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Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

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

Let us pray.

Gracious Lord, King of our lives and Ruler of all, help us today to trust You with all our hearts and strive to stay within the circle of Your will. Turn the Members of this body back to the truth that those who would be great must be willing to serve humanity and that those who lose their lives for a worthy cause will find life everlasting. May such service and sacrifice bring deliverance to captives and balm to those who are bruised by life. Make our lawmakers, this day, receptive to Your wisdom, even amid the contention and collision of debate. Help them to shine with Your peace and good will. Lord, fill this Chamber with Your presence and each Senator with Your power for the work of this day.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 19, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

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

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SIGNING AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that today, Tuesday, May 19, I be authorized to sign any duly enrolled bills or joint resolutions.

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of H.R. 627, the credit card bill. A rollcall vote will occur sometime within the next half hour or so. It may not occur immediately. When cloture is invoked, we will dispose of the pending amendments and then vote on passage of the bill, as amended. Rollcall votes are possible later in the day. We do know there are some agreements on a nomination, the Gensler nomination. There will be a vote on that nomination after the caucus lunches today at about 2:15 p.m. Later this afternoon, we expect to begin consideration of the Iraq and Afghanistan supplemental appropriations bill.

RECOGNITION OF THE MINORITY LEADER

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

SUPPLEMENTAL WAR SPENDING

Mr. MCCONNELL. Mr. President, today, the Senate takes up the supplemental war spending bill for the wars in Afghanistan and Iraq. The need to consider such wartime supplementals is familiar to the Senate, but their importance has not diminished over time. Our Armed Forces have fought valiantly against global terrorism for more than 7 years, and our intelligence community has made invaluable contributions to that effort. This week, the Senate will show, once again, that we are grateful for the service and dependent on the heroism of every American fighting to help protect us at home and abroad.

Similar to any supplemental war spending bill, this week's bill must be viewed in the context of the broader fight against terrorism. This is a fight that began in earnest after the events of 9/11 but which found its justification in a long series of attacks that culminated on that terrible day. Eight years before 9/11, several Americans were killed in the first World Trade Center bombing. Two years later, five Americans were killed in an attack on a U.S. military site in Riyadh. In 1996, 19 U.S. servicemen lost their lives in the Khobar Towers bombing. In 1998, 12 Americans were killed in Embassy bombings in Nairobi and Dar es Salaam. In 2000, 17 American soldiers were killed in the attack on the USS

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

Cole. Of course, on September 11, 2001, 19 hijackers killed 3,000 Americans in New York, Virginia, and Pennsylvania.

What is clear from all this is that terrorists were at war with us long before we were at war with them. But then, after 9/11, the Northern Alliance and U.S. forces, along with our allies, took the fight to al-Qaida and the Taliban in Afghanistan. Coalition forces later toppled Saddam Hussein and subsequently mounted a successful counterinsurgency against al-Qaida in Iraq that continues to this day. The supplemental we will consider this week funds all those efforts, and it provides vital assistance to Pakistan in its ongoing battle against insurgents.

One of the more contentious issues that has arisen in the course of this protracted fight is the fate of captured terrorists. Since 9/11, the United States has captured hundreds of terrorists who wish to harm Americans. Many of them have been brought to the secure detention facility at Guantanamo Bay. Current inmates include some of the key coconspirators in the Embassy bombings in Nairobi and Dar es Salaam, as well as Abd al-Rahim al-Nashiri, the mastermind of the attack on the USS Cole. Khalid Shaikh Mohammed, the mastermind of the 9/11 attacks, is also there, as are a number of his 9/11 coconspirators.

Guantanamo was established to house terrorists such as these—dangerous men who pose a serious threat to Americans. The fact that we have not been attacked at home since 9/11 confirms, in my view, the fact that this facility, when taken together with all our other efforts in the global fight against terrorism, has been a success.

There is no doubt that some of the men who are held at Guantanamo are eager to launch new attacks against us. Of those who have been released from Guantanamo, about 12 percent have returned to the battlefield. One of these men is currently a top al-Qaida deputy in Yemen. Another is the Taliban's operations commander in southern Afghanistan. These are men who were thought to be safe for transfer.

More recently, the Defense Department has confirmed that 18 former detainees have returned to the battlefield and that at least 40 more are suspected of having done so. Earlier this year, the Saudi Government said that nearly a dozen Saudis who were released from Gitmo are believed to have returned to terrorism. This is a good reason to keep these men at Guantanamo until the administration can present us with a plan for keeping terrorists off the battlefield.

Some have argued that the existence of the Guantanamo prison serves as a recruiting tool for terrorists. But it is hard to imagine that moving this facility somewhere else and giving it a different name will somehow satisfy our critics in European capitals. Even less likely is the notion that by moving detainees from the coast of Cuba to Colorado, terrorists overseas will turn their swords into ploughshares.

The global terror network we are fighting targeted and killed Americans long before 9/11 and long before we opened the gates of Guantanamo. Shutting this facility now could only serve one end; that is, to make Americans less safe than Guantanamo.

The supplemental spending bill that the Senate votes on this week will fund an effort to combat terrorism that has been hard fought. We have seen victories and we have seen setbacks and keeping detainees off the battlefield is part of the battle. Al-Qaida's terrorist networks remain vital and lethal, and releasing detainees to return to terror in places such as Yemen would be at cross-purposes with the underlying bill itself. If we are committed to funding the global fight against terrorism, then we will come up with a good alternative to Guantanamo before we move to close it.

The administration has shown a willingness to change course on other matters of national security. It is my hope that it will show a similar willingness on Guantanamo. As the Senate considers this supplemental, we will have an opportunity to encourage such a shift in their thinking by expressing our opposition to closing Guantanamo until a good alternative emerges. This is the only way to ensure the same level of safety that Guantanamo has delivered and the supplemental itself is intended to promote.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Mr. President, I would like to speak briefly on the credit card legislation which we are going to be taking up in a minute.

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

The Senator from Illinois is recognized.

CREDIT CARD REFORM

Mr. BURRIS. Mr. President, in these trying economic times, far too many Americans have had to watch their hard-earned financial security evaporate almost overnight.

Rising unemployment, rampant foreclosures, and shrinking market liquidity continue to run roughshod over American families. For some, credit cards have become a last line of defense.

Responsible spending on credit has helped millions of ordinary people pay bills and keep food on the table even as the economy continues to deteriorate.

I rise today in support of these hard-working Americans.

The need for credit card reform is crucial, and the time to act is now. We must pass the Credit CARD Act of 2009 without delay.

As credit availability tightens, the final wall of support is crumbling. At the slightest provocation, many credit card companies have chosen to take advantage of families in distress with unfair interest rates and drastic new fees.

Some people are suddenly confronted with a choice between large annual premiums or excessive rate hikes.

A Chicagoan, Mr. Weatherspoon bought a home several years ago and soon ran into some unexpected expenses. To consolidate his home repair bills that totaled over $12,000, Mr. Weatherspoon applied for a credit card to take advantage of a low introductory offer of 4.5 percent.

Without notice, that low rate jumped to 28 percent. And he has been paying it off ever since. Over the last 8 years, Mr. Weatherspoon has paid the bank $15,000, but has only reduced his principal balance by $800.

These companies can change the terms of a contract at a moment's notice and without providing any reason at all.

This allows them to maximize their profits while keepingAmerican families mired in more than $950 billion worth of debt.

We cannot stand by as honest, responsible people fall victim to these predatory tactics.

We must not allow millions of Americans to be tricked and cheated as they struggle to make ends meet. Consumers are demanding relief, and it is our duty to provide it.

There is no place for that kind of greed in this new economy. There is no place for rising interest rates and record profits at the expense of good working people.

Now, as never before, we must move with urgency to shieldAmerican wage earners against exploitation and ensure that everyone gets a fair deal. This is especially true of those in need, and it is on their behalf that I address this Chamber today.

That is why I support the Credit CARD Act of 2009. This bipartisan legislation will give us the tools to fix a system that allows corporate giants to abuse their customers.

It will bring accountability back to the market and strengthen oversight. It will end abusive practices like hidden fees and sudden rate hikes.

Young consumers will be shielded by a provision that requires an adult to share in every new credit card agreement.

Companies will be required to use plain language instead of manipulative fine print, ending the predatory bait-and-switch tactics that got us into this mess.

Quite simply, this bill will restore fairness, honesty and plain old common sense to the credit card industry.

It will stop companies from changing the rules in the middle of the game,

but it will do nothing to reward irresponsible spenders or penalize companies that operate in good faith. This is essential legislation at a time when the stakes could not be any higher.

We must move quickly to halt unfair and abusive practices that threaten our financial security. America has had enough, and it is time that the members of this Senate stand with our fellow citizens to say that we, too, have had enough.

I urge my colleagues to join with me in passing the Credit CARD Act. We will be voting shortly. Let's pass this bill.

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

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

Mr. BROWN. I ask unanimous consent to speak for no more than 5 minutes as in morning business.

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

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. BROWN. Mr. President, 15 years ago I sat on the Energy and Commerce Committee in the House of Representatives and listened to seven tobacco executives. It was a famous photograph of these seven tobacco executives who raised their right hands and swore to tell the whole truth and nothing but the truth. They were there to defend their practices and swear under oath that cigarettes and nicotine were not addictive. The president of Philip Morris said, ''I believe nicotine is not addictive.'' The chairman and CEO of R.J. Reynolds Tobacco Company said, ''Cigarettes and nicotine clearly do not meet the classic definition of addiction.'' The president of U.S. Tobacco, the chairman and CEO of Liggett Group, and the chairman and CEO of Brown & Williamson Tobacco Corporation all said, ''I believe that nicotine is not addictive.'' I listened as the president and CEO of American Tobacco said, ''I, too, believe nicotine is not addictive.''

During that hearing, we heard repeatedly that 400,000 Americans die of tobacco-related illnesses; 400,000 Americans every year, more than a thousand people a day, die of tobacco-related illnesses. It occurred to me—as these CEOs raised their right hands, all seven of them in a row, and said tobacco is not addictive, cigarettes aren't addictive—it occurred to me why they were saying that. Simply, if 400,000 of their customers are dying every year, more than 1,000 a day, they need at least 400,000 new customers every year, at least 1,000 a day. So if they are going to get those 400,000 customers, my guess is they are not going to convince the Senator from Illinois—the junior Senator or the senior Senator from Illinois—they are not going to convince me, they are not going to convince most of us who are in our forties, fifties, and sixties to start smoking. They are more likely to aim at the pages who are sitting here who are 15, 16, 17 years old. They are more likely to go after children.

In fact, the Cancer Action Network, the American Cancer Society, did an ad today: 98,000 kids have smoked their first cigarette in the last month. That is why the cigarette companies, the tobacco companies have introduced products such as Camel Orbs, Sticks, and Strips that are aimed at children. That is why they did the Camel No. 9, a very attractive package, trying to get women to smoke; Joe Camel; billboards—until we outlawed them—right by high school campuses and high school buildings.

The fact is, 400,000 Americans die every year from tobacco-related illnesses. Tobacco companies need 400,000 new customers just to break even, just to stay in business. They aim at our children. They go after children who are 12, 13, 14, 15, 16, 17 years old. That is why, under Chairman KENNEDY's leadership with Chairman DODD, today the Health, Education, Labor, and Pensions Committee will begin its deliberations on finally changing the way we regulate tobacco, giving the authority to the Food and Drug Administration. It is the right way to go. By this time on Thursday, I hope, certainly by Friday, we should have legislation voted out of that committee, ready to take action. It is about time this body stood up to the tobacco interests and did what is right for our children.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for up to 5 minutes as in morning business.

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

Ms. LANDRIEU. Thank you, Madam President.

SMALL BUSINESS WEEK

Ms. LANDRIEU. Madam President, I know we are trying to finalize the debate on the underlying credit card improvement bill and support for consumers with personal credit cards. But I thought I would take a moment to come to the floor to speak to the fact that this week is Small Business Week in America. All over our country we are celebrating the entrepreneurial spirit of the over 26 million small businesses in America that serve as a backbone of our economy.

Just yesterday, I was with Administrator Karen Mills of the Small Business Administration, as she opened Small Business Week at one of the local hotels here, where there are hundreds of small business owners receiving awards from all our States for the extraordinary work they have done in opening, starting, and building their businesses, at even these challenging times. In a few minutes, I will be joining her for lunch, as we hand out awards to some of the most innovative small businesses in the world today, not just in America but in the world. It is exciting that many of these small business owners are with us in Washington this week.

So I have come to the floor to speak about our business owners, some of the challenges they are facing, and to acknowledge there will be a resolution we are asking to be cleared this week in honor of these millions of firms.

I say to the Presiding Officer, as you know, Main Street firms pump almost $1 trillion into our economy every year, creating two-thirds of all new jobs, and account for more than half America's workforce. Sometimes when people see corporations and businesses and they read the headlines about General Motors, GE, or other large companies—Exxon, Shell come to mind—those are good examples of national and international companies, but they are not necessarily examples of where all the jobs are, contrary to common belief.

The jobs are hard to see sometimes because they are in small places; in neighborhoods and on main streets and farm roads and on farm-to-market roads throughout our country; they are with small entrepreneurs employing themselves and maybe two or three other people or themselves and maybe 10 or 15 other people. They are building the backbone of the American free enterprise system.

These are the family businesses throughout the country whose thread still weaves the American dream—the dream of working for yourself, being your own boss, setting your own hours, never working less than you would probably at a large company, always working more but being quite rewarding, with a business you can pass down to your children and grandchildren who earn their way in the business. This is what keeps the spirit of America going forward.

These are the businesses we honor this week. They are the technological startups that produce cutting-edge, clean energy sources, lifesaving medical advances, and provide safer equipment for our troops, protecting our way of life. They are the construction companies that build new schools and better homes and businesses that fix our roads and our bridges.

These are the small business entrepreneurs out there whom we honor this week.

As the Presiding Officer and our other colleagues know, small businesses are in a world of hurt. They are in trouble. They are in very troubled waters, in very difficult times.

As America's consumers pinch pennies to pay the bills, small business owners scramble to pay their own bills. Entrepreneurs are, unfortunately, being turned away from many traditional sources of capital financing. Many of these small businesses have never, in their history of business, missed a payment or been late on a payment. Yet we are hearing some very sad and troubling stories in the Small Business Committee, such as that of Robert Cockerham, whose wife, I believe, was with him, if my memory serves. He is a car dealer. He took his life savings and started Car World. Similar to many business owners, he put everything into this business. He became one of the highest selling dealerships in New Mexico. It was an exciting opportunity for him and his family. But yet, as this recession has unfolded, he was forced to close some of his dealerships and lay off workers. He thought most of his tough decisions were behind him, only to find that a bank came in and constricted his line of credit. Again, he had never missed a payment or been late. Unfortunately, now his business is in a very dire situation.

That is why it is important for us to press forward on everything we can, through the Small Business Administration, through the stimulus package, trying to reach business owners such as this who have not done anything wrong. They have simply gotten caught up in one of the worst economic downturns in recent memory. We need to do more, and we will. That is what our efforts are here today, as in the previous weeks, and hopefully in the weeks to come.

I am proud to say we have taken some important steps. But we need to do so much more. The American Recovery and Reinvestment Act took bold steps to increase access to capital for our Nation's entrepreneurs. In the Small Business Committee, we worked to temporarily eliminate fees on SBA-backed loans. I am proud to report the week that new rule went into effect, we saw an immediate uptick of 25 percent in new loans being made through the SBA because of the temporary elimination of those fees.

The Recovery Act has helped to stimulate new lending and will, hopefully, continue to do so. We think, based on what is in the Recovery Act, it will pump about $16 billion in new loans and venture capital into small businesses in America.

I continue to be concerned, however, about the road ahead for so many of our small businesses, not only in New York, the State the Presiding Officer represents, but in Louisiana as well, where our unemployment rate, thankfully, is lower than the average but, nonetheless, our businesses are struggling.

We must double our efforts. I wish to work with my colleagues in the House to reauthorize the Small Business Administration and its critical programs. These initiatives have assisted entrepreneurs in starting and growing their businesses and were responsible, according to our records, for 1.5 million jobs being created or sustained last year.

One of these small business owners is Bob Baker, the owner of Baker Sales, a pipe and fence distributor in Louisiana and the State's Small Business Owner of the Year.

I met Bob Baker yesterday. He encourages his employees to take advantage of the free classes the local Small Business Development Center offers. He has taken advantage of the center's counseling to cope with financial difficulties.

These days, Bob reports he is doing better than most small business owners. He has stabilized his line of credit at a local Chase Bank, but he knows right now he cannot expand because of the current situation.

But let me say, if we are going to pull out of this recession—I believe we will—it is going to be because small business pulls us out, not the giant corporations, not the multinationals but the intrepid entrepreneurs who will put their face to the wind and move forward, even in difficult times.

The least we can do is reauthorize our Small Business Administration, make it as robust and effective and agile and muscular as possible, to give them the help they need.

To help Bob Baker, to help Robert Cockerham, and small business owners such as them who have testified before our committee, let us redouble our efforts to get our work done.

In conclusion, we must also make sure the billions of dollars in stimulus money are moving to small businesses, as required by law. I will be having a hearing this week in my committee, and I wish to thank so many of my members, particularly Senator SHAHEEN, Senator HAGAN, and Senator CARDIN, who have been particularly aggressive in this effort. I thank them very much.

Again, it is Small Business Week. Pat a small businessperson on the back. Thank him or her for doing his or her work because this will be the group who leads America back to strength.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Madam President, I ask unanimous consent to be able to speak for up to 10 minutes as in morning business.

