Fame & Museum is to recognize and showcase contemporary talent from diverse radio programming formats;

Whereas, each November since 1992, significant radio figures have been honored for their excellence in the field of radio by being inducted into the National Radio Hall of Fame;

Whereas James C. Dobson, Ph.D., is founder and chairman of Focus on the Family;

Whereas the Focus on the Family radio program first aired in 1977 and now is heard through more than 3,000 radio outlets in North America and in 27 languages in over 160 other countries;

Whereas the Focus on the Family radio program has benefitted the lives of families and individuals across the United States and around the world;

Whereas the Focus on the Family radio program has been named as a 2008 inductee to the National Radio Hall of Fame; and

Whereas the Focus on the Family radio program is the first faith-based radio program to receive this honor: Now, therefore, be it

*Resolved,* That the Senate congratulates the Focus on the Family radio program, its staff, and its founder and chairman, James Dobson, for their excellence in radio programming and the program's worthy induction into the National Radio Hall of Fame.

## SENATE RESOLUTION 642—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 642

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States;

Whereas, the Subcommittee has received a number of requests from law enforcement and regulatory agencies for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved,* That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to law enforcement officials, regulatory agencies, and other entities or individuals duly authorized by federal, state, or foreign governments, records of the Subcommittee's investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 5258. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 5258.** Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 3268, to amend the Commodity Exchange Act, to prevent excessive price speculation with respect to energy commodities, and for other purposes; which was ordered to lie on the table; as follows:

On page 43, after line 17, insert the following:

**TITLE II—HOME ENERGY ASSISTANCE**

**SEC. 21. SHORT TITLE.**

This title may be cited as the ''Home Energy Assistance Today Act''.

**SEC. 22. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.**

In addition to any amounts appropriated under any other provision of Federal law, there is appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2008—

(1) $1,265,000,000 (to remain available until expended) for making payments under subsections (a) through (d) of section 2604 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623); and

(2) $1,265,000,000 (to remain available until expended) for making payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(e)), notwithstanding the designation requirement of section 2602(e) of such Act (42 U.S.C. 8621(e)).

**SEC. 23. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) of such Code is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 9:30 a.m.

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

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. REID. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs and the House Committee on Homeland Security Subcommittee on Emergency Communications, Preparedness, and Response be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 1 p.m. to conduct a joint hearing entitled ''Lessons Learned: Ensuring the Delivery of Donated Goods to Survivors of Catastrophes.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate in order to conduct a hearing on Thursday, July 31, 2008, at 9:30 a.m., in room SD366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. REID. 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, July 31, 2008 in room 406 of the Dirksen Senate Office Building at 9:30 a.m.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 2 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, July 31, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. 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, July 31, 2008, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 31, 2008, at 2:30 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, July 30, 2008 from 10:30 a.m.–12:30 p.m. in Dirksen 106 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. REID. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Consolidation in The Pennsylvania Health Insurance Industry: The Right Prescription?'' on Thursday, July 31, 2008, at 2 p.m., in room SD–226 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 9:30 a.m., to conduct a hearing entitled, ''Offline and Off-budget: The Dismal State of Information Technology Planning in the Federal Government.''

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on Thursday, July 31, 2008, at 2 p.m., to conduct a hearing entitled, ''A Reliance on Smart Power—Reforming the Foreign Assistance Bureaucracy.''

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

## PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that members of

my staff—Brian Chelcen and Peter Quaranto—be granted floor privileges for the remainder of this Congress.

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

Ms. MIKULSKI. I ask unanimous consent that a fellow in Senator BINGAMAN's office, Michele Mazzocco, be given floor privileges during this bill.

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

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I, too, ask unanimous consent to extend floor privileges to Ann Clough for the remainder of the consideration of the conference report.