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

USURY

Mr. SANDERS. Madam President, I am assuming today we are, in fact, going to vote on the credit card legislation, which is a very important step forward in beginning to address some of the outrages the large banks and credit card industry are perpetrating on the American people.

A few weeks ago, I asked folks on my mailing list to tell me what credit card companies are doing to them. Within 3 days, we had over 5,000 responses, and many of these responses were hair-raising. People have seen their interest rates on their credit cards double, triple. People are now paying 25 or 30 percent interest rates, which to my mind is unacceptable.

The issue we are dealing with on credit cards is something I have been involved in for many years. I was a member of the Financial Services Committee in the House of Representatives in 2003. We introduced legislation entitled the ''Credit Bait and Switch Prevention Act,'' which deals with many of the same issues that, in fact, we are going to be dealing with today. So it has taken us a little bit of time to get to where we are, but I think it is a step forward.

What I do wish to say is, while the legislation we are passing today is important—and it is a very good piece of legislation; I congratulate Chairman DODD for his work on it—it does not go far enough. One of the areas where it is not going anywhere near as far as it should be is finally addressing the issue of usury in the United States of America and making a moral determination whether it is acceptable, whether it is moral for banks to be charging Americans 25 or 30 percent interest rates and, in some cases, in terms of payday lending, significantly higher than that. Is that what we want to be doing as a nation? What I would like to do now is briefly read from what I thought was a very thoughtful article by Arianna Huffington in the Huffington Post, where she touches on the issue of usury, which is an issue we have to address.

This is what she says:

Throughout history, usury has been decried by writers, philosophers, and religious leaders.

Aristotle called usury the ''sordid love of gain,'' and a ''sordid trade.''

Thomas Aquinas said it was ''contrary to justice.''

In The Divine Comedy Dante assigned usurers to the seventh circle of hell.

Deuteronomy 23:19 says, ''thou shalt not lend upon usury to thy brother.''

Ezekiel 18:10 compares a usurer to someone who ''is a thief, a murderer . . . defiles the wife of his neighbor, oppresses the poor and needy, commits robbery, does not give back a pledge, raises his eyes to idols, does abominable things.''

The Koran is equally unequivocal: ''God condemns usury.'' And it goes on to say that ''those who charge usury are in the same position as those controlled by the devil's influence.''

In other words, throughout history, and in all the major religions, usury has been condemned. What civilization has said is that it is simply wrong and immoral for those people who have

money to take advantage of those people who need that money by charging them outrageously high interest rates. In my view, interest rates of 25, 30, 35, 50 percent are outrageous and it is usury, and it is time the Senate address those issues.

Up until the late 1970s—

and I am quoting Arianna Huffington again—

America's laws followed suit, keeping interest rates in check.

Then, in 1979, a Supreme Court ruling allowed banks to charge the top interest rate allowed by the State where a bank is incorporated as opposed to the borrower's home State. Hoping to lure banks' business, States like South Dakota and Delaware repealed their usury laws—and off we went.

That same year, Congress passed the Depository Institutions Deregulation and Monetary Control Act which, among other things, allowed federally chartered savings banks and loan companies to charge any interest rates they chose—putting us on the path that led us to today, where banks routinely gouge their most vulnerable customers.

So here is where we are today. The bottom line is we are going to pass a bill that is long overdue. It is a good bill. I commend Chairman DODD for his hard work. It is an important step forward in protecting consumers. But I am going to be back on this issue of usury. In the United States of America, we have to finally tell banks and credit card companies it is simply not acceptable to charge people 25, 30, 35 percent interest rates. We have to end that abominable practice, and I intend to be playing an active role in that.

I ask unanimous consent that the article to which I have been referring be printed in the RECORD.

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

(From the Huffington Post, May 18, 2009)

OBAMA CALLS FOR AN EXTREME MAKEOVER OF OUR CULTURE: ARE THE CREDIT CARD COMPANIES LISTENING?

(By Arianna Huffington)

In his masterful commencement speech at Notre Dame this weekend, President Obama took his campaign theme of Change to a whole new level, telling the graduates—and the rest of us—that we find ourselves at ''a rare inflection point in history where the size and scope of the challenges before us require that we remake our world to renew its promise.''

So, as we stand at this inflection point and gradually move from what Jonas Salk called Epoch A (our survival-focused past) to Epoch B (our meaning-focused future), we have to ask ourselves what this remade world will look like—and what steps we need to take to get there.

At Notre Dame, Obama offered a devastating teardown of Epoch A and its ''economy that left millions behind even before this crisis hit—an economy where greed and short-term thinking were too often rewarded at the expense of fairness, and diligence, and an honest day's work.''

The problem, according to the president: ''Too many of us view life only through the lens of immediate self-interest and crass materialism; in which the world is necessarily a zero-sum game. The strong too often dominate the weak, and too many of those with wealth and power find all manner of justification for their own privilege in the face of poverty and injustice.''

The president should email his speech to Wall Street. And while he's at it, he should also blast it out to the people running the giant pharmaceutical companies, the ones who knowingly allow deadly drugs to remain on the shelves; to the people running chemical plants releasing deadly toxins into the water and air; to the factory farmers filling our food with steroids and additives; to the dentists exposed for trading their Hippocratic oath for profit by performing unnecessary surgeries on children.

And he should definitely send it to the credit card companies, which, faced with customers choking on debt and forced to use their credits cards to pay for essentials like food and medical care, respond by jacking up interest rates and tacking on penalties and fees. Even as credit card defaults reached record levels in April.

As we move to Epoch B, we need to ask ourselves: do we want to continue living in a world where banks can gouge their customers with sky-high interest rates?

The Senate seems to think so. Last week it voted down a measure introduced by Bernie Sanders that would cap interest rates at 15 percent. And it wasn't even close. Sanders' amendment only got 33 votes, with 22 Democrats joining those who voted against the interests of their constituents (a shout out to Sen. Grassley, the lone Republican to vote for the amendment).

''When banks are charging 30 percent interest rates, they are not making credit available,'' said Senator Sanders. ''They are engaged in loan sharking.'' Also known as usury.

Throughout history, usury has been decried by writers, philosophers, and religious leaders.

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Then, in 1979, a Supreme Court ruling allowed banks to charge the top interest rate allowed by the state where a bank is incorporated as opposed to the borrower's home state. Hoping to lure banks' business, states like South Dakota and Delaware repealed their usury laws—and off we went.

That same year, Congress passed the Depository Institutions Deregulation and Monetary Control Act which, among other things, allowed federally chartered savings banks and loan companies to charge any interest rates they chose—putting us on the path that led us to today, where banks routinely gouge their most vulnerable customers.

According to Elizabeth Warren, credit card companies ''have switched from the notion of 'I'll lend you money because I think you'll be able to repay and we'll find a reasonable rate for doing that' over to a tricks and traps model . . . The job is to trick people and trap them and that' s how you boost profits.''

This profit-uber-alles mindset is why the banking industry, looking at the world through what Obama described as the ''lens of immediate self-interest and crass materialism,'' is fighting tooth and nail against the Senate's new credit card reform bill that is set to come up for a vote this week (the industry already having spent $42 million on lobbying this year alone). Although, to hear the bankers' lobbyists tell it, all they really want is what is best for the consumer.

''It is vitally important for policymakers to get the right balance of better consumer protection while not jeopardizing access to credit and the credit markets,'' said Ken Clayton of the American Bankers Association. ''We are very worried that the Senate bill fails to achieve this balance, to the detriment of American consumers.''

Yes, I'm sure they are losing a lot of sleep worrying about American consumers. But the problem for most consumers isn't getting access to credit cards (see the endless credit card come-ons clogging our mailboxes). It's being hammered with 36 per cent interest rates for missing a single payment or bombarded with a never-ending array of fees (lenders raked in over $18 billion on penalties and fees alone in 2007).

In any case, the Senate bill, while definitely a step in the right direction (and even tougher than the measure the House passed in April), will, with a few worthy differences, impose the same limits on the credit card industry as the new rules passed by the Fed in December. And, like the new Fed regulations, the Senate legislation won't take effect for close to a year.

Don't get me wrong: having the president sign the bill into law will send the right message to the banking industry (important after the cramdown debacle) and offer added protection against a future Fed chairman arbitrarily rolling back the new rules.

But if the new rules are important enough to consumers for Congress to enshrine them into law, why not make them effective immediately? As Obama said at last week's town hall meeting on credit cards, the predatory practices of the credit industry have ''only grown worse in the middle of this recession, when people can afford them least.'' Almost a year is too long to wait when people are struggling—and being bled dry.

''Both the politicians and the regulators are riding in like the cavalry, and the settlers are already dead,'' David Robertson, publisher of the Nilson Report, a newsletter that monitors the credit card industry, told the Washington Post.

As HuffPost's Ryan Grim reported, Obama has been much more involved with the credit card bill than he was with the anti-foreclosure legislation. But, given the impassioned case he made at Notre Dame and his call to ''align our deepest values and commitments to the demands of a new age,'' he should take it one step further and throw his weight behind Sanders' effort to limit usurious interest rates.

Just because it didn't pass doesn't mean it's dead. History is filled with causes that took many battles before they were victorious (women's suffrage, the Voting Rights Act, the Clean Air Act, the American with Disabilities Act, etc., etc., etc.).

Our deepest values and commitments are certainly being put to the test. Questions we thought had been settled for hundreds of years are suddenly back on the table. Are we a country that tortures or not? Are we a country that financially tricks and traps millions of vulnerable working families, binding them to the whims of bankers who have lost all sight of fairness?

Appearing on Real Time with Bill Maher, Elizabeth Warren put the question this way:

''This is really about whether we have a government that just recedes and says, in effect, 'Hey, the strong can take from everybody, they can write these [rules] however

they want . . .we can have a totally broken market that makes a few people very rich and robs the rest of them. Or you can write a set of rules that says, 'You know, it's just gotta be kind of level out there.' . . . Everything we have, your shoes, your clothes, the water you drink, the air you breathe, we have basic safety rules in the United States. . . . But we don't have them for consumer credit products.''

Heading into Epoch B, and seeing the devastation all around us here at the tail end Epoch A, can anyone—other than the banking lobby, that is—argue that we shouldn't?

The moment to act is now. Inflection points in history don't come along very often.

Mr. SANDERS. I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 627, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

Pending:

Dodd/Shelby amendment No. 1058, in the nature of a substitute.

Landrieu modified amendment No. 1079 (to amendment No. 1058), to end abuse, promote disclosure, and provide protections to small businesses that rely on credit cards.

Collins/Lieberman modified amendment No. 1107 (to amendment No. 1058), to address stored value devices and cards.

Lincoln amendment No. 1126 (to amendment No. 1107), to amend the Federal Deposit Insurance Act with respect to the extension of certain limitations.

AMENDMENT NO. 1130 TO AMENDMENT NO. 1058

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I ask unanimous consent that the managers' amendment, which is at the desk, be considered and agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 1130) was agreed to.

Mr. DODD. Madam President, I ask that the previous order regarding the cloture vote commence.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion to invoke cloture.

The bill 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 Dodd-Shelby substitute amendment No. 1058 to H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

Harry Reid, Christopher J. Dodd, Bill Nelson, Richard Durbin, Debbie Stabenow, Patrick J. Leahy, Patty Murray, Amy Klobuchar, Russell D. Feingold, Mark R. Warner, Jon Tester, Mark Begich, Mark L. Pryor, Robert P. Casey, Jr., Benjamin L. Cardin, Jack Reed, Sherrod Brown.

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

The question is, Is it the sense of the Senate that debate on amendment No. 1058, the Dodd-Shelby substitute to H.R. 627, the Credit Cardholders' Bill of Rights, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

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

The result was announced—yeas 92, nays 2, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—92

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

NAYS—2

Kyl	Thune

NOT VOTING—5

Brown	Ensign	Rockefeller
Byrd	Kennedy	

The PRESIDING OFFICER. On this vote, the yeas are 92, the nays are 2. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. DODD. Madam President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I ask unanimous consent that it be in order to make a point of order, en bloc, on the pending amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Madam President, I make a point of order, en bloc, that the pending amendments are not germane postcloture.

The PRESIDING OFFICER. The point of order is well taken, and the amendments fall.

DEFERRED INTEREST

Mr. SHELBY. Would the Senator from Connecticut yield to me for the purpose of engaging in a colloquy?

Mr. DODD. Yes, I would be happy to yield.

Mr. SHELBY. A the Senator knows, credit card issuers often offer so-called ''deferred interest'' programs for the benefit of cardholders. To my knowledge, the legislation would not affect the ability to offer these types of programs, is that the Senator's understanding?

Mr. DODD. That is my understanding.

Mr. SHELBY. I appreciate that. For purposes of clarifying the intent of this legislation, I would like to ask an additional question. The legislation includes provisions to prohibit a balance calculation method known as ''two-cycle'' billing. This provision would have the effect of prohibiting the card issuer from assessing interest on balances from the immediately preceding billing cycle as a result of a loss of a grace period. Is it the Senator's understanding that this provision would not affect a credit card issuer's ability to offer deferred interest programs?

Mr. DODD. That is my understanding. It is not the intent of this provision to eliminate deferred interest programs that help consumers. In fact, the payment allocation provisions in the legislation envision the continued availability of such programs.

Mr. SHELBY. I thank the Senator.

Mr. LEAHY. Madam President, it is a mark of the difference between the Senate's agenda last year and the new Senate's agenda this year that we finally are able to debate and move toward a vote on the Credit Card Accountability, Responsibility and Disclosure Act, which I strongly support.

I thank and commend both Senator DODD and Senator SHELBY for their

hard work on this important legislation. The Banking Committee has faced a number of extraordinary challenges this year—stabilizing our financial institutions, rescuing our housing market, rooting out bad actors in the financial system, and restoring consumer confidence in our economy—and I applaud Chairman DODD for the initiative he has taken in tackling these issues and helping ordinary Americans most affected by the current economic downturn.

Over the past 6 months, hundreds and hundreds of Vermonters have contacted my office voicing concerns about deceptive practices by the credit card industry. People have shared stories about credit card companies raising interest rates arbitrarily, charging usurious fees, and refusing to work cooperatively with their clients. Most troubling, the biggest offenders appear to be large, national banks that gladly accepted the mercy of taxpayer bailout money when they were in trouble yet show little compassion now when their customers are struggling.

In today's economy, Americans need credit that is accessible, affordable, and dependable. Unfortunately, our current credit card system disadvantages many Americans and makes it harder for them to pay off their debt. Credit card contracts have been growing increasingly complicated, deceptively worded, and unfairly stacked against consumers. The time is long overdue for more transparent and equitable credit card practices—which I why I was an early cosponsor of this bill and why I am very pleased that the Senate at last is able to move forward in considering and voting on it.

This bill puts fairness and common sense back into the credit card system by changing several unfair billing, marketing, and disclosure practices. Among its many important provisions, the bill prohibits interest charges on credit card debt that is paid on time; requires a 45-day notice of any fee or interest rate changes; prohibits interest charges on credit card transaction fees such as late fees; prohibits overlimit fees unless a consumer opts into the program; requires enhanced disclosure to consumers regarding the consequences of making only minimum payments; protects younger consumers from alluring and usurious credit card offers; and requires promotional rates to last at least 6 months.

I also am gratified that we now have a President who is taking consumers' needs to heart and who has supported our efforts to move this bill forward. These significant credit card reforms will protect consumers from excessive penalties, ever-changing interest rates, and complex contracts. So once again, I want to thank Chairman DODD and Ranking Member SHELBY for bringing forward this important, bipartisan legislation. I believe it will go a long way toward relieving Vermonters who, like Americans everywhere, have had to endure the dictates of credit card issuers when it comes to the onerous and unfair terms in these contracts.

Ms. MIKULSKI. Madam President, I strongly support the Credit Card Accountability, Responsibility, and Disclosure Act.

This legislation is about protecting American families. Credit card companies have been pushing schemes and scams for years. This legislation beefs up regulations and enforcement to help consumers avoid them. And it makes it easier for families to pay down their bills and get out of debt.

I support this legislation because heart and soul I am a regulator and a reformer. Over and over, I have voted for more teeth and better regulation because I believe government should be on the side of the people. I was one of nine Senators to vote against the deregulation that led to casino economics and caused the economic crisis we are fighting to get through today. From tainted dog food to toxic securities, we've seen the consequences of a lax regulatory culture and wimpy enforcement, which is why I have fought against it at every turn.

We need to get back to basics. For too long we have let credit card companies get away with schemes and scams. We relaxed the rules and allowed the whales and the sharks to grow bigger and fiercer. I am on the side of the minnows. We need to regulate the whales and the sharks. We need to stop the scamming and the scheming.

American families are worried about their jobs. They are worried about their health care. They are worried about their kids' school. They shouldn't have to worry about unfair credit card practices.

People who saved for their retirement, those who've been faithful in paying their mortgage, those who have worked hard to pay for college are wondering, ''What is going on? The cost of groceries and health care and energy are going up and my pay check, if I'm lucky enough to still have one, is going down. Where's my bailout?''

No wonder my constituents are mad as hell. They have watched Wall Street executives pay themselves lavish salaries. They have watched them engage in irresponsible lending practices. They have watched them do casino economics, gambling on risky investment mechanisms. And now those same banks who are asking my constituents for a bailout with one hand are raising interest rates for no reason, and charging exorbitant fees with the other hand.

Well, my constituents are mad as hell and so am I. I want them to know that I am on their side. I am fighting to get government back on the side of the people who need it. We need to look out for the public good, not private profits.

The banks on Wall Street have been busy in the past 10 years. At the same time they were inventing new ways to make risky loans and engage in casino economics, they were also figuring out how to get American consumers in debt traps, and keep them there by raising interest rates, charging fees, and marketing to consumers who didn't know any better.

They have been raising interest rates on consumers for no reason, and applying the higher interest rates retroactively.

They have been charging fees without any legitimate purpose—and then charging interest on top those unfair fees.

And they have been marketing their products to college students who they knew couldn't afford the credit they were providing.

This has led to a massive unsustainable debt increase for too many families. It has made it almost impossible for some to get out of debt even though they have acted responsibly, and it's led to too many students graduating college with thousands of dollars in credit card debt but no steady paycheck.

This legislation says no more.

No more raising interest rates for no reason and with no notification.

No more applying higher interest rates to balances that have already been paid off.

No more unfair sky-high fees with no recourse for the consumer.

And no more targeting college kids to weigh them down with debt before they even graduate.

These reforms will give families in debt the opportunity to get out, it will lower monthly credit card bills, and it will help consumers avoid the predatory debt traps that are the problem in the first place.

We need to fight for the middle class. We need to fight for the people who play by the rules.

And we need a major attitude adjustment.

Congress is trying to stand up for the middle class, for our constituents who are asking, ''Where is my bailout?''

But the banks and financial industry continue to stand in the way. We have given them hundreds of billions in bailouts. But there is no sense of gratitude. There is no sense of gratitude that the waitress, that the single mother, that the farmer, that the firefighter is willing to do their part. And there is no willingness to help out those who have stepped up.

There is no gratitude, no remorse, no promise to sin no more, no ''let's make amends.'' Instead, they pay themselves lavish salaries, bonuses and perks, like lavish spa retreats, and they fight tooth and nail against our efforts to help the very people who are now paying their salaries.

Wall Street is bankrupt—both on its balance sheets and in its attitude towards the American consumer. I am proud to stand with Chairman DODD and Senator SHELBY as we put government back on the side of the people who need it. These reforms have been a long time coming; I am proud to stand in support of this bill today and urge

my colleagues to vote in favor of it as well.

SENATOR LEVIN'S 11,000TH VOTE

Mr. REID. Madam President, in just a few minutes, one of our most distinguished colleagues has marked another milestone. The senior Senator from Michigan, CARL LEVIN, is going to shortly cast his 11,000th vote. How fitting that this landmark vote, like so many before it, will be cast in favor of protecting American families, hard-working American families.

We have all had the honor of serving with and getting to know CARL LEVIN. I personally have known him for a long time. I first met him in 1985. What stands out more than any other time in the dealings I have had with Senator LEVIN—and there have been lots of them—is the first time I met with him, in his office in the Russell Building. I was over there to talk about my running for the Senate. I had the good fortune of working for a number of years with his brother, Sandy, in the House. We came together to the House of Representatives.

At the beginning of the conversation, I said: CARL, I served with your brother, Sandy. We came together. He is a wonderful man.

CARL LEVIN, sitting at his desk, looked up at me and said: Yes, he is my brother, but he is also my best friend.

That is CARL LEVIN.

Before Senator LEVIN became one of our most brilliant legislators in the history of this country, he was a brilliant lawyer and a law professor. Senator LEVIN graduated from Detroit's public schools, Swarthmore College, and Harvard Law School before embarking on a remarkable career.

He has held many titles over the many years he has done public service, but each shares a common theme—serving his community and his country. He has been Michigan's assistant attorney general, the first general counsel for the Michigan Civil Rights Commission, a founder and leader in the Detroit Public Defender's Office, and president of the Detroit City Council.

His attention to detail is second to none, and we all know that. As I say, he is my Harvard nitpicker. He is such a great lawyer, has such a great legal mind. I can remember times when I have not been able to be here on the floor—Senator Daschle was the same way—and we had to call Senator LEVIN to make sure there was nothing we missed because anytime he puts his stamp of approval on something, it has been reviewed and reviewed in his great mind. His leadership is just as strong. He has been the top Democrat on the Senate Armed Services Committee since 1997. He has ably led that panel in both times of war and peace.

There are, of course, many important votes among those 11,000, but the one most recently in my mind is he voted aye for the Wounded Warrior Act, which he shepherded through the Senate in the face of veto threats, to make sure our troops and our veterans get the care they deserve on the battlefield and also when they come home. Off the Senate floor, CARL LEVIN led a groundbreaking investigation into the Enron collapse that opened America's eyes to the corporate abuses that hurt so many hard-working Americans.

More than many Americans, those across Michigan face significant struggles every day. If I lived in Detroit or Lansing or Grand Rapids, there is no one I would rather have looking out for me and helping me to get through this difficult time than CARL LEVIN. CARL LEVIN has served Michigan in the Senate longer than anyone in Michigan's history. Few would argue that anyone has done it with more passion and principle and precision than CARL LEVIN—as he approaches every issue.

I know Senator LEVIN's wife Barbara. She is a wonderful partner of Carl Levin. Also, for those Democrats, we know she can also sing.

Your wife Barbara is the best. We compliment you on raising such wonderful children—Kate, Laura, and Erica. They, your five grandchildren, and, of course, your best friend, Congressman SANDER LEVIN, join me in congratulating you on this latest accomplishment.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Madam President, I join my friend, the majority leader, in recognizing our friend for his distinguished achievement. I would say to my friend from Michigan, only 20 Senators in history have cast more votes now than CARL LEVIN. But probably even fewer have been as unassuming as the senior Senator from Michigan.

Over the years, he has impressed all his colleagues by his dogged commitment to the people of Michigan, and in particular, to the manufacturers and laborers in his home State. For many of us, he has become the face of Michigan.

A product of the Detroit public school system, Senator LEVIN graduated from Central High School in Detroit, Swarthmore College, and Harvard Law School, before returning to Detroit to practice law.

He held a number of public offices in Detroit before becoming president of the Detroit City Council. In 1978, he was elected to the U.S. Senate in an upset victory over the incumbent Republican.

Four years later, Senator LEVIN was joined in Congress by his brother and his best friend, SANDER. Apparently, people still sometimes confuse the two of them . . . so it is probably a good thing they get along so well.

The people of Michigan have been happy with Senator LEVIN's work here in the Senate: they have sent him back five times, including this past November. His hometown paper calls him a principled leader and personally above reproach.

We have seen Senator LEVIN's commitment to his State in a vivid way over the past several months, as automakers have struggled to stay afloat. We have seen him work with Members on both sides to help automakers, and we've seen him outside the Capitol showing solidarity with workers. He is committed to his State, and he shows it.

Senator LEVIN has fought hard for environmental causes. In 1990, he authored the Great Lakes Critical Programs Act to create new standards of environmental protection for the Great Lakes. He also helped win passage of the Great Lakes Legacy Program to clean up contaminated sediments.

Outside Michigan, most people probably associate Senator LEVIN with his distinguished tenure on the Senate Armed Services Committee, where he has earned a reputation as a strong supporter of our Nation's service men and women. It was because of Senator LEVIN's work on this committee that he received the Navy's highest award for a civilian a few years ago for distinguished service to the Navy and Marine Corps.

(Applause.)

The PRESIDING OFFICER. The junior Senator form Michigan is recognized.

Ms. STABENOW. Madam President, I also have to rise and thank my friend and partner and senior Senator from Michigan on behalf of everyone in Michigan. We could not be more proud of his work every day: keeping us safe, supporting the troops, fighting for veterans, the work he has done on the credit card bill that is in front of us. The fact that he has been the champion for the auto industry and autoworkers and workers across America as well as our State is something of which we are very proud.

There is no one better. With a wonderful family—Barbara and the girls and the grandkids. I am very proud to have the honor of partnering with Senator CARL LEVIN.

Congratulations.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, first let me thank my dear friend, the majority leader, for his extraordinarily generous, warmhearted comments, and including my family. As he indicated, it is so important to me.

I also thank Senator MCCONNELL. Thank you so much for your gracious comments, Senator MCCONNELL, and to my dear colleague from Michigan, Senator STABENOW.

The only thing more important to me than the 11,000 votes—which seem to be just like 30 years ago when it began—is the friendships that have formed here, the hundreds of friendships that far surpassed the 11,000 votes. I thank all of my colleagues for their friendship.

I can't think of a better vote to cast for this 11,000th vote than a vote on the bill shepherded through by my friend CHRIS DODD. To me, this vote has tremendous meaning—not only for the

work that has gone into it in our subcommittee over the years, but to be connected with a Dodd-Shelby vote, and Senator DODD's incredible effort to get this passed, makes this a special treat.

Thank you all very much.

(Applause, Senators rising.)

The PRESIDING OFFICER. Under the previous order, the substitute amendment, as amended, is agreed to.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DODD. Madam President, I will reserve my remarks until after the vote. I know my colleagues want to vote. I thank my colleagues—Senator SHELBY, the leadership—for bringing us to this moment. This is a very important bill. We would not have gotten here without a tremendous amount of cooperation. This is a good moment for all the people in our country and a good moment for consumers.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

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

I further announce that, if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Nevada (Mr. ENSIGN).

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

The result was announced—yeas 90, nays 5, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—90

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

NAYS—5

Alexander	Johnson	Thune
Bennett	Kyl	

NOT VOTING—4

Byrd	Kennedy
Ensign	Rockefeller

The bill (H.R. 627), as amended, was passed, as follows:

H.R. 627

Resolved, That the bill from the House of Representatives (H.R. 627) entitled ''An Act to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.'', do pass with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Credit Card Accountability Responsibility and Disclosure Act of 2009'' or the ''Credit CARD Act of 2009''.

(b) TABLE OF CONTENTS.—

The table of contents for this Act is as follows:

SEC. 2. REGULATORY AUTHORITY.

The Board of Governors of the Federal Reserve System (in this Act referred to as the ''Board'') may issue such rules and publish such model forms as it considers necessary to carry out this Act and the amendments made by this Act.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective 9 months after the date of enactment of this Act, except as otherwise specifically provided in this Act.

TITLE I—CONSUMER PROTECTION

SEC. 101. PROTECTION OF CREDIT CARDHOLDERS.

(a) ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED.—

(1) AMENDMENT TO TILA.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(i) ADVANCE NOTICE OF RATE INCREASE AND OTHER CHANGES REQUIRED.—

''(1) ADVANCE NOTICE OF INCREASE IN INTEREST RATE REQUIRED.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of an increase in an annual percentage rate (except in the case of an increase described in paragraph (1), (2), or (3) of section 171(b)) not later than 45 days prior to the effective date of the increase.

''(2) ADVANCE NOTICE OF OTHER SIGNIFICANT CHANGES REQUIRED.—In the case of any credit card account under an open end consumer credit plan, a creditor shall provide a written notice of any significant change, as determined by rule of the Board, in the terms (including an increase in any fee or finance charge, other than as provided in paragraph (1)) of the cardholder agreement between the creditor and the obligor, not later than 45 days prior to the effective date of the change.

''(3) NOTICE OF RIGHT TO CANCEL.—Each notice required by paragraph (1) or (2) shall be made in a clear and conspicuous manner, and shall contain a brief statement of the right of the obligor to cancel the account pursuant to rules established by the Board before the effective date of the subject rate increase or other change.

''(4) RULE OF CONSTRUCTION.—Closure or cancellation of an account by the obligor shall not constitute a default under an existing cardholder agreement, and shall not trigger an obligation to immediately repay the obligation in full or through a method that is less beneficial to the obligor than one of the methods described in section 171(c)(2), or the imposition of any other penalty or fee.''.

(2) EFFECTIVE DATE.—Notwithstanding section 3, section 127(i) of the Truth in Lending Act, as added by this subsection, shall become effective 90 days after the date of enactment of this Act.

(b) RETROACTIVE INCREASE AND UNIVERSAL DEFAULT PROHIBITED.—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended—

(1) by redesignating section 171 as section 173; and

(2) by inserting after section 170 the following:

''SEC. 171. LIMITS ON INTEREST RATE, FEE, AND FINANCE CHARGE INCREASES APPLICABLE TO OUTSTANDING BALANCES.

''(a) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan, no creditor may increase any annual percentage rate, fee, or finance charge applicable to any outstanding balance, except as permitted under subsection (b).

''(b) EXCEPTIONS.—The prohibition under subsection (a) shall not apply to—

''(1) an increase in an annual percentage rate upon the expiration of a specified period of time, provided that—

''(A) prior to commencement of that period, the creditor disclosed to the consumer, in a clear and conspicuous manner, the length of the period and the annual percentage rate that would apply after expiration of the period;

''(B) the increased annual percentage rate does not exceed the rate disclosed pursuant to subparagraph (A); and

''(C) the increased annual percentage rate is not applied to transactions that occurred prior to commencement of the period;

''(2) an increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

''(3) an increase due to the completion of a workout or temporary hardship arrangement by the obligor or the failure of the obligor to comply with the terms of a workout or temporary hardship arrangement, provided that—

''(A) the annual percentage rate, fee, or finance charge applicable to a category of transactions following any such increase does not exceed the rate, fee, or finance charge that applied to that category of transactions prior to commencement of the arrangement; and

''(B) the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

''(4) an increase due solely to the fact that a minimum payment by the obligor has not been received by the creditor within 60 days after the due date for such payment, provided that the creditor shall—

''(A) include, together with the notice of such increase required under section 127(i), a clear and conspicuous written statement of the reason for the increase and that the increase will terminate not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time from the obligor during that period; and

''(B) terminate such increase not later than 6 months after the date on which it is imposed, if the creditor receives the required minimum payments on time during that period.

''(c) REPAYMENT OF OUTSTANDING BALANCE.—

''(1) IN GENERAL.—The creditor shall not change the terms governing the repayment of any outstanding balance, except that the creditor may provide the obligor with one of the methods described in paragraph (2) of repaying any outstanding balance, or a method that is no less beneficial to the obligor than one of those methods.

''(2) METHODS.—The methods described in this paragraph are—

''(A) an amortization period of not less than 5 years, beginning on the effective date of the increase set forth in the notice required under section 127(i); or

''(B) a required minimum periodic payment that includes a percentage of the outstanding balance that is equal to not more than twice the percentage required before the effective date of the increase set forth in the notice required under section 127(i).

''(d) OUTSTANDING BALANCE DEFINED.—For purposes of this section, the term 'outstanding balance' means the amount owed on a credit card account under an open end consumer credit plan as of the end of the 14th day after the date on which the creditor provides notice of an increase in the annual percentage rate, fee, or finance charge in accordance with section 127(i).''.

(c) INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end the following:

''SEC. 148. INTEREST RATE REDUCTION ON OPEN END CONSUMER CREDIT PLANS.

''(a) IN GENERAL.—If a creditor increases the annual percentage rate applicable to a credit card account under an open end consumer credit plan, based on factors including the credit risk of the obligor, market conditions, or other factors, the creditor shall consider changes in such factors in subsequently determining whether to reduce the annual percentage rate for such obligor.

''(b) REQUIREMENTS.—With respect to any credit card account under an open end consumer credit plan, the creditor shall—

''(1) maintain reasonable methodologies for assessing the factors described in subsection (a);

''(2) not less frequently than once every 6 months, review accounts as to which the annual percentage rate has been increased since January 1, 2009, to assess whether such factors have changed (including whether any risk has declined);

''(3) reduce the annual percentage rate previously increased when a reduction is indicated by the review; and

''(4) in the event of an increase in the annual percentage rate, provide in the written notice required under section 127(i) a statement of the reasons for the increase.

''(c) RULE OF CONSTRUCTION.—This section shall not be construed to require a reduction in any specific amount.

''(d) RULEMAKING.—The Board shall issue final rules not later than 9 months after the date of enactment of this section to implement the requirements of and evaluate compliance with this section, and subsections (a), (b), and (c) shall become effective 15 months after that date of enactment.''.

(d) INTRODUCTORY AND PROMOTIONAL RATES.—Chapter 4 of the Truth in Lending Act (15 U.S.C. 1666 et seq.) is amended by inserting after section 171, as amended by this Act, the following:

''SEC. 172. ADDITIONAL LIMITS ON INTEREST RATE INCREASES.

''(a) LIMITATION ON INCREASES WITHIN FIRST YEAR.—Except in the case of an increase described in paragraph (1), (2), (3), or (4) of section 171(b), no increase in any annual percentage rate, fee, or finance charge on any credit card account under an open end consumer credit plan shall be effective before the end of the 1-year period beginning on the date on which the account is opened.

''(b) PROMOTIONAL RATE MINIMUM TERM.—No increase in any annual percentage rate applicable to a credit card account under an open end consumer credit plan that is a promotional rate (as that term is defined by the Board) shall be effective before the end of the 6-month period beginning on the date on which the promotional rate takes effect, subject to such reasonable exceptions as the Board may establish, by rule.''.

(e) CLERICAL AMENDMENT.—The table of sections for chapter 4 of the Truth in Lending Act is amended by striking the item relating to section 171 and inserting the following:

''171. Limits on interest rate, fee, and finance charge increases applicable to outstanding balances.
''172. Additional limits on interest rate increases.
''173. Applicability of State laws.''.

SEC. 102. LIMITS ON FEES AND INTEREST CHARGES.