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

## LIBYAN CLAIMS RESOLUTION ACT

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3370, introduced earlier today by Senators BIDEN, LUGAR, LAUTENBERG, WARNER, LEAHY, and LEVIN.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3370) to resolve pending claims against Libya by United States nationals, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, today, with the passage of the Libyan Claims Resolution Act, the United States moves closer to a comprehensive resolution of all outstanding claims by U.S. nationals against Libya for its support for terrorism over several decades. These claims include, most notably, the Pan Am 103 bombing over Lockerbie, Scotland, which killed 270 innocent human beings in December 1988 and the bombing of the LaBelle discotheque in Berlin in April 1986 in which two American military personnel were killed and scores more injured. There are many other pending claims involving attacks against Americans that are attributable to Libya. These, too, will be resolved by this legislation. Although less well known in the public's memory, they were no less devastating to their victims and no less an affront to humanity.

For several months now, the Bush administration has been negotiating with the Government of Libya on a comprehensive settlement to compensate American victims of Libyan terror. The State Department has reported to us in recent days that an agreement has been reached but has not yet been signed. I commend the fine effort of Assistant Secretary of State David Welch and Deputy Legal Adviser Jonathan Schwartz, who led the U.S. delegation in these very difficult negotiations. Signature on the agreement awaits action by Congress, and that is what we are doing today.

The agreement will provide full compensation to pay settlements already reached in the Pan Am 103 and LaBelle cases and enough funds to ensure that every American claimant in these cases involving Libyan terrorism will receive financial compensation comparable to the Pan Am 103 and LaBelle settlements. No U.S. taxpayer money will be used to pay these claims. The regime in Libya is notoriously unpredictable, so there is a chance that the deal could fall apart. But there is reason to believe that the Libyan leader, Colonel Qadhafi, has decided it is in his interest to settle all of these cases, rather than let them languish in court for years or decades, at the expense of progress in the Libyan-American relationship. Should the government of Libya change its position and fail to provide the complete funding, the victims will retain their full rights to proceed with their legal challenges.

But before Libya is willing to sign the agreement, it wants legal assurances that upon providing the full funding it will be immune from further legal repercussions stemming from these cases. This legislation, if signed into law by the President, provides such assurances, allowing the deal to go forward. It authorizes the Secretary of State to work with the Libyans to set up the funding mechanism. It assures the Libyans that if and only if full compensation has been paid to all American victims of Libyan terrorism, they will be immune from further claims of this nature. And it assures the American claimants that their lawsuits will not be extinguished unless the funding promised by the agreement is provided.

If this bill is approved by the House, Congress will have joined with the President to solve an issue of national and international importance, while protecting the interests of its nationals who have valid claims against Libya. Under the Constitution, there is no question the executive and the legislative branches have the authority to work together in this manner to settle claims so as to help the hundreds of American claimants who will benefit from this initiative. This cooperative effort—and the prompt bipartisan support for it—is also a good example of how the two branches should work together to advance our national interests.

I wish to be clear about what my support for this legislation means and does not mean. It is clearly in the interest of the United States to develop better relations with Libya. Libya is an important country as a gateway between Europe and Africa, which shares a border with the Darfur region of Sudan, and is a member of OPEC. Colonel Qadhafi appears to have made a break with his past support for terrorism and efforts to acquire weapons of mass destruction. That is good news for Libya, for the United States, and for the world.

It also is a powerful demonstration that diplomatic engagement, backed up with sanctions and incentives, can change the behavior of countries whose policies threaten our interests. There is a lesson in here for more productive approaches we could have taken earlier with other problematic countries. It is important for countries like Iran, North Korea, and Syria that pursue malevolent policies to see that there is a roadmap back into the international community if they modify their behavior. In short, the model of normalization with Libya, if applied to other cases, can prove that our goal is conduct change, not regime change and can actually produce that change.

For these reasons, I support the nascent Libyan-American agreement to comprehensively settle all outstanding American claims against Libyan terrorism. Libya's renunciation of its weapons of mass destruction programs and its previous support for terrorism is something all of us should welcome. I support the carefully calibrated movement toward the full normalization of bilateral relations.

But it should be underscored that this legislation does not exonerate or excuse Libya for its despicable and cowardly support for terrorism. I hope that the agreement can provide a modicum of justice and closure for the victims of Libyan terrorism and their families. But it is small consolation indeed and will not bring back the lives that have been lost, nor undo the suffering endured by survivors.