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(j) PROHIBITION ON PENALTIES FOR ON-TIME PAYMENTS.—

''(1) PROHIBITION ON DOUBLE-CYCLE BILLING AND PENALTIES FOR ON-TIME PAYMENTS.—Except as provided in paragraph (2), a creditor may not impose any finance charge on a credit card account under an open end consumer credit plan as a result of the loss of any time period provided by the creditor within which the obligor may repay any portion of the credit extended without incurring a finance charge, with respect to—

''(A) any balances for days in billing cycles that precede the most recent billing cycle; or

''(B) any balances or portions thereof in the current billing cycle that were repaid within such time period.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) any adjustment to a finance charge as a result of the resolution of a dispute; or

''(B) any adjustment to a finance charge as a result of the return of a payment for insufficient funds.

''(k) OPT-IN REQUIRED FOR OVER-THE-LIMIT TRANSACTIONS IF FEES ARE IMPOSED.—

''(1) IN GENERAL.—In the case of any credit card account under an open end consumer credit plan under which an over-the-limit fee may be imposed by the creditor for any extension of credit in excess of the amount of credit authorized to be extended under such account, no such fee shall be charged, unless the consumer has expressly elected to permit the creditor, with respect to such account, to complete transactions involving the extension of credit under such account in excess of the amount of credit authorized.

''(2) DISCLOSURE BY CREDITOR.—No election by a consumer under paragraph (1) shall take effect unless the consumer, before making such election, received a notice from the creditor of any over-the-limit fee in the form and manner, and at the time, determined by the Board. If the consumer makes the election referred to in paragraph (1), the creditor shall provide notice to the consumer of the right to revoke the election, in the form prescribed by the Board, in any periodic statement that includes notice of the imposition of an over-the-limit fee during the period covered by the statement.

''(3) FORM OF ELECTION.—A consumer may make or revoke the election referred to in paragraph (1) orally, electronically, or in writing, pursuant to regulations prescribed by the Board. The Board shall prescribe regulations to ensure that the same options are available for both making and revoking such election.

''(4) TIME OF ELECTION.—A consumer may make the election referred to in paragraph (1) at any time, and such election shall be effective until the election is revoked in the manner prescribed under paragraph (3).

''(5) REGULATIONS.—The Board shall prescribe regulations—

''(A) governing disclosures under this subsection; and

''(B) that prevent unfair or deceptive acts or practices in connection with the manipulation of credit limits designed to increase over-the-limit fees or other penalty fees.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit a creditor from completing an over-the-limit transaction, provided that a consumer who has not made a valid election under paragraph (1) is not charged an over-the-limit fee for such transaction.

''(7) RESTRICTION ON FEES CHARGED FOR AN OVER-THE-LIMIT TRANSACTION.—With respect to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit

in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

''(l) LIMIT ON FEES RELATED TO METHOD OF PAYMENT.—With respect to a credit card account under an open end consumer credit plan, the creditor may not impose a separate fee to allow the obligor to repay an extension of credit or finance charge, whether such repayment is made by mail, electronic transfer, telephone authorization, or other means, unless such payment involves an expedited service by a service representative of the creditor.''.

(b) REASONABLE PENALTY FEES.—

(1) IN GENERAL.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.), as amended by this Act, is amended by adding at the end the following:

''SEC. 149. REASONABLE PENALTY FEES ON OPEN END CONSUMER CREDIT PLANS.

''(a) IN GENERAL.—The amount of any penalty fee or charge that a card issuer may impose with respect to a credit card account under an open end consumer credit plan in connection with any omission with respect to, or violation of, the cardholder agreement, including any late payment fee, over-the-limit fee, or any other penalty fee or charge, shall be reasonable and proportional to such omission or violation.

''(b) RULEMAKING REQUIRED.—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, shall issue final rules not later than 9 months after the date of enactment of this section, to establish standards for assessing whether the amount of any penalty fee or charge described under subsection (a) is reasonable and proportional to the omission or violation to which the fee or charge relates. Subsection (a) shall become effective 15 months after the date of enactment of this section.

''(c) CONSIDERATIONS.—In issuing rules required by this section, the Board shall consider—

''(1) the cost incurred by the creditor from such omission or violation;

''(2) the deterrence of such omission or violation by the cardholder;

''(3) the conduct of the cardholder; and

''(4) such other factors as the Board may deem necessary or appropriate.

''(d) DIFFERENTIATION PERMITTED.—In issuing rules required by this subsection, the Board may establish different standards for different types of fees and charges, as appropriate.

''(e) SAFE HARBOR RULE AUTHORIZED.—The Board, in consultation with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the National Credit Union Administration Board, may issue rules to provide an amount for any penalty fee or charge described under subsection (a) that is presumed to be reasonable and proportional to the omission or violation to which the fee or charge relates.''.

(2) CLERICAL AMENDMENTS.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended—

*(A) in the chapter heading, by inserting ''**AND LIMITS ON CREDIT CARD FEES**'' after ''**ADVERTISING**''; and*

(B) in the table of sections for the chapter, by adding at the end the following:

''148. Interest rate reduction on open end consumer credit plans.
''149. Reasonable penalty fees on open end consumer credit plans.''.

SEC. 103. USE OF TERMS CLARIFIED.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(m) USE OF TERM 'FIXED RATE'.—With respect to the terms of any credit card account under an open end consumer credit plan, the term 'fixed', when appearing in conjunction with a reference to the annual percentage rate or interest rate applicable with respect to such account, may only be used to refer to an annual percentage rate or interest rate that will not change or vary for any reason over the period specified clearly and conspicuously in the terms of the account.''.

SEC. 104. APPLICATION OF CARD PAYMENTS.

Section 164 of the Truth in Lending Act (15 U.S.C. 1666c) is amended—

(1) by striking the section heading and all that follows through ''Payments'' and inserting the following:

''§ 164. Prompt and fair crediting of payments

''(a) IN GENERAL.—Payments'';

(2) by inserting '', by 5:00 p.m. on the date on which such payment is due,'' after ''in readily identifiable form'';

(3) by striking ''manner, location, and time'' and inserting ''manner, and location''; and

(4) by adding at the end the following:

''(b) APPLICATION OF PAYMENTS.—

''(1) IN GENERAL.—Upon receipt of a payment from a cardholder, the card issuer shall apply amounts in excess of the minimum payment amount first to the card balance bearing the highest rate of interest, and then to each successive balance bearing the next highest rate of interest, until the payment is exhausted.

''(2) CLARIFICATION RELATING TO CERTAIN DEFERRED INTEREST ARRANGEMENTS.—A creditor shall allocate the entire amount paid by the consumer in excess of the minimum payment amount to a balance on which interest is deferred during the last 2 billing cycles immediately preceding the expiration of the period during which interest is deferred.

''(c) CHANGES BY CARD ISSUER.—If a card issuer makes a material change in the mailing address, office, or procedures for handling cardholder payments, and such change causes a material delay in the crediting of a cardholder payment made during the 60-day period following the date on which such change took effect, the card issuer may not impose any late fee or finance charge for a late payment on the credit card account to which such payment was credited.''.

SEC. 105. STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR ''FEE HARVESTER'' CARDS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as amended by this Act, is amended by adding at the end the following new subsection:

''(n) STANDARDS APPLICABLE TO INITIAL ISSUANCE OF SUBPRIME OR 'FEE HARVESTER' CARDS.—

''(1) IN GENERAL.—If the terms of a credit card account under an open end consumer credit plan require the payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) by the consumer in the first year during which the account is opened in an aggregate amount in excess of 25 percent of the total amount of credit authorized under the account when the account is opened, no payment of any fees (other than any late fee, over-the-limit fee, or fee for a payment returned for insufficient funds) may be made from the credit made available under the terms of the account.

''(2) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as authorizing any imposition or payment of advance fees otherwise prohibited by any provision of law.''.

SEC. 106. RULES REGARDING PERIODIC STATEMENTS.

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(o) DUE DATES FOR CREDIT CARD ACCOUNTS.—

''(1) IN GENERAL.—The payment due date for a credit card account under an open end consumer credit plan shall be the same day each month.

''(2) WEEKEND OR HOLIDAY DUE DATES.—If the payment due date for a credit card account under an open end consumer credit plan is a day on which the creditor does not receive or accept payments by mail (including weekends and holidays), the creditor may not treat a payment received on the next business day as late for any purpose.''.

(b) LENGTH OF BILLING PERIOD.—

(1) IN GENERAL.—Section 163 of the Truth in Lending Act (15 U.S.C. 1666b) is amended to read as follows:

''SEC. 163. TIMING OF PAYMENTS.

''(a) TIME TO MAKE PAYMENTS.—A creditor may not treat a payment on an open end consumer credit plan as late for any purpose, unless the creditor has adopted reasonable procedures designed to ensure that each periodic statement including the information required by section 127(b) is mailed or delivered to the consumer not later than 21 days before the payment due date.

''(b) GRACE PERIOD.—If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part, unless a statement which includes the amount upon which the finance charge for the period is based was mailed or delivered to the consumer not later than 21 days before the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.''.

(2) EFFECTIVE DATE.—Notwithstanding section 3, section 163 of the Truth in Lending Act, as amended by this subsection, shall become effective 90 days after the date of enactment of this Act.

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 4 of the Truth in Lending Act is amended—

(1) by striking the item relating to section 163 and inserting the following:

''163. Timing of payments.''; and

(2) by striking the item relating to section 171 and inserting the following:

''171. Universal defaults prohibited.
''172. Unilateral changes in credit card agreement prohibited.
''173. Applicability of State laws.''.

SEC. 107. ENHANCED PENALTIES.

Section 130(a)(2)(A) of the Truth in Lending Act (15 U.S.C. 1640(a)(2)(A)) is amended by striking ''or (iii) in the'' and inserting the following: ''(iii) in the case of an individual action relating to an open end consumer credit plan that is not secured by real property or a dwelling, twice the amount of any finance charge in connection with the transaction, with a minimum of $500 and a maximum of $5,000, or such higher amount as may be appropriate in the case of an established pattern or practice of such failures; or (iv) in the''.

SEC. 108. CLERICAL AMENDMENTS.

Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended—

(1) by striking ''term'' and all that follows through ''means'' and inserting the following: ''terms 'open end credit plan' and 'open end consumer credit plan' mean''; and

(2) in the second sentence, by inserting ''or open end consumer credit plan'' after ''credit plan'' each place that term appears.

SEC. 109. CONSIDERATION OF ABILITY TO REPAY.

(a) IN GENERAL.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1666 et seq.), as amended by this title, is amended by adding at the end the following:

''SEC. 150. CONSIDERATION OF ABILITY TO REPAY.

''A card issuer may not open any credit card account for any consumer under an open end

consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account.''.

(b) CLERICAL AMENDMENT.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended in the table of sections for the chapter, by adding at the end the following:

''150. Consideration of ability to repay.''.

TITLE II—ENHANCED CONSUMER DISCLOSURES

SEC. 201. PAYOFF TIMING DISCLOSURES.

(a) IN GENERAL.—Section 127(b)(11) of the Truth in Lending Act (15 U.S.C. 1637(b)(11)) is amended to read as follows:

''(11)(A) A written statement in the following form: 'Minimum Payment Warning: Making only the minimum payment will increase the amount of interest you pay and the time it takes to repay your balance.', or such similar statement as is established by the Board pursuant to consumer testing.

''(B) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(ii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months, if no further advances are made, and the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays the balance over 36 months; and

''(iv) a toll-free telephone number at which the consumer may receive information about accessing credit counseling and debt management services.

''(C)(i) Subject to clause (ii), in making the disclosures under subparagraph (B), the creditor shall apply the interest rate or rates in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

''(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.

''(D) All of the information described in subparagraph (B) shall—

''(i) be disclosed in the form and manner which the Board shall prescribe, by regulation, and in a manner that avoids duplication; and

''(ii) be placed in a conspicuous and prominent location on the billing statement.

''(E) In the regulations prescribed under subparagraph (D), the Board shall require that the disclosure of such information shall be in the form of a table that—

''(i) contains clear and concise headings for each item of such information; and

''(ii) provides a clear and concise form stating each item of information required to be disclosed under each such heading.

''(F) In prescribing the form of the table under subparagraph (E), the Board shall require that—

''(i) all of the information in the table, and not just a reference to the table, be placed on the billing statement, as required by this paragraph; and

''(ii) the items required to be included in the table shall be listed in the order in which such items are set forth in subparagraph (B).

''(G) In prescribing the form of the table under subparagraph (D), the Board shall employ terminology which is different than the terminology which is employed in subparagraph (B), if such terminology is more easily understood and conveys substantially the same meaning.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or any of paragraphs (4) through (13) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or any of paragraphs (4) through (13) of section 127(b).''.

(c) GUIDELINES REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Board shall issue guidelines, by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under section 127(b)(11)(B)(iv) of the Truth in Lending Act, as added by this section.

(2) APPROVED AGENCIES.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number referred to in paragraph (1) include only those nonprofit budget and credit counseling agencies approved by a United States bankruptcy trustee pursuant to section 111(a) of title 11, United States Code.

SEC. 202. REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.

Section 127(b)(12) of the Truth in Lending Act (15 U.S.C. 1637(b)(12)) is amended to read as follows:

''(12) REQUIREMENTS RELATING TO LATE PAYMENT DEADLINES AND PENALTIES.—

''(A) LATE PAYMENT DEADLINE REQUIRED TO BE DISCLOSED.—In the case of a credit card account under an open end consumer credit plan under which a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment, the periodic statement required under subsection (b) with respect to the account shall include, in a conspicuous location on the billing statement, the date on which the payment is due or, if different, the date on which a late payment fee will be charged, together with the amount of the fee or charge to be imposed if payment is made after that date.

''(B) DISCLOSURE OF INCREASE IN INTEREST RATES FOR LATE PAYMENTS.—If 1 or more late payments under an open end consumer credit plan may result in an increase in the annual percentage rate applicable to the account, the statement required under subsection (b) with respect to the account shall include conspicuous notice of such fact, together with the applicable penalty annual percentage rate, in close proximity to the disclosure required under subparagraph (A) of the date on which payment is due under the terms of the account.

''(C) PAYMENTS AT LOCAL BRANCHES.—If the creditor, in the case of a credit card account referred to in subparagraph (A), is a financial institution which maintains branches or offices at which payments on any such account are accepted from the obligor in person, the date on which the obligor makes a payment on the account at such branch or office shall be considered to be the date on which the payment is made for purposes of determining whether a late fee or charge may be imposed due to the failure of the obligor to make payment on or before the due date for such payment.''.

SEC. 203. RENEWAL DISCLOSURES.

Section 127(d) of the Truth in Lending Act (15 U.S.C. 1637(d)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (1), by striking ''Except as provided in paragraph (2), a card issuer'' and inserting the following: ''A card issuer that has changed or amended any term of the account since the last renewal that has not been previously disclosed or''.

SEC. 204. INTERNET POSTING OF CREDIT CARD AGREEMENTS.

(a) IN GENERAL.—Section 122 of the Truth and Lending Act (15 U.S.C. 1632) is amended by adding at the end the following new subsection:

''(d) ADDITIONAL ELECTRONIC DISCLOSURES.—

''(1) POSTING AGREEMENTS.—Each creditor shall establish and maintain an Internet site on which the creditor shall post the written agreement between the creditor and the consumer for each credit card account under an open-end consumer credit plan.

''(2) CREDITOR TO PROVIDE CONTRACTS TO THE BOARD.—Each creditor shall provide to the Board, in electronic format, the consumer credit card agreements that it publishes on its Internet site.

''(3) RECORD REPOSITORY.—The Board shall establish and maintain on its publicly available Internet site a central repository of the consumer credit card agreements received from creditors pursuant to this subsection, and such agreements shall be easily accessible and retrievable by the public.

''(4) EXCEPTION.—This subsection shall not apply to individually negotiated changes to contractual terms, such as individually modified workouts or renegotiations of amounts owed by a consumer under an open end consumer credit plan.

''(5) REGULATIONS.—The Board, in consultation with the other Federal banking agencies (as that term is defined in section 603) and the Federal Trade Commission, may promulgate regulations to implement this subsection, including specifying the format for posting the agreements on the Internet sites of creditors and establishing exceptions to paragraphs (1) and (2), in any case in which the administrative burden outweighs the benefit of increased transparency, such as where a credit card plan has a de minimis number of consumer account holders.''.

SEC. 205. PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.

(a) PREVENTING DECEPTIVE MARKETING.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following:

''(g) PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.—

''(1) IN GENERAL.—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: 'AnnualCreditReport.com' (or such other source as may be authorized under Federal law).

''(2) TELEVISION AND RADIO ADVERTISEMENT.—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by televison or radio, the disclosure required under paragraph (1) shall consist only of the following: 'This is not the free credit report provided for by Federal law'.''.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall issue a final rule to carry out this section.

(2) CONTENT.—The rule required by this subsection—

(A) shall include specific wording to be used in advertisements in accordance with this section; and

(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

(3) INTERIM DISCLOSURES.—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act, as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: ''Free credit reports are available under Federal law at: 'AnnualCreditReport.com'.''.

TITLE III—PROTECTION OF YOUNG CONSUMERS

SEC. 301. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(8) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end consumer credit plan established by or on behalf of, a consumer who has not attained the age of 21, unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer who has not attained the age of 21 as of the date of submission of the application shall require—

''(i) the signature of a cosigner, including the parent, legal guardian, spouse, or any other individual who has attained the age of 21 having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

''(ii) submission by the consumer of financial information, including through an application, indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

''(C) SAFE HARBOR.—The Board shall promulgate regulations providing standards that, if met, would satisfy the requirements of subparagraph (B)(ii).''.

SEC. 302. PROTECTION OF YOUNG CONSUMERS FROM PRESCREENED CREDIT OFFERS.