Neither does today's legislation indicate a shift in my views of the fundamental nature of the Qadhafi regime. Yes, Americans are interested in Libya's external behavior. But we are also concerned about the human rights conditions within Libya. Though his support for terrorists has ended, Qadhafi's Libya remains a police state that brooks no political opposition. Four decades after coming to power in a military coup, Qadhafi continues to rule by personal fiat. He may have had a change of mind about Libya's policies, but I doubt that it has been matched by a change of heart.

It is critical that the Bush administration pursue a broader engagement with the Libyan people and civil society. This relationship must be about more than securing contracts for American oil companies. We have learned the hard way that our vital interests can be threatened by relationships that ignore the huge deficiencies in governance and basic freedoms in many Middle Eastern countries and are based exclusively on commercial and security interests. So I am disappointed that this comprehensive claims settlement agreement is not accompanied by a comprehensive plan to engage Libyan society. I urge the Bush administration to put as much energy into developing such a plan as it did in the negotiations for a claims settlement.

For more than 4 years, I have called for the release of Fathi Eljahmi, a courageous Libyan democracy advocate

with serious health problems whose only crime was to speak truth to power. Though the change in direction in Libyan foreign policy in the last few years is as commendable as it is remarkable, Mr. Eljahmi's continuing captivity is a reminder that basic fundamental freedoms such as rule of law and the freedom of speech do not exist inside Libya. As I have made it clear to Colonel Qadhafi, the future of the Libyan-American relationship, at least as far as this Senator is concerned, will be affected by the Libyan Government's treatment of Mr. Eljahmi. I urge the Libyan Government to release him unconditionally and immediately, and to end the harassment of his family.

Engagement does not mean that we surrender our values. Engagement means we are in a stronger position to advance our values and to secure real change. I urge the Bush administration to use this opportunity to assert America's interests in a broader relationship that will put Libya on a more sustainable, and more democratic, path.

Mr. LEAHY. Mr. President, I am pleased that the Senate has unanimously passed legislation that, in conjunction with an international agreement being finalized between the United States and Libya, will at long last provide full and fair compensation to those United States nationals who have terrorism-related claims against Libya. I commend Senator FRANK LAUTENBERG, who has been working hard for years to try to get justice for these victims of terror, as well as the other cosponsors who have enabled this important legislation to win Senate approval.

This legislation takes a critical step in securing the final payment of settlement amounts already reached by the victims of the Pan Am 103 Lockerbie bombing and the LaBelle discotheque bombing, as well as fair compensation for all other similar claims against Libya. It has wide support among victims' rights groups, and it will be an important step in restoring relations between the United States and Libya.

I urge the House to work quickly to pass this legislation so that we can send this bill to the President's desk.

Mr. LEVIN. Mr. President, I join with Senators BIDEN, LUGAR, LAUTENBERG, WARNER, and LEAHY today in submitting the Libya Claims Resolution Act.

During last year's consideration of the Defense authorization bill, I joined with Senator LAUTENBERG and 31 other cosponsors in unanimously adding a provision which allowed victims of terrorism to seek redress in U.S. courts against foreign states whose officials or agents commit acts of terrorism, by establishing a private right of action under the sovereign immunity exception for state sponsors of terrorism.

I supported the LAUTENBERG amendment to the Defense authorization bill out of concern over Libya's backing out of a settlement agreement with the victims and families of victims of the 1986 bombing of the La Belle Discotheque in Berlin, Germany. On April 5, 1986, Libya directed its agents to execute a terrorist attack in West Berlin for the sole purpose of killing as many American military personnel as possible. The La Belle Discotheque was known to be frequented by large numbers of U.S. military personnel. The bombing of the discotheque occurred at a time when 260 people, including U.S. military personnel, were present. When the bomb detonated, two U.S. soldiers were killed and over 90 U.S. soldiers were injured.

Since shortly after the National Defense Authorization Act was enacted in January 2008, and in direct response to the Lautenberg provision, the Libyans approached the State Department about securing a comprehensive settlement of claims against Libya brought by American victims of acts of terrorism.

Under the proposed international agreement the United States would receive sufficient funding to pay the two large outstanding settlements with Libya—the Pan Am 103 families' settlement and the La Belle Discotheque settlement—as Congress has requested in previous legislation. In addition, Libya would provide sufficient funds to ensure fair compensation of the other pending claims for acts of terrorism.

In return for this comprehensive claims settlement, the United States will need to assure Libya that it will not face further terrorism-related litigation in U.S. courts. This legislation, the Libya Claims Resolution Act, will restore Libya's sovereign immunity—once the United States has received the agreed funding.

With the enactment of this legislation, the international agreement can be concluded quickly and the money channeled to American claimants. According to the State Department, the Pan Am and La Belle claimants should receive their settlements shortly after the agreement is signed, ending years of waiting for just compensation form Libya.

I commend the State Department for its efforts to bring these claims to a resolution.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 3370) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3370

*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 ''Libyan Claims Resolution Act''.

**SEC. 2. DEFINITIONS.**

In this Act—

(1) the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives;

(2) the term ''claims agreement'' means an international agreement between the United States and Libya, binding under international law, that provides for the settlement of terrorism-related claims of nationals of the United States against Libya through fair compensation;

(3) the term ''national of the United States'' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(4) the term ''Secretary'' means the Secretary of State; and

(5) the term ''state sponsor of terrorism'' means a country the government of which the Secretary has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 40 of the Arms Export Control Act (22 U.S.C. 2780), or any other provision of law, is a government that has repeatedly provided support for acts of international terrorism.

**SEC. 3. SENSE OF CONGRESS.**

Congress supports the President in his efforts to provide fair compensation to all nationals of the United States who have terrorism-related claims against Libya through a comprehensive settlement of claims by such nationals against Libya pursuant to an international agreement between the United States and Libya as a part of the process of restoring normal relations between Libya and the United States.

**SEC. 4. ENTITY TO ASSIST IN IMPLEMENTATION OF CLAIMS AGREEMENT.**

(a) DESIGNATION OF ENTITY.—

(1) DESIGNATION.—The Secretary, by publication in the Federal Register, may, after consultation with the appropriate congressional committees, designate 1 or more entities to assist in providing compensation to nationals of the United States, pursuant to a claims agreement.

(2) AUTHORITY OF THE SECRETARY.—The designation of an entity under paragraph (1) is within the sole discretion of the Secretary, and may not be delegated. The designation shall not be subject to judicial review.

(b) IMMUNITY.—

(1) PROPERTY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, if the Secretary designates any entity under subsection (a)(1), any property described in subparagraph (B) of this paragraph shall be immune from attachment or any other judicial process. Such immunity shall be in addition to any other applicable immunity.

(B) PROPERTY DESCRIBED.—The property described in this subparagraph is any property that—

(i) relates to the claims agreement; and

(ii) for the purpose of implementing the claims agreement, is—

(I) held by an entity designated by the Secretary under subsection (a)(1);

(II) transferred to the entity; or

(III) transferred from the entity.

(2) OTHER ACTS.—An entity designated by the Secretary under subsection (a)(1), and any person acting through or on behalf of such entity, shall not be liable in any Federal or State court for any action taken to implement a claims agreement.

(c) NONAPPLICABILITY OF THE GOVERNMENT CORPORATION CONTROL ACT.—An entity designated by the Secretary under subsection (a)(1) shall not be subject to chapter 91 of title 31, United States Code (commonly

known as the ''Government Corporation Control Act'').

**SEC. 5. RECEIPT OF ADEQUATE FUNDS; IMMUNITIES OF LIBYA.**

(a) IMMUNITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, upon submission of a certification described in paragraph (2)—

(A) Libya, an agency or instrumentality of Libya, and the property of Libya or an agency or instrumentality of Libya, shall not be subject to the exceptions to immunity from jurisdiction, liens, attachment, and execution contained in section 1605A, 1605(a)(7), or 1610 (insofar as section 1610 relates to a judgment under such section 1605A or 1605(a)(7)) of title 28, United States Code;

(B) section 1605A(c) of title 28, United States Code, section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 342; 28 U.S.C. 1605A note), section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), and any other private right of action relating to acts by a state sponsor of terrorism arising under Federal, State, or foreign law shall not apply with respect to claims against Libya, or any of its agencies, instrumentalities, officials, employees, or agents in any action in a Federal or State court; and

(C) any attachment, decree, lien, execution, garnishment, or other judicial process brought against property of Libya, or property of any agency, instrumentality, official, employee, or agent of Libya, in connection with an action that would be precluded by subparagraph (A) or (B) shall be void.