Section 604(c)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(c)(1)(B)) is amended—

(1) in clause (ii), by striking ''and'' at the end; and

(2) in clause (iii), by striking the period at the end and inserting the following: ''; and

''(iv) the consumer report does not contain a date of birth that shows that the consumer has not attained the age of 21, or, if the date of birth on the consumer report shows that the consumer has not attained the age of 21, such consumer consents to the consumer reporting agency to such furnishing.''.

SEC. 303. ISSUANCE OF CREDIT CARDS TO CERTAIN COLLEGE STUDENTS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following new subsection:

''(p) PARENTAL APPROVAL REQUIRED TO INCREASE CREDIT LINES FOR ACCOUNTS FOR WHICH PARENT IS JOINTLY LIABLE.—No increase may be made in the amount of credit authorized to be extended under a credit card account for which a parent, legal guardian, or spouse of the consumer, or any other individual has assumed joint liability for debts incurred by the consumer in connection with the account before the consumer attains the age of 21, unless that parent, guardian, or spouse approves in writing, and assumes joint liability for, such increase.''.

SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

''(f) CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.—

''(1) DISCLOSURE REQUIRED.—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

''(2) INDUCEMENTS PROHIBITED.—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

''(A) on the campus of an institution of higher education;

''(B) near the campus of an institution of higher education, as determined by rule of the Board; or

''(C) at an event sponsored by or related to an institution of higher education.

''(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

''(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

''(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

''(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.''.

SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

''(r) COLLEGE CARD AGREEMENTS.—

''(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) COLLEGE AFFINITY CARD.—The term 'college affinity card' means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and—

''(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

''(ii) the creditor has agreed to offer discounted terms to the consumer; or

''(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

''(B) COLLEGE STUDENT CREDIT CARD ACCOUNT.—The term 'college student credit card account' means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

''(C) COLLEGE STUDENT.—The term 'college student' means an individual who is a full-time or a part-time student attending an institution of higher education.

''(D) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

''(2) REPORTS BY CREDITORS.—

''(A) IN GENERAL.—Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

''(B) DETAILS OF REPORT.—The information required to be reported under subparagraph (A) includes—

''(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

''(ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

''(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

''(C) AGGREGATION BY INSTITUTION.—The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

''(D) INITIAL REPORT.—The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

''(3) REPORTS BY BOARD.—The Board shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.''.

(b) STUDY AND REPORT BY THE COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT.—Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

TITLE IV—GIFT CARDS

SEC. 401. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by redesignating sections 915 through 921 as sections 916 through 922, respectively; and

(2) by inserting after section 914 the following:

''SEC. 915. GENERAL-USE PREPAID CARDS, GIFT CERTIFICATES, AND STORE GIFT CARDS.

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) DORMANCY FEE; INACTIVITY CHARGE OR FEE.—The terms 'dormancy fee' and 'inactivity charge or fee' mean a fee, charge, or penalty for non-use or inactivity of a gift certificate, store gift card, or general-use prepaid card.

''(2) GENERAL USE PREPAID CARD, GIFT CERTIFICATE, AND STORE GIFT CARD.—

''(A) GENERAL-USE PREPAID CARD.—The term 'general-use prepaid card' means a card or other payment code or device issued by any person that is—

''(i) redeemable at multiple, unaffiliated merchants or service providers, or automated teller machines;

''(ii) issued in a requested amount, whether or not that amount may, at the option of the issuer, be increased in value or reloaded if requested by the holder;

''(iii) purchased or loaded on a prepaid basis; and

''(iv) honored, upon presentation, by merchants for goods or services, or at automated teller machines.

''(B) GIFT CERTIFICATE.—The term 'gift certificate' means an electronic promise that is—

''(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

''(ii) issued in a specified amount that may not be increased or reloaded;

''(iii) purchased on a prepaid basis in exchange for payment; and

''(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

''(C) STORE GIFT CARD.—The term 'store gift card' means an electronic promise, plastic card, or other payment code or device that is—

''(i) redeemable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo;

''(ii) issued in a specified amount, whether or not that amount may be increased in value or reloaded at the request of the holder;

''(iii) purchased on a prepaid basis in exchange for payment; and

''(iv) honored upon presentation by such single merchant or affiliated group of merchants for goods or services.

''(D) EXCLUSIONS.—The terms 'general-use prepaid card', 'gift certificate', and 'store gift card' do not include an electronic promise, plastic card, or payment code or device that is—

''(i) used solely for telephone services;

''(ii) reloadable and not marketed or labeled as a gift card or gift certificate;

''(iii) a loyalty, award, or promotional gift card, as defined by the Board;

''(iv) not marketed to the general public;

''(v) issued in paper form only (including for tickets and events); or

''(vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—

''(I) at the event or venue after admission; or

''(II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

''(3) SERVICE FEE.—

''(A) IN GENERAL.—The term 'service fee' means a periodic fee, charge, or penalty for holding or use of a gift certificate, store gift card, or general-use prepaid card.

''(B) EXCLUSION.—With respect to a general-use prepaid card, the term 'service fee' does not include a one-time initial issuance fee.

''(b) PROHIBITION ON IMPOSITION OF FEES OR CHARGES.—

''(1) IN GENERAL.—Except as provided under paragraphs (2) through (4), it shall be unlawful for any person to impose a dormancy fee, an inactivity charge or fee, or a service fee with respect to a gift certificate, store gift card, or general-use prepaid card.

''(2) EXCEPTIONS.—A dormancy fee, inactivity charge or fee, or service fee may be charged with respect to a gift certificate, store gift card, or general-use prepaid card, if—

''(A) there has been no activity with respect to the certificate or card in the 12-month period ending on the date on which the charge or fee is imposed;

''(B) the disclosure requirements of paragraph (3) have been met;

''(C) not more than one fee may be charged in any given month; and

''(D) any additional requirements that the Board may establish through rulemaking under subsection (d) have been met.

''(3) DISCLOSURE REQUIREMENTS.—The disclosure requirements of this paragraph are met if—

''(A) the gift certificate, store gift card, or general-use prepaid card clearly and conspicuously states—

''(i) that a dormancy fee, inactivity charge or fee, or service fee may be charged;

''(ii) the amount of such fee or charge;

''(iii) how often such fee or charge may be assessed; and

''(iv) that such fee or charge may be assessed for inactivity; and

''(B) the issuer or vendor of such certificate or card informs the purchaser of such charge or fee before such certificate or card is purchased, regardless of whether the certificate or card is purchased in person, over the Internet, or by telephone.

''(4) EXCLUSION.—The prohibition under paragraph (1) shall not apply to any gift certificate—

''(A) that is distributed pursuant to an award, loyalty, or promotional program, as defined by the Board; and

''(B) with respect to which, there is no money or other value exchanged.

''(c) PROHIBITION ON SALE OF GIFT CARDS WITH EXPIRATION DATES.—

''(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any person to sell or issue a gift certificate, store gift card, or general-use prepaid card that is subject to an expiration date.

''(2) EXCEPTIONS.—A gift certificate, store gift card, or general-use prepaid card may contain an expiration date if—

''(A) the expiration date is not earlier than 5 years after the date on which the gift certificate was issued, or the date on which card funds were last loaded to a store gift card or general-use prepaid card; and

''(B) the terms of expiration are clearly and conspicuously stated.

''(d) ADDITIONAL RULEMAKING.—

''(1) IN GENERAL.—The Board shall—

''(A) prescribe regulations to carry out this section, in addition to any other rules or regulations required by this title, including such additional requirements as appropriate relating to the amount of dormancy fees, inactivity charges or fees, or service fees that may be assessed and the amount of remaining value of a gift certificate, store gift card, or general-use prepaid card below which such charges or fees may be assessed; and

''(B) shall determine the extent to which the individual definitions and provisions of the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.

''(2) CONSULTATION.—In prescribing regulations under this subsection, the Board shall consult with the Federal Trade Commission.

''(3) TIMING; EFFECTIVE DATE.—The regulations required by this subsection shall be issued in final form not later than 9 months after the date of enactment of the Credit CARD Act of 2009.''.

SEC. 402. RELATION TO STATE LAWS.

Section 920 of the Electronic Fund Transfer Act (as redesignated by this title) is amended by inserting ''dormancy fees, inactivity charges or fees, service fees, or expiration dates of gift certificates, store gift cards, or general-use prepaid cards,'' after ''electronic fund transfers,''.

SEC. 403. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective 15 months after the date of enactment of this Act.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. STUDY AND REPORT ON INTERCHANGE FEES.

(a) STUDY REQUIRED.—The Comptroller General of the United States (in this section referred to as the ''Comptroller'') shall conduct a study on use of credit by consumers, interchange fees, and their effects on consumers and merchants.

(b) SUBJECTS FOR REVIEW.—In conducting the study required by this section, the Comptroller shall review—

(1) the extent to which interchange fees are required to be disclosed to consumers and merchants, whether merchants are restricted from disclosing interchange or merchant discount fees, and how such fees are overseen by the Federal banking agencies or other regulators;

(2) the ways in which the interchange system affects the ability of merchants of varying size to negotiate pricing with card associations and banks;

(3) the costs and factors incorporated into interchange fees, such as advertising, bonus miles, and rewards, how such costs and factors vary among cards;

(4) the consequences of the undisclosed nature of interchange fees on merchants and consumers with regard to prices charged for goods and services;

(5) how merchant discount fees compare to the credit losses and other costs that merchants incur to operate their own credit networks or store cards;

(6) the extent to which the rules of payment card networks and their policies regarding interchange fees are accessible to merchants;

(7) other jurisdictions where the central bank has regulated interchange fees and the impact on retail prices to consumers in such jurisdictions;

(8) whether and to what extent merchants are permitted to discount for cash; and

(9) the extent to which interchange fees allow smaller financial institutions and credit unions to offer payment cards and compete against larger financial institutions.

(c) REPORT REQUIRED.—Not later than 180 days after the date of enactment of this Act, the Comptroller shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study required by this section, together with such recommendations for legislative or administrative actions as may be appropriate.

SEC. 502. BOARD REVIEW OF CONSUMER CREDIT PLANS AND REGULATIONS.

(a) REQUIRED REVIEW.—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including—

(1) the terms of credit card agreements and the practices of credit card issuers;

(2) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and

(4) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected—

(A) cost and availability of credit, particularly with respect to non-prime borrowers;

(B) the safety and soundness of credit card issuers;

(C) the use of risk-based pricing; or

(D) credit card product innovation.

(b) SOLICITATION OF PUBLIC COMMENT.—In connection with conducting the review required

by subsection (a), the Board shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

(c) REGULATIONS.—

(1) NOTICE.—Following the review required by subsection (a), the Board shall publish a notice in the Federal Register that—

(A) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the Board, such as through consumer testing or other research; and

(B) either—

(i) proposes new or revised regulations or interpretations to update or revise disclosures and protections for consumer credit cards, as appropriate; or

(ii) states the reason for the determination of the Board that new or revised regulations are not necessary.

(2) REVISION OF REVIEW PERIOD FOLLOWING MATERIAL REVISION OF REGULATIONS.—In the event that the Board materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required by subsection (a).

(d) BOARD REPORT TO THE CONGRESS.—The Board shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

(e) ADDITIONAL REPORTING.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission shall provide annually to the Board, and the Board shall include in its annual report to Congress under section 10 of the Federal Reserve Act, information about the supervisory and enforcement activities of the agencies with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations, including—

(1) this Act, the amendments made by this Act, and regulations prescribed under this Act and such amendments; and

(2) section 5 of the Federal Trade Commission Act, and regulations prescribed under the Federal Trade Commission Act, including part 227 of title 12 of the Code of Federal Regulations, as prescribed by the Board (referred to as ''Regulation AA'').

SEC. 503. STORED VALUE.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

SEC. 504. PROCEDURE FOR TIMELY SETTLEMENT OF ESTATES OF DECEDENT OBLIGORS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

''§ 140A Procedure for timely settlement of estates of decedent obligors

''The Board, in consultation with the Federal Trade Commission and each other agency referred to in section 108(a), shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 140 the following new item:

''140A. Procedure for timely settlement of estates of decedent obligors''.''.

SEC. 505. REPORT TO CONGRESS ON REDUCTIONS OF CONSUMER CREDIT CARD LIMITS BASED ON CERTAIN INFORMATION AS TO EXPERIENCE OR TRANSACTIONS OF THE CONSUMER.

(a) REPORT ON CREDITOR PRACTICES REQUIRED.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Board, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission, shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on—

(1) the geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

(2) the credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

(3) the identity of the mortgage creditor which extended or holds the mortgage loan secured by the primary residence of the consumer.

(b) OTHER INFORMATION.—The report required under subsection (a) shall also include—

(1) the number of creditors that have engaged in the practices described in subsection (a);

(2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers;

(3) any other relevant information regarding such practices; and

(4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

SEC. 506. BOARD REVIEW OF SMALL BUSINESS CREDIT PLANS AND RECOMMENDATIONS.

(a) REQUIRED REVIEW.—Not later than 9 months after the date of enactment of this Act, the Board shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as ''small businesses'') and the credit card market for small businesses, including—

(1) the terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

(2) the adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

(4) the cost and availability of credit for small businesses, particularly with respect to nonprime borrowers;

(5) the use of risk-based pricing for small businesses;

(6) credit card product innovation relating to small businesses; and

(7) the extent to which small business owners use personal credit cards to fund their business operations.

(b) RECOMMENDATIONS.—Following the review required by subsection (a), the Board shall, not later than 12 months after the date of enactment of this Act—

(1) provide a report to Congress that summarizes the review and other evidence gathered by the Board, such as through consumer testing or other research, and

(2) make recommendations for administrative or legislative initiatives to provide protections for credit card plans for small businesses, as appropriate.

SEC. 507. SMALL BUSINESS INFORMATION SECURITY TASK FORCE.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term ''task force'' means the task force established under subsection (b).

(b) ESTABLISHMENT.—The Administrator shall, in conjunction with the Secretary of Homeland Security, establish a task force, to be known as the ''Small Business Information Security Task Force'', to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) DUTIES.—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) INTERNET WEBSITE RECOMMENDATIONS.—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations,

both public and private, to which the Internet website should link.

(e) EDUCATION PROGRAMS.—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) EXISTING MATERIALS.—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) COORDINATION WITH PUBLIC AND PRIVATE SECTOR.—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) APPOINTMENT OF MEMBERS.—

(1) CHAIRPERSON AND VICE-CHAIRPERSON.—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) MEMBERS.—

(A) CHAIRPERSON AND VICE-CHAIRPERSON.—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) ADDITIONAL MEMBERS.—

(i) IN GENERAL.—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) NUMBER OF MEMBERS.—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(I) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) GROUPS REPRESENTED.—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies within small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) POLITICAL AFFILIATION.—The appointments under this subsection shall be made without regard to political affiliation.

(i) MEETINGS.—

(1) FREQUENCY.—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) QUORUM.—A majority of the members of the task force shall constitute a quorum.

(3) LOCATION.—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) MINUTES.—

(A) IN GENERAL.—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to the Administrator any findings or recommendations approved at the meeting.

(B) SUBMISSION TO CONGRESS.—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) FINDINGS.—

(A) IN GENERAL.—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) SUBMISSION TO CONGRESS.—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the task force shall serve without pay for their service on the task force.

(2) TRAVEL EXPENSES.—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) DETAIL OF SBA EMPLOYEES.—The Administrator may detail, without reimbursement, any of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) SBA SUPPORT OF THE TASK FORCE.—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) STARTUP DEADLINES.—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) EXCEPTION.—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000 for each of fiscal years 2010 through 2013.

SEC. 508. STUDY AND REPORT ON EMERGENCY PIN TECHNOLOGY.

(a) IN GENERAL.—The Federal Trade Commission, in consultation with the Attorney General of the United States and the United States Secret Service, shall conduct a study on the cost-effectiveness of making available at automated teller machines technology that enables a consumer that is under duress to electronically alert a local law enforcement agency that an incident is taking place at such automated teller machine, including—

(1) an emergency personal identification number that would summon a local law enforcement officer to an automated teller machine when entered into such automated teller machine; and

(2) a mechanism on the exterior of an automated teller machine that, when pressed, would summon a local law enforcement to such automated teller machine.

(b) CONTENTS OF STUDY.—The study required under subsection (a) shall include—

(1) an analysis of any technology described in subsection (a) that is currently available or under development;

(2) an estimate of the number and severity of any crimes that could be prevented by the availability of such technology;

(3) the estimated costs of implementing such technology; and

(4) a comparison of the costs and benefits of not fewer than 3 types of such technology.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the findings of the study required under this section that includes such recommendations for legislative action as the Commission determines appropriate.

SEC. 509. STUDY AND REPORT ON THE MARKETING OF PRODUCTS WITH CREDIT OFFERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers, including—

(1) debt suspension agreements;

(2) debt cancellation agreements; and

(3) credit insurance products.

(b) AREAS OF CONCERN.—The study conducted under this section shall evaluate—

(1) the suitability of the offer of products described in subsection (a) for target customers;

(2) the predatory nature of such offers; and

(3) specifically for debt cancellation or suspension agreements and credit insurance products, loss rates compared to more traditional insurance products.

(c) REPORT TO CONGRESS.—The Comptroller shall submit a report to Congress on the results of the study required by this section not later than December 31, 2010.

SEC. 510. FINANCIAL AND ECONOMIC LITERACY.

(a) REPORT ON FEDERAL FINANCIAL AND ECONOMIC LITERACY EDUCATION PROGRAMS.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy—

(A) to evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(B) to prepare and submit a report to Congress on the findings of the evaluations.

(2) CONTENTS.—The report required by this subsection shall address, at a minimum—

(A) the 2008 recommendations of the President's Advisory Council on Financial Literacy;

(B) existing Federal financial and economic literacy education programs for grades kindergarten through grade 12, and annual funding to support these programs;

(C) existing Federal postsecondary financial and economic literacy education programs and annual funding to support these programs;

(D) the current financial and economic literacy education needs of adults, and in particular, low- and moderate-income adults;

(E) ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and

(F) specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—The Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy to develop a strategic plan to improve and expand financial and economic literacy education.

(2) CONTENTS.—The plan developed under this subsection shall—

(A) incorporate findings from the report and evaluations of existing Federal financial and economic literacy education programs under subsection (a); and

(B) include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

(3) PRESENTATION TO CONGRESS.—The plan developed under this subsection shall be presented to Congress not later than 6 months after the date on which the report under subsection (a) is submitted to Congress.

(c) EFFECTIVE DATE.—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

SEC. 511. FEDERAL TRADE COMMISSION RULEMAKING ON MORTGAGE LENDING.

(a) IN GENERAL.—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended—

(1) in subsection (a)—

(A) by striking ''Within'' and inserting ''(1) Within'';

(B) in paragraph (1), as designated by subparagraph (A), by inserting after the first sentence the following: ''Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services.''; and

(C) by adding at the end the following:

''(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

''(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

''(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.''; and

(2) in subsection (b)—

(A) by striking so much as precedes paragraph (2) and inserting the following:

''(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

''(A) to enjoin that practice;

''(B) to enforce compliance with the rule;

''(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate.''; and

(B) in paragraphs (2), (3), and (6), by striking ''Commission'' each place it appears and inserting ''primary Federal regulator''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on March 12, 2009.

SEC. 512. PROTECTING AMERICANS FROM VIOLENT CRIME.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) The Second Amendment to the Constitution provides that ''the right of the people to keep and bear Arms, shall not be infringed''.

(2) Section 2.4(a)(1) of title 36, Code of Federal Regulations, provides that ''except as otherwise provided in this section and parts 7 (special regulations) and 13 (Alaska regulations), the following are prohibited: (i) Possessing a weapon, trap or net (ii) Carrying a weapon, trap or net (iii) Using a weapon, trap or net''.

(3) Section 27.42 of title 50, Code of Federal Regulations, provides that, except in special circumstances, citizens of the United States may not ''possess, use, or transport firearms on national wildlife refuges'' of the United States Fish and Wildlife Service.

(4) The regulations described in paragraphs (2) and (3) prevent individuals complying with Federal and State laws from exercising the second amendment rights of the individuals while at units of—

(A) the National Park System; and

(B) the National Wildlife Refuge System.

(5) The existence of different laws relating to the transportation and possession of firearms at different units of the National Park System and the National Wildlife Refuge System entrapped law-abiding gun owners while at units of the National Park System and the National Wildlife Refuge System.

(6) Although the Bush administration issued new regulations relating to the Second Amendment rights of law-abiding citizens in units of the National Park System and National Wildlife Refuge System that went into effect on January 9, 2009—

(A) on March 19, 2009, the United States District Court for the District of Columbia granted a preliminary injunction with respect to the implementation and enforcement of the new regulations; and

(B) the new regulations—

(i) are under review by the administration; and

(ii) may be altered.

(7) Congress needs to weigh in on the new regulations to ensure that unelected bureaucrats and judges cannot again override the Second Amendment rights of law-abiding citizens on 83,600,000 acres of National Park System land and 90,790,000 acres of land under the jurisdiction of the United States Fish and Wildlife Service.

(8) The Federal laws should make it clear that the second amendment rights of an individual at a unit of the National Park System or the National Wildlife Refuge System should not be infringed.

(b) PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS IN UNITS OF THE NATIONAL PARK SYSTEM AND THE NATIONAL WILDLIFE REFUGE SYSTEM.—The Secretary of the Interior shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm including an assembled or functional firearm in any unit of the National Park System or the National Wildlife Refuge System if—

(1) the individual is not otherwise prohibited by law from possessing the firearm; and

(2) the possession of the firearm is in compliance with the law of the State in which the unit of the National Park System or the National Wildlife Refuge System is located.

SEC. 513. GAO STUDY AND REPORT ON FLUENCY IN THE ENGLISH LANGUAGE AND FINANCIAL LITERACY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study examining—

(1) the relationship between fluency in the English language and financial literacy; and

(2) the extent, if any, to which individuals whose native language is a language other than English are impeded in their conduct of their financial affairs.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that contains a detailed summary of the findings and conclusions of the study required under subsection (a).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LEVIN. Mr. President, I move to lay that motion upon the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—S. 896

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate receives a message from the House with respect to S. 896 the Senate concur in the amendment of the House, and the motion to reconsider be laid upon the table; that this order is only valid if the House amendment is identical to the text which is at the desk; that if the text is not identical, then this order is null and void.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. DODD. As if in executive session, I ask unanimous consent that the order with respect to the Gensler nomination be modified to provide that the debate with respect to the nomination occur after the vote which is scheduled for 2:15 p.m. today.

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

Mr. DODD. Mr. President, I see my colleague from Washington is here. My intention is to come back at some point later this afternoon and talk about the credit card bill. We have talked about it a lot over the last number of weeks, but I know there are other matters other people want to bring up at this juncture. So I will reserve some time this afternoon to thank my colleagues from the Banking Committee, and also my colleagues, such as Senator LEVIN, who has been a champion of this issue for as long as I have, and others who have worked tirelessly to make this happen. So I will reserve.

The PRESIDING OFFICER. The Senator from Washington.

TO INCREASE FUNDING FOR THE SPECIAL RESERVE

Ms. CANTWELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 152, submitted earlier

today; that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 152) was agreed to, as follows:

S. RES. 152

Resolved,

SECTION 1. SPECIAL RESERVE FUNDING.

(a) IN GENERAL.—Section 20(a) of S. Res. 73 (111th Congress) is amended by striking ''$4,375,000'' and inserting ''$4,875,000''.

(b) AGGREGATES.—The additional funds provided by the amendment made by subsection (a) shall not be considered to be subject to the 89 percent limitation on Special Reserves found on page 2 of Committee Report 111–14, accompanying S. Res. 73.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15.

Thereupon, at 1:20 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

EXECUTIVE SESSION

NOMINATION OF GARY GENSLER TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gary Gensler, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission.

The ACTING PRESIDENT pro tempore. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Gary Gensler, of Maryland, to be a Commissioner of the Commodity Futures Trading Commission?

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Nevada (Mr. ENSIGN) and the Senator from Ohio (Mr. VOINOVICH).

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

The result was announced—yeas 88, nays 6, as follows:

[Rollcall Vote No. 195 Ex.]

YEAS—88

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

NAYS—6

Cantwell	Merkley	Sanders
Dorgan	Murray	Shaheen

NOT VOTING—5

Byrd	Kennedy	Voinovich
Ensign	Rockefeller	

The nomination was confirmed.

NOMINATION OF GARY GENSLER TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the nomination of Gary Gensler, of Maryland, to be Chairman of the Commodity Futures Trading Commission.

The nomination is confirmed, and the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

Under the previous order, there will now be 60 minutes of debate equally divided and controlled between the Senator from Iowa, Mr. HARKIN, and the Senator from Georgia, Mr. CHAMBLISS, or their designees.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, again, to recap what was said, we have voted twice, once to approve Mr. Gensler as a Commissioner of the Commodity Futures Trading Commission and another vote to approve him as the Chairman of the Commodity Futures Trading Commission. I voted yes on both measures. Let me share my reasoning on the nomination of Mr. Gensler.

Honestly, I have had some reservations about this nominee, though certainly not about him as a person. Based upon my meetings with him and our committee hearing, I believe Mr. Gensler is a good and decent man with a strong personal story, and he has certainly shown his intellectual capability and his knowledge of the subject.

I simply had concerns with elements of his background and philosophy, concerning the regulation of over-the-counter derivatives transactions and other financial transactions, and his views on regulations in general.

Mr. President, I chaired a nomination hearing that lasted some time. It was a hearing of substance. Mr. Gensler answered some very tough questions straightforwardly.

It is not possible to know how Mr. Gensler will decide any given question, but he has expressed support for much stronger, more effective reform in the oversight and regulation of derivatives. Of all the things we are doing around here, in terms of banking and bailouts and pronouncements coming from the Secretary of the Treasury, perhaps the construction of the whole thing is centered around how are we finally going to regulate derivatives and swaps. These are over the counter, hidden from view and, quite frankly, they have led to the debacle we have now.

Let me read some excerpts from Mr. Gensler's testimony before the Senate Agriculture Committee, which gives me, again, some positive feelings toward his future chairmanship of the CFTC.

Here is what he said:

I firmly believe that strong, intelligent regulation with aggressive enforcement benefits our economy and the public.

We must urgently move to enact a broad regulatory regime that covers the entire over-the-counter derivatives markets.

Right on target, Mr. Gensler. He also said:

The CFTC should be provided with authority to set position limits on all over-the-counter derivatives to prevent manipulation and excessive speculation.

A transparent and consistent playing field for all physical commodity futures should be the foundation of our regulations.

I agree with that.

Lastly, Mr. Gensler said this:

I believe that the CFTC must work with Congress, with other regulators, and with our global financial partners to ensure that the failures of our regulatory and financial systems, failures which have already taken a toll on every American, never happen again.

Those are all excerpts from the extensive testimony and question-and-answer period of Mr. Gensler before our committee. So now I am prepared to entrust momentous decisions to Mr. Gensler, and I am, of course, supporting the President's choice. Given the fragile state of the economy and financial markets, having a confirmed chairman at the CFTC is of critical importance.

As I said at Mr. Gensler's nomination hearing, these are challenging times, particularly for regulators like the CFTC. Since the Commodity Futures Trading Commission was established 35 years ago, it has never faced more daunting market challenges than those that exist now. The unprecedented price volatility of our markets for physical commodities, such as energy and grains, has hurt our economy. The lack of sufficient regulatory authority and oversight over the derivatives and financial markets has proven disastrous to the entire global economy.

Derivatives that were touted as managing or reducing risk turned out in practice to magnify risk—or certainly at least to allow banks, insurance companies, and investors to take on totally unsustainable and reckless levels of risk and leverage. If these financial markets and derivatives markets are not properly regulated, we won't have a strong economy. The CFTC plays a vital role in providing oversight in keeping these markets healthy and in keeping the players honest.

It is imperative that we pass strong financial regulatory reform in the Congress, and not just piecemeal, patchwork reform, but comprehensive and fundamental reform that brings full transparency and accountability back to the markets. Earlier this year, I introduced the Derivatives Trading Integrity Act. Our committee will be having a hearing on this early next month. That bill would require all derivatives and swaps to be traded on a regulated exchange. Exchange-traded contracts are subject to a level of transparency and oversight that is not possible in over-the-counter markets. For 60 years, futures contracts traded very efficiently on regulated exchanges.

I believe the burden of proof is on those who say there must be exceptions and loopholes to allow derivatives and futures trading off-exchange to continue. These are touted as customized swaps or customized derivatives. I have asked Mr. Gensler and others to please define for me what a custom swap is. No matter how you define it, it leaves a loophole big enough to drive a Mack truck through. Once there is a derivative that is off the trading boards, that no one knows about, that is shrouded in secrecy, what is to keep someone else from doing another custom derivative on that derivative, and then a derivative on that derivative? That is what got us into this mess in the first place—derivatives on derivatives on derivatives on derivatives, ad infinitum, with nobody knowing what was going on, without anybody knowing the value of each of those.

To this day, Treasury has never been able to tell us how they came up with the value of those derivatives. It is a kind of voodoo. It is some kind of mathematical calculation that they put into a computer somehow. Well, I am sorry; I just don't buy that. I believe they all ought to be on a regulated exchange, open and above board, so anybody can look and see who is trading what. If it is a custom derivative, fine; put it on a trading exchange, a regulated exchange. Let the market decide whether it is customized or not, and then if somebody wants to sell a derivative on that, put it right back on the exchange. To me, that is the only way we will ever get around this.

I keep hearing noises out of Treasury that they want to keep this loophole for some kinds of customized swaps. I know the swaps and futures industry would like to have that. I understand that. But that is what got us into this trouble in the first place. As I said, the burden of proof is on them, I believe, to show why we need this loophole and to somehow define a custom swap, what it really is, and why we don't need to put it on a regulated exchange.

Some suggest that reforming regulations of these markets, like I am suggesting, will limit flexibility and inhibit the incentives of market participants to develop and introduce new financial products, and thus harm the market. Again, I reject that notion. To the extent that financial innovation can be shown to benefit all participants in the market by providing some new hedging opportunities or risk management capabilities, without putting other parties at undue risk, then that is all to the good. However, if these new products are used to obscure risk in the market, or elude or evade accounting rules placed on market participants, then they clearly don't serve the public good and should be prohibited.

That is why I say no more of this behind-the-scenes, over-the-counter trading of derivatives. Put them on a regulated exchange. If it is custom, so what; put it on the exchange. Then a regulated exchange can put margin requirements on the buyers, clearing the floor every day. Other investors can look and see what is going on. It provides for the best transparency possible.

Some are talking about having some kind of a clearinghouse. Again, I don't know about clearinghouses. There are some functions for clearinghouses, I am aware of that. But, again, they just don't function like a regulated exchange, on which we have set regulations, an exchange that can provide for margin calls, and which is open and above board to everyone. Again, these financial innovations we hear about, like credit default swaps, collateralized mortgage obligations, collateralized debt obligations—I did a little history on this. None of those existed prior to 20 years ago. Most of them are within the last dozen years or so.

So I asked the question of a number of people at the Treasury Department, and others—I asked what was the demand for these financial instruments? They didn't exist before, especially credit default swaps. They literally didn't exist before about 10 years ago. What was the public demand or public need for these? There wasn't any. Someone described it to me. It is sort of like Honey Nut Cheerios. I have been eating Cheerios since I was a kid. Did I demand that they put a honey nut inside each of those Cheerios? General Mills had a new idea, and they came up with Honey Nut Cheerios and marketed them with good advertising, and they thought everybody would like Honey Nut Cheerios now.

Fine, but that is what they did with credit default swaps. Some brainiacs up there at MIT—the mathematicians who went to work for the investment houses—said we know how to slice and dice derivatives to the nth degree—these credit default swaps—and we can make a lot of money on that.

But there was no need for that. There was no outcry by banks or insurance companies saying they needed this kind of financial instrument. But they came up with it and marketed it and sold it as a way of better hedging risk when, in fact, it increased and magnified risk. Again, if someone comes up with a financial instrument—a new product, as they say—let's get it out there in the open. If you want it out there, put it in the open and get it on the regulated exchange and let everybody look at it and see what it is. That is why we need better regulation and openness and transparency.

I reject the idea that somehow this regulation of which I speak is somehow going to thwart financial instruments. If we thwart the development of other credit default swaps or collateralized mortgages or debt obligations, wonderful; we should. We should get back to sensible dealings in the marketplace.

Again, no more obscuring of the risk, eluding accounting rules—get them out in the public.

The free-wheeling derivatives markets contributed to a financial crisis from which our economy is only beginning to recover. We are at work in the Agriculture Committee on legislation that will ensure stronger regulation in order to bring transparency and integrity to the derivatives market.

I want to make it clear at the outset that I am not against all derivatives. Certain derivatives have a functional value in hedging and reducing risk. But, again, they should be in the open.

We are at work in the Agriculture Committee to do that—bring transparency and integrity to the derivatives markets. In the meanwhile, the CFTC must be at full capacity to keep watch over the markets. We are counting on Mr. Gensler to be a strong voice at the helm of this important agency.

With that, I yield the floor.

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

Mr. CHAMBLISS. Mr. President, I will speak a minute on Mr. Gensler. Before I do, I thank the chairman for making sure we got this nomination to the floor for confirmation. We have wrestled with this nomination for several months now, and I will talk about that.

CDC'S NEW EXPANDED CAMPUS

I thank Senator HARKIN also for coming to Atlanta last Friday. We had a great tour of the new campus—the fully expanded campus at the Centers for Disease Control, where we had the opportunity to talk with folks firsthand who are dealing with the H1N1 virus. We both were reinforced about the fact that issue is in the hands of highly skilled professional people at the Centers for Disease Control. Senator HARKIN has been very much a supporter of the CDC for years in his position on the Appropriations Committee. -

I thank him for taking time to come down on a day that is very important to his family and to visit with us and to also hold the nutrition hearing on the CDC campus. We had an excellent hearing, and we are going to be working together to get our nutrition reauthorization bill to the floor in the very near future.

I thank him for taking time to come down on a day that is very important to his family and to visit with us and to also hold the nutrition hearing on the CDC campus. We had an excellent hearing, and we are going to be working together to get our nutrition reauthorization bill to the floor in the very near future.

NOMINATION OF GARY GENSLER

Mr. President, I rise to support the nomination of Gary Gensler to be Chairman of the Commodity Futures Trading Commission. Mr. Gensler's nomination comes at a critical time. Our Nation is facing very challenging issues in trying to address this economic downturn. Many businesses, as well as the economy, depend upon the commodity markets—both physical and financial commodities—to help manage costs, to hedge against risk, to access liquidity, and to stay competitive. It is a time where we really need these markets to be performing at their best, to be functioning transparently and without manipulation.

The CFTC has been operating with an Acting Chairman for approximately 23 months now and a fully confirmed commission has not been in operation since 2006. This situation is largely due to the recurring politics surrounding the nomination process. While not all Senators will ever agree with everything that any nominee supports, I am very concerned with the need to have a fully seated Commodity Futures Trading Commission. The American people deserve no less, particularly in these difficult times.