(2) CERTIFICATION.—A certification described in this paragraph is a certification—

(A) by the Secretary to the appropriate congressional committees; and

(B) stating that the United States Government has received funds pursuant to the claims agreement that are sufficient to ensure—

(i) payment of the settlements referred to in section 654(b) of division J of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2342); and

(ii) fair compensation of claims of nationals of the United States for wrongful death or physical injury in cases pending on the date of enactment of this Act against Libya arising under section 1605A of title 28, United States Code (including any action brought under section 1605(a)(7) of title 28, United States Code, or section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (28 U.S.C. 1605 note), that has been given effect as if the action had originally been filed under 1605A(c) of title 28, United States Code, pursuant to section 1083(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 342; 28 U.S.C. 1605A note)).

(b) TEMPORAL SCOPE.—Subsection (a) shall apply only with respect to any conduct or event occurring before June 30, 2006, regardless of whether, or the extent to which, application of that subsection affects any action filed before, on, or after that date.

(c) AUTHORITY OF THE SECRETARY.—The certification by the Secretary referred to in subsection (a)(2) may not be delegated, and shall not be subject to judicial review.

## AUTHORIZING PRODUCTION OF RECORDS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 642 submitted earlier today by Senators REID and MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 642) to authorize the production of records by the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has received requests from various law enforcement and regulatory agencies, seeking access to records that the Subcommittee obtained during its recent investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States.

This resolution would authorize the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, to provide records, obtained by the Subcommittee in the course of its investigation, in response to these requests and any similar requests from government entities and officials with a legitimate need for the records.

Mr. DURBIN. 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, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 642) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 642

Whereas, the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs conducted an investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States;

Whereas, the Subcommittee has received a number of requests from law enforcement and regulatory agencies for access to records of the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs, acting jointly, are authorized to provide to law enforcement officials, regulatory agencies, and other entities or individuals duly authorized by federal, state, or foreign governments, records of the Subcommittee's investigation into tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of those activities on tax compliance in the United States.

## MEASURE READ THE FIRST TIME—S. 3406

Mr. DURBIN. Mr. President, I understand that S. 3406, introduced earlier today by Senator HARKIN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 3406) to restore the intent and protections of the Americans with Disabilities Act of 1990.

Mr. DURBIN. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will be read for the second time on the next legislative day.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 110–181, appoints the following individual to the Commission on Wartime Contracting: Robert J. Henke of Virginia.

## ORDERS FOR FRIDAY, AUGUST 1, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Friday, August 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 the Senate resume consideration of the motion to proceed to S. 3001, the Defense authorization bill, with Senators permitted to speak for up to 10 minutes each.

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

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:20 p.m., adjourned until Friday, August 1, 2008, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF TRANSPORTATION

DEBORAH HERSMAN, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2013. (REAPPOINTMENT)

### DEPARTMENT OF STATE

SUNG Y. KIM, OF CALIFORNIA, A FOREIGN SERVICE OFFICER OF CLASS ONE, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE SIX PARTY TALKS.

### DEPARTMENT OF THE TREASURY

ANTHONY W. RYAN, OF MASSACHUSETTS, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE ROBERT K. STEEL, RESIGNED.

### THE JUDICIARY

JOHN J. THARP, JR., OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS, VICE MARK R. FILIP, RESIGNED.

J. RICHARD BARRY, OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, VICE WILLIAM H. BARBOUR, JR., RETIRED.

THOMAS MARCELLE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK, VICE FREDERICK J. SCULLIN, JR., RETIRED.

### ELECTION ASSISTANCE COMMISSION

GINEEN BRESSO BEACH, OF FLORIDA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 12, 2009, VICE CAROLINE C. HUNTER, RESIGNED.