As Congress seeks to deal with the current economic crisis and examines our financial system, it is absolutely essential that the CFTC and the Senate Committee on Agriculture, Nutrition and Forestry are engaged in the debate. Given our responsibility to ensure that the commodity markets function properly, the CFTC must be engaged in discussions occurring both within the administration and within Congress relative to restructuring our financial system and products that operate within it. The need for properly functioning commodity markets is of utmost importance to those utilizing products based on interest rates, exchange rates, debt, and credit risks.

Last year, we witnessed a major market disturbance and a subsequent myriad of theories as to the cause of the meltdown. Economists will study for years to theorize just exactly what caused the economy to buckle when it did. In the meantime, we owe it to the American public to ensure that the regulators who oversee these industries are properly vetted and seated with the backing of the Senate.

Frankly, this vote has been too long in coming. One of President Obama's first nominations for his new administration was that of Gary Gensler to be Commissioner and Chairman of the CFTC. His nomination was announced on December 18, 2008, and we officially received this nomination on President Obama's first day in office—January 20, 2009.

For the last few years, I have witnessed the troubling trend of stalled CFTC nominations. The process starts with the President sending Congress the nomination, the Senate Agriculture Committee holds a confirmation hearing, and that is as far as it goes. In the case of Gensler, two of my Senate colleagues placed a hold on his confirmation, which, in terms of Senate procedure, effectively stalls the nomination in its tracks. This has happened with almost every nominee to the Commission in recent years.

With Senate approval of this nomination, our job is still far from complete in ensuring that the CFTC has a full slate of Commissioners. We currently have two Commissioners with expired terms. I would encourage the President to quickly send us the nominations of the two remaining Commissioners so that we can act quickly on both of them. It is my understanding that the President, if he hasn't already sent one of those nominations over, will be sending one over today. I urge him to send the second one so that we can deal with both of them at the same time and for the first time in several years have a fully confirmed and seated Commodity Futures Trading Commission.

With respect to Mr. Gensler, I have had the opportunity to visit with him, to go through his hearing with him, and to observe him. He is qualified, he is capable, he knows the issues, and he is prepared for the job. I urge all of my Republican colleagues to vote in favor of this nomination because I think this is one time where we have the opportunity in a bipartisan way to say to the President: If you send us reasonable and qualified nominees, we are not going to stand in your way. We are not going to be obstructionists. We are going to help you put the right kinds of people in place.

I am very pleased to say—since we have had the vote today—that every single Republican who voted today voted to confirm Mr. Gensler.

Let me close by talking for 1 second about the comments my colleague from Iowa, Senator HARKIN, made with respect to the overall financial markets and our need to modify some of the regulatory process.

I agree with him that we need more transparency in the market. We don't know—and I don't know that we will ever know—what caused this meltdown last year, but the one thing I do know is that as policymakers we have an obligation to make sure that when someone buys a product on a commodities market, they should have the assurance that somebody from a regulatory standpoint is looking over the shoulder of the individuals who administer those markets, so that when they buy something, they know it is exactly what was sold to them. They should have the assurance that they are going to have the opportunity—with the risks they have in value or sometimes go lower in value but that it will be their decision that causes that and not some manipulation of the market that causes that. The chairman and I have some disagreements over the direction in which we go, but there is no disagreement with the fact that there needs to be more transparency in the market.

There are some customized products that are going to be very difficult to regulate, and we have to be careful that we don't stifle markets in this country. They have worked well for decades and decades, and they will continue to work well if we make sure that we have the right policies in place and that we don't let the Federal Government get too much engaged in the process, to the point where these individuals who make the decisions to trade on markets inside the United States get the feeling that the Government is becoming too engaged in the process and therefore they are going to take their business elsewhere, which they can do. Every product that is bought on the market in the United States can be bought in an overseas market. It can be bought from New York City or my hometown of Moultrie, GA, just as easily as it can be bought on the U.S. market. So we have to make sure we regulate those markets in the right way but that we don't overregulate them so that we drive those customers overseas to markets, because we want to continue to encourage a strong and viable commodities market in this country.

As we move through the process of seeking to change our regulatory process, I look forward to working with the chairman, as well as any number of other Members of this body who have a lot of information about this issue. And believe you me, it is an extremely complex issue, but it is one we need to address, and we need to make sure at the end of the day that we have done our work in the right way and in a way that will be complementary of the markets and not in a way that is going to be conflicting toward the markets.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Vermont.

Mr. SANDERS. Mr. President, for the past 5 months, I blocked consideration of the nomination of Gary Gensler to head the Commodity Futures Trading Commission, the CFTC. As a strong supporter of President Obama, I took no particular pleasure in doing that. But given Mr. Gensler's history as a senior executive of Goldman Sachs for 18 years and the role Mr. Gensler played in deregulating the financial services industry as a senior Treasury Department official from 1991 to 2001, I did not believe Mr. Gensler was the right person at the right time to help lead this country out of the financial crisis we find ourselves in today. In my view, we need a new vision of what Wall Street should be—one that is not

obsessed with quick profits, bubble economies, and huge compensation packages for top executives. We need financial institutions which will invest in a productive economy and which will help create millions of decent-paying jobs as we rebuild our Nation and rebuild the middle class.

I am happy to say that last week I had a productive meeting with Mr. Gensler, the second meeting I have had with him. While Mr. Gensler is clearly not the nominee I would have chosen for this position, nor were his answers all that I would have liked, there is no question in my mind that he is a stronger nominee today than he was 5 months ago when I first met him.

In preparation for the meeting last week, I outlined a number of issues I wanted Mr. Gensler to respond to, and let me highlight some of Mr. Gensler's written replies for my colleagues.

In terms of strongly regulating credit default swaps and other derivatives—something Mr. Gensler opposed in the Clinton administration—Mr. Gensler now says:

I believe we must urgently move to enact a broad regulatory regime that covers the entire over-the-counter- derivatives marketplace. As a key component of this reform, we should subject all derivatives dealers to: Conservative capital requirements; business conduct standards; recordkeeping requirements, including an audit trail; reporting requirements; and conservative margin requirements. I believe that the CFTC should be provided with authority to set position limits on all OTC derivatives to prevent manipulation and excessive speculation. Such position limit authority should clearly empower the CFTC to establish aggregate position limits.

Mr. Gensler also wrote to me saying:

I will work closely with Congress to pass legislation that will mandate registration of hedge fund advisers. In addition, I will work with agency staff to review all previously granted exemptions from registration.

Finally, Mr. Gensler told me in writing that he supports:

. . . actions to close the ''London loophole'' and ensure that foreign futures exchanges with permanent trading terminals in the U.S. comply with position limitations and reporting and transparency requirements that are applied to trades made on U.S. exchanges.

Mr. President, I ask unanimous consent to have printed in the RECORD all of Mr. Gensler's written responses to me dated May 14, 2009.

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

GARY GENSLER, NOMINEE FOR CFTC CHAIRMAN

(Response to Senator Sanders, May 14, 2009)

1. The CFTC should produce quarterly reports on its website describing the role derivatives trading activities have in influencing prices for each major energy commodity, including home heating oil and crude oil.

I believe that we must urgently move to enact a broad regulatory regime that covers the entire over-the-counter derivatives marketplace. This regime should consist of two main components. One component is the regulation of the derivatives dealers themselves. The other component is the regulation of the marketplace. I believe it is best that we implement both of these complimentary components to bring the needed transparency, accountability and safety to the trading of OTC derivatives.

Market efficiency and price transparency for OTC derivatives should be significantly enhanced by:

requiring the clearing of standardized products through regulated central counterparty clearinghouses;

moving the standardized part of these markets onto regulated exchanges and regulated, transparent electronic trade, executions systems;

requiring development of a system for timely reporting of trades and prompt dissemination of prices and other trade information;

requiring that all OTC transactions, both standardized and customized, be reported to a regulated trade repository; and

requiring clearinghouses and trade repositories to, among other things, make aggregate data on open positions and trading volumes available to the public and to make data on any individual counterparty's trades and positions available on a confidential basis to the CFTC and other regulators.

I also believe the CFTC should promote greater transparency by providing more useful and comprehensive data to the public. In my opinion, the rapid growth in commodity index funds was a contributing factor to a bubble in commodity prices—including home heating oil and crude oil—that peaked in mid-2008. The expanding number of hedge funds and other investors who increased asset allocations to commodities also put upward pressure on prices. Notably, though, no reliable data about the size or effect of these two influential groups has been readily accessible to market participants. I believe the CFTC should promote greater transparency and market integrity by regularly providing the public with better data regarding the role of non-commercial traders in energy and other markets.

If confirmed, I will work with the Congress to provide the CFTC with the additional authority it needs to improve the transparency of the OTC derivatives market. I will also work with the CFTC staff to use the tools at the agency's disposal to protect consumers, investors, and farmers by promoting transparency through more sophisticated data collection and dissemination.

2. Establish conflict of interest rules and firewalls limiting energy infrastructure affiliates from communicating with energy analysts and traders.

I believe we need to adopt a comprehensive plan for the regulation of over-the-counter derivatives markets. As a key component of this reform, we should subject all derivatives dealers to:

conservative capital requirements;

business conduct standards;

record keeping requirements (including an audit trail);

reporting requirements; and

conservative margin requirements.

The CFTC should have the authority to protect against fraud, manipulation, excessive speculation, and other market abuses within the OTC derivatives markets, including all energy derivatives, and by the derivatives dealers.

Working with the Congress, such authorities to subject dealers to business conduct standards and to protect against market abuses could include the establishment of rules relating to conflicts of interest. If confirmed, I look forward to working with other Federal agencies and the Congress to achieve these objectives.

3. (a) Work with the Federal Reserve to prohibit bank holding companies from trading in energy commodity derivatives markets and owning energy infrastructure assets.

Given the recent changes in the structure and composition of the financial and energy industries this is an important issue. Generally, I believe the CFTC must be ever vigilant in its oversight to protect the public against fraud, manipulation, excessive speculation, and other market abuses in the energy, agricultural and financial commodity markets. As described in my answers above, we need to adopt a comprehensive plan for the regulation of over-the-counter derivatives—including those trading energy derivatives. This should subject all dealers, including those held by bank holding companies, to a robust regime of prudential supervision and regulation. More specifically, I believe that derivatives dealers, including those held by bank holding companies, should be subject to business conduct standards as described in Question 2, and speculative position limits as described below in Question 3(b).

If confirmed, I look forward to working with the Federal Reserve, other regulators, the Administration, and the Congress on this important issue.

(b) The CFTC should promulgate rules to make sure that all bank holding companies that engage in derivatives trading are subject to speculation limits.

A transparent and consistent playing field for all physical commodity futures should be the foundation of the CFTC's regulations. Position limits must be applied consistently across all markets, across all trading platforms, and exemptions to them must be limited and well defined.

As part of the comprehensive plan described above, the CFTC should be provided with authority to set position limits on all OTC derivatives to prevent manipulation and excessive speculation. Such position limit authority should clearly empower the CFTC to establish aggregate position limits across markets in order to ensure that traders are not able to avoid position limits in a market by moving to a related exchange or market.

If confirmed by the Senate, I will ask the CFTC staff to undertake a review of all outstanding hedge exemptions, to consider the appropriateness of these exemptions, and to evaluate potential practices for instituting regular review and increased reporting by exemption-holders.

4. Mr. Gensler should work to promulgate regulations within 3 months to require hedge funds that are engaged in derivatives trading to register with the CFTC.

The Administration has proposed that all advisers to hedge funds (and other private pools of capital, including private equity funds and venture capital funds) whose assets under management exceed a certain threshold should be required to register. If confirmed, I will work closely with the Congress to pass legislation that will mandate registration of hedge fund advisers as part of a comprehensive package of regulatory reform. In addition, if confirmed, I will work with the agency staff to review all previously granted exemptions from registration as commodity pool operators.

Furthermore, as part of the comprehensive reform of the derivatives market, the CFTC should have the authority to police all activities in the OTC derivatives markets—including transactions entered into by hedge funds. If confirmed, I look forward to working with other Federal agencies and the Congress to achieve these objectives.

6. Mr. Gensler should support revoking all ''no-action'' letters for Foreign Boards of Trade that solicit or accept business from the U.S.

I support actions to close the ''London Loophole'' and ensure that foreign futures

exchanges with permanent trading terminals in the U.S. comply with the position limitations and reporting and transparency requirements that are applied to trades made on U.S. exchanges. Furthermore, I believe any foreign futures exchanges that have terminals in the United States to which our investors have access and whose contracts are based on the same underlying commodities should have consistent regulation applied, including position limits.

If confirmed by the Senate, I look forward to working with the Congress to give the CFTC unambiguous authority to promulgate rules and standards to achieve these goals. Such rules and standards governing treatment of Foreign Boards of Trade should replace the issuance of ''no-action'' letters in this regard.

Mr. SANDERS. Mr. President, needless to say, I am encouraged by the commitments Mr. Gensler made to me to regulate hedge funds, to make sure banks are not allowed to manipulate the price of heating oil and crude oil, and to prevent the enormous conflicts of interest that exist with respect to our energy markets, among many other things.

In addition, last week the Obama administration introduced a comprehensive plan to—for the very first time—significantly regulate credit default swaps and other over-the-counter derivatives. Exempting these investments from regulation was a huge mistake that led to the $180 billion taxpayer bailout of AIG, the collapse of Lehman Brothers, and greatly contributed to the worst financial crisis since the Great Depression.

Last March, I and a number of other Senators asked the President to support strong regulations on these risky investment schemes. The President's proposal accomplishes many—not all but many—of the goals we have been advocating. While this plan is not as strong as I would have written and may have loopholes in it that need to be closed, I believe we are headed in the right direction to make sure a financial crisis of this magnitude never occurs again.

As a result of the greed, the recklessness, and the illegal behavior of Wall Street, our country has been thrown into a deep recession which has caused intense suffering for millions of our people. We need to end the current era of financial deregulation which largely caused this crisis and move to a new Wall Street which understands the need for long-term productive investment and job creation rather than short-term profits, outrageous salaries, and a bubble economy. We need to break up financial institutions that are too big to fail. If a company is too big to fail, that company is too big to exist. We should do the same thing to the banking industry that Teddy Roosevelt did to break up the oil companies. And we should stand up today, on behalf of the American people, to our modern-day robber barons. Most importantly, we need to end the era of deregulation that has led to the worst financial crisis since the Great Depression.

While I am still not convinced that Mr. Gensler is the independent leader we need at this time to head the CFTC, the strong commitments he has made recently in support of serious regulations of the financial industry lead me to believe he now understands the direction we as a nation have to go. Mr. Gensler certainly is a knowledgeable person and he has the ability to do a very fine job if he is willing, in fact, to stand up for the American people and assume the courage, the great deal of courage, he will need to stand up to the very powerful financial institutions which have so much control over what goes on here in Congress. In fact, this may be Mr. Gensler's ''Nixon in China'' moment.

I hope this turns out to be the case, and I look forward to working with Mr. Gensler as he assumes the Chair of the CFTC.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise today to discuss the administration's truly historic announcement last week that in writing they supported bringing unregulated ''dark'' over-the-counter derivative markets under full regulation for the very first time.

For months I have been urging the Obama administration to move quickly and propose strong regulatory controls on these markets, to require transparency in derivatives trading, and to restrict market manipulation.

With the announcement last week by Secretary Geithner of these new regulations, the administration has come down decisively against dangerously unrestricted trading. They have come down on the side of imposing order on a marketplace whose collapse made the current recession much deeper and more painful for average Americans than it needed to be.

The administration's commitment to bringing a ''dark'' market into light is very important. Congress has received a written commitment from the administration that they will bring the unregulated over-the-counter derivatives market under full regulation for the very first time.

This means they have correctly identified three goals of regulatory reform of the over-the-counter derivatives markets. First, if Congress and the administration push through, we will finally gain transparency in the ''dark'' markets. All derivatives transactions and dealers will be brought under prudent regulation and supervision. That means even those that are customized derivatives, not just the OTC market; so prudent regulation and supervision, including capital adequacy requirements, antifraud and antimanipulation authority, very clear transparency and reporting requirements.

Second, standardized trading of physical commodities and derivatives will finally be required to trade on fully regulated exchanges.

Third, the administration is also committed to opposing position limits on regulated markets to prevent any market player from amassing large positions that can harm markets. I have received assurances from the White House that the administration believes these position limits should be applied in the aggregate across all markets.

I still remain concerned about Mr. Gensler's nomination to chair the Commodities Futures Trading Commission. Mr. Gensler was at the Department of the Treasury a decade ago and helped push through a bill, passed by Congress, that provided an ironclad protection against the regulation of financial products such as credit default swaps and derivatives at the heart of this financial crisis. The unfettered speculation that resulted helped bring about not only the energy crisis in my region but decades of other problems that contributed to the demise of AIG, Lehman Brothers, and Bear Sterns.

I believe we need new blood at the CFTC and all regulatory agencies. We need people who will move us from a world of unregulated toxic assets to a world of transparency and aggressive oversight. For nearly three decades the financial industry has had its way in Washington, successfully pushing deregulation in the name of innovation. Time-tested regulatory policies that protected investors and consumers since the Depression were systematically eroded. Many factors led to the present economic meltdown, but we know that chief among them was the policy advocated by Mr. Gensler of not fully regulating the derivatives market.

A decade ago, at the end of the 106th Congress, in the dark of night, Congress passed a law known as the Commodities Futures Modernization Act. But instead of modernizing commodities trading, it took us back in time to the day when securities trading was subject to wild speculation. This law, backed by Mr. Gensler, provided ironclad protection against regulation and oversight of derivatives and has caused many problems. One courageous regulator at the time, then CFTC chairwoman Brooksley Born, warned Congress and the financial community that unregulated derivatives would expose the economy to serious dangers. But some in Washington blocked her efforts, including many on Wall Street. One high-ranking Treasury official charged with pushing these deregulation bills through Congress was Gary Gensler, a former high-ranking executive at Goldman Sachs. As Under Secretary of the Treasury, Mr. Gensler testified before Congress that he opposed regulating the derivatives market. Mr. Gensler, as we know, was wrong. Just yesterday Brooksley Born received recognition for her courage in standing up to the powerful financial interests in proposing tough rules. She was presented with the Profile in Courage award by the John F. Kennedy Foundation.

Remarkably, the Senate is now considering confirming Mr. Gensler to

serve as chair of the CFTC, the same agency Brooksley Born chaired and the same agency Mr. Gensler worked so hard to defang in his previous tenure as Under Secretary of the Treasury. That is why I oppose his confirmation to run the CFTC at a critically important time when we need more financial regulation in these agencies. In the months ahead I will be looking forward to working with the CFTC and the President's working group on financial markets and the Department of the Treasury to actively engage Congress on the reforms that need to be passed into law.

I will be looking to the CFTC to do its job, to prevent excessive speculation from stopping the Nation's economic recovery.

I will be looking to Mr. Gensler to earn the trust of Congress and provide oversight over the commodities and derivatives markets.

Mr. DURBIN. I rise to support the nomination of Gary Gensler for Chairman of the Commodity Futures Trading Commission.

I have a keen interest in the leadership of the CFTC, based on my chairmanship of the appropriations subcommittee that funds the agency and because the state of Illinois is home to some of the most important futures exchanges in the world. During this crisis of confidence in our economic system, the CFTC needs a Senate-confirmed chairman at the helm to oversee this complex and growing industry.

Mr. Gensler's experience includes stints on Wall Street, in the Clinton Treasury Department, and with the Senate Banking Committee. He knows how the world of futures trading works, and he understands how to get things done at both ends of Pennsylvania Avenue.

He is going to need that expertise. Last week, Treasury Secretary Geithner announced the administration's proposal for reregulating the over-the-counter derivatives markets. If confirmed, Mr. Gensler will be charged with implementing much of that vision. The proposal will require far more transparency and responsibility from derivatives traders that have long operated in the shadows. The massive derivatives exposures taken on by AIG and other largely unregulated financial firms can't continue. Mr. Gensler will be responsible for seeing to that.

Mr. Gensler will also be charged with eliminating the excessive speculation in the oil and agriculture markets that helped lead to $140 barrels of oil last summer. I worked with many of my colleagues to attempt to address that issue last year, and many regulatory improvements were included in last year's farm bill. But the CFTC can do more.

I met with Mr. Gensler in my office several months ago after President Obama nominated him for this position. I asked him about his role during the Clinton administration in which he advocated weakening CFTC oversight over futures trading. Mr. Gensler admitted that those reforms had gone too far, that he had learned from those mistakes, and that more sensible regulation by the CFTC is needed. I expect him to stick to that sentiment and to aggressively monitor trading under the CFTC's jurisdiction.

I look forward to working with Mr. Gensler to ensure that the CFTC is adequately funded and that the agency provides strong and sensible regulation under his leadership. The future stability of our economy depends on it.

Ms. MIKULSKI. Mr. President, I rise today in support of Gary Gensler's nomination to be Chairman of the Commodity Futures Trading Commission.

I have known Gary for many years—when he worked in the Senate during the Clinton administration, and as a community leader in Maryland. I know him to be a man of principle and great intelligence with a deep understanding of all areas of domestic finance and how to turn ideas into workable policy. During this time of great financial turmoil and uncertainty, we need someone with these skills to lead the Commodity Futures Trading Commission.

I enthusiastically support Gary Gensler's nomination for this important position on President Obama's economic team, and I applaud the administration for working to address my colleagues' concerns so Gary can finally be confirmed.

I have three criteria for considering nominees: competence, dedication to the mission of the department, and integrity. Gary Gensler clearly meets these criteria. His experience in all areas of domestic finance is stellar. He has worked in the executive branch, the Congress and on Wall Street. He was a top economic adviser to Senator Paul Sarbanes on the Senate Banking Committee. And he worked under Larry Summers during the Clinton administration as Under Secretary of Treasury.

The Commodity Futures Trading Commission is an essential part of the financial regulatory system. Its decisions affect everyone who purchases food or commodities including consumers and small businesses. I have always stood for strong regulation with teeth. I applaud President Obama for choosing an economic team that is committed to this kind of reform. And I am convinced Gary will be a great asset in carrying it out.

We faced similar challenges in 2003. Enron had just exposed giant cracks in our regulations, flushed the savings of hundreds of thousands of people, and put our broader economy at risk. Congress needed to act boldly to set up new regulations, just as we do now. Those new regulations were called Sarbanes-Oxley. They were championed by Senator Sarbanes and his top economic advisor at the time—Gary Gensler. They rewrote the rules of corporate America. They made business more accountable, shined light where others were afraid to look and stood up to big business.

Gary has integrity and a strong family. I have gotten to know Gary and his family as his wife Franchesca struggled and succumbed to breast cancer. I saw the strength of Gary and his three wonderful daughters: Anna, Lee and Isabel. He has tried to help others whose loved ones have cancer, and he was honored for his work on behalf of the American Cancer Society.

President Obama has inherited a mess. Our economy is teetering and people have lost faith in the institutions that are supposed to protect them. We need a Chairman of the CFTC who will enforce our laws, reform our regulatory system and guard us against fraud and abuse. I have full confidence that Gary Gensler is up to this challenge. He will be a strong, effective and reform minded Chairman of the Commodity Futures Trading Commission. I urge my colleagues to support his nomination.

Mr. DODD. Mr. Chairman, I rise in support of the President's nomination of Gary Gensler to be the Chairman of the Commodity Futures Trading Commission. I have known Gary for some time and believe he is a dedicated and thoughtful public servant who has emerged over the years as a leader within his field and a person of real integrity.

Mr. Gensler's previous career with the investment banking firm of Goldman Sachs and in the Treasury Department, as well as his new work assisting this administration, along with his intelligence, experience and personal skills, will enable him to be an effective Chairman of the CFTC.

I am aware of his work in connection with the Commodity Futures Modernization Act of 2000, a bill that contributed to deregulation of derivatives markets. With the benefit of hindsight, we can see the harms that an absence of regulation over credit default swaps, for example, can cause and the need for regulation in the derivatives markets. I have talked with him about these regulatory issues, and I know he recognizes the importance of an energetic, assertive regulatory approach.

I fully expect Mr. Gensler to use his talents and skills to effectively regulate the markets, learn from the past and exercise his clear and independent judgment to protect and promote the integrity of the futures markets, and to protect taxpayers. I expect the Senate will continue to exercise oversight of decisions made by the CFTC that may impact the broader financial markets.

Mr. DORGAN. Mr. President, I wish to address today's vote to confirm Mr. Gary Gensler as a Commissioner and Chairman of the Commodities Futures Trading Commission, CFTC. I have serious reservations about this nomination and am voting against it. Let me explain why.

Mr. Gensler was a key proponent of deregulation in the late 1990s and he

specifically advocated that swaps and other derivatives not be regulated. I had the opposite view. I argued at the time that such deregulation would result in banks making very risky bets which would ultimately lead to massive taxpayer bailouts to save the financial system.

I regret that I was right. We now know the disastrous consequences of the push to deregulate. We will long regret repealing the protections put in place after the Great Depression of the 1930s and the view that the market knows best and regulation was the enemy.

The costs for these views and actions have been monumental. Taxpayers and American families have paid the price. Our government has spent, lent or guaranteed more than $13 trillion responding to the financial meltdown. In addition, U.S. household wealth has decreased by almost $13 trillion as home values plummet and stock markets crash.

But, that is not all. As our gross domestic product goes down, our unemployment rate goes up, getting close to 10 percent, and, when combined with those working part time who want to work full time, is actually higher than 15 percent.

However, we must not forget that the real cost of these disastrous policies is much more than dollars and statistics. The real costs are lifetime savings vanished, jobs lost, careers shattered, homes foreclosed, neighborhoods destroyed, retirements deferred, colleges unaffordable and the American dream for too many of our neighbors devastated.

Now that all this wreckage has happened and now that he has been nominated for the CFTC, Mr. Gensler has stated that he has changed his views on the need for and importance of regulation. I welcome those new views and look forward to him putting his words into action. If he does, I will be one of the first to come to the floor to applaud him.

I met with him privately and Mr. Gensler was candid and forthright about changing his views. In our meeting and in his testimony before the Senate Agriculture Committee, Mr. Gensler made clear that he now understands how important the CFTC is as one of the key regulatory agencies charged with protecting the integrity of our markets.

I stressed to him that America can no longer afford a do-nothing CFTC. The CFTC has to be a cop on the beat. It has to vigilantly monitor the commodities markets and aggressively act to ensure that they are not being manipulated or distorted by speculators or anyone else. It has to act quickly in an unbiased and nonideological manner to protect those markets and consumers.

In my view, Mr. Gensler does not have to wait to put his words into action. Last year, the CFTC acted like the three monkeys: see nothing, hear nothing, and do nothing, as oil prices skyrocketed from $50 to almost $150 and a gallon of gas approached $5. Like a parrot, the CFTC said over and over this was caused by the fundamentals of supply and demand, ignoring all facts to the contrary, including massive speculation from Wall Street pouring investment cash into the commodities markets.

The CFTC must investigate whether or not speculators were able to manipulate and distort the commodities markets. I believe they did and they will do it again unless they are thoroughly investigated by an agency that takes its mission to protect markets and consumers seriously.

While I am prepared to be surprised by Mr. Gensler and I hope I am, I simply cannot vote for someone to lead such an important agency after he had such a critical role in ensuring that derivates were not regulated, which caused so much devastation across our country. I look forward to Mr. Gensler proving my concerns unwarranted.

Mr. CARDIN. Mr. President, I have known Gary Gensler for many years in both a personal and professional capacity and I believe he is an ideal choice to chair the Commodity Futures Trading Commission, CFTC. He will draw on his many years of experience to help the President create a 21st century regulatory framework to ensure that an economic crisis like the one we are experiencing will not happen again. Today, we face a crucial time for the commodities markets, for our financial system, and for our entire Nation. The failure of the regulatory framework that governs our financial markets helped create the current economic crisis.

As we look forward to fixing the systemic problems in our Nation's economy, the CFTC Chairman will play a crucial role. We need someone with the tremendous depth and breadth of experience that Gary Gensler possesses. Gary served in the Department of Treasury from 1997 to 2001, first as Assistant Secretary for Financial Markets and later as Under Secretary for Domestic Finance. As Under Secretary of the Treasury, Gary was the senior adviser to Treasury Secretary Robert Rubin and later to Secretary Lawrence Summers on all aspects of domestic finance. The office was responsible for formulating policy and legislation in the areas of U.S. financial markets, public debt management, the banking system, financial services, fiscal affairs, Federal lending, and government-sponsored enterprises. In recognition for this service, Gary was awarded Treasury's highest honor, the Alexander Hamilton Award. He subsequently acted as a senior adviser to Senator Sarbanes, who chaired the Senate Banking Committee, on the Sarbanes-Oxley Act, which reformed corporate responsibility, accounting, and securities laws. More recently, Gary led the Securities & Exchange Commission Agency Review Team for the Obama-Biden Presidential Transition Team.

Before Gary joined Treasury, he worked on Wall Street for 18 years at Goldman Sachs. He became a partner at the age of 30—at that time, one of the youngest partners in the firm's history. He joined the firm in the mergers and acquisitions department in 1979 and assumed responsibility for the firm's efforts in advising media companies in 1984. He subsequently joined the fixed income division in the mortgage department and then directed Goldman's fixed income and currency trading efforts in Tokyo during two record years. His last role was cohead of finance, responsible for worldwide controllers and treasury for Goldman Sachs.

Gary graduated summa cum laude from the University of Pennsylvania's Wharton School in 1978, with a bachelor of science in economics. He received a master's of business administration from the Wharton School's graduate division in 1979 and passed the Certified Public Accountancy exam. Gary is a member of the board of Enterprise Community Partners, the Park School, the RFK Memorial Foundation, and the Washington Hospital Center. He also serves as audit committee chair of Strayer Education, Inc., and WageWorks, Inc., and he serves on advisory boards for Johns Hopkins University Center for Talented Youth and New Mountain Capital. He previously was treasurer of the Baltimore Museum of Art and The Bryn Mawr School, as well as a board member of East Baltimore Development, Inc., and the University of Maryland Baltimore County.

We all know that we face a grave time for our economy. But we also face a time of tremendous opportunity to learn from past mistakes and make certain they are not repeated. I know that Gary Gensler will draw on his many years of experience in the public and private sectors to help the new administration guide our economy through these troubled times to a stronger future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate concurs

in the amendment of the House to S. 896, and the motion to reconsider is considered made and laid upon the table.

SUPPLEMENTAL APPROPRIATIONS ACT, 2009

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 63, H.R. 2346, the Supplemental Appropriations Act, and that once the bill is reported, Senator INOUYE be recognized to call up the substitute amendment which is at the desk and is the text of the Senate committee-reported bill, S. 1054; that the substitute amendment be considered and agreed to; the bill, as amended, be considered as original text for purpose of further amendments; and that no points of order be waived by virtue of this agreement.

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

Mr. REID. Before Senator INOUYE is recognized, let me say to the Senate, this is one of the most crucial pieces of legislation we will deal with this entire Congress. It involves funding of the troops in Iraq and Afghanistan. We wish to make sure everyone who has any concern about any provision of this bill has the opportunity to try to change it any way they want. We want to get this done as quickly as possible. We want to make sure everyone has the opportunity to do what they believe is appropriate. Finally, what I wish to say is, we are very fortunate, as a Senate and a country, to have the two managers of this bill. I have stated many times my affection and admiration for Senator INOUYE. He is a person whom the history books have already written about. Not only is he a heroic person in the fields of war but also in the fields of legislation. His colleague, Senator COCHRAN, is a person who has wide respect on both sides of the aisle. He is someone I have traveled parts of the world with. I have been working with him for a quarter of a century. He has been here longer than I have, but that doesn't take away from the fact that I recognize what a good Senator he is and how fortunate are the people in Mississippi to have him working on this legislation and all other matters. He is someone I can go to and there is no flimflam with COCHRAN. He tells you: I can't help you, here is what I want you to do. I think we will be well served during this debate.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I say to my good friend the majority leader, I understand he has laid down an amendment to be offered by the chairman of the Appropriations Committee, our good friend from Hawaii, and Senator INHOFE related to Guantanamo. I am pleased the majority has recognized that the President's policy of putting an arbitrary deadline on the closing of Guantanamo is a mistake. A first step toward moving us in the direction of getting a new policy is to prevent funding in this bill or any other bill from being used for the purpose of closing Guantanamo. What we need to remember is that Guantanamo is a $200 million state-of-the-art facility. It has appropriate courtrooms for the military commissions we established a couple years ago at the direction of the Supreme Court. No one has ever escaped from Guantanamo.

We need to think, once again, about the rightness of the policy of closing this facility. It presents an immediate dilemma. Among the 250 or so people who are left there now are some of the most hardened terrorists in the world, people who planned the 9/11 attacks on this country. We know how the Senate feels about bringing them to the United States. We had that vote 2 years ago. It was 94 to 3 against bringing these terrorists to the United States. What we need is to rethink the policy of closing this facility. If our rationale for closing it is to be more popular with the Europeans, I must say we don't represent the Europeans. We represent the people of the United States. We have a pretty clear sense of how the people in this country feel about bringing these terrorists to the United States.

I congratulate our good friends in the majority. They are heading in the right direction. We know the President on national security issues has shown some flexibility in the past. For example, he changed his position on releasing photographs of things that occurred at Abu Ghraib. He changed his position on the using of military commissions and has now rethought that and opened the possibility that maybe military commissions established by the previous administration and this Congress are a good way to try these terrorists. He rethought his position on Iraq and moved away from an arbitrary timeline for withdrawal. We know he has now ordered a surge in Afghanistan led by the same people who orchestrated and led the surge in Iraq which was so successful. So the President has demonstrated his ability to rethink these national security issues.

I am confident and hopeful he will now, getting this clear message from both the House and the Senate on the appropriations bill, begin to rethink the appropriateness of an arbitrary timeline for the closing of Guantanamo.

I fully intend to support this amendment. I hope all Members of the Senate will. I thank Senator INOUYE and Senator COCHRAN, who is here, for their leadership on this bill. I particularly thank Senator INHOFE, who has been one of our leaders on this subject for a long time and reminded everyone today that he was down at Guantanamo not too long after 9/11 and has been there a number of times. I have been there myself. We all know it is a state-of-the-art facility in which the detainees are appropriately and humanely treated.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have never known JOHN MCCAIN or certainly President Bush to base their foreign policy on how the Europeans felt. Certainly, President Obama also bases his not strictly on how the Europeans feel about anything he does. I agree with President Bush and JOHN MCCAIN that Guantanamo should be closed. And we Democrats believe that President Obama is following the direction of others who have laid out the fact that it should be closed.

The decision to close Guantanamo was the right one. Guantanamo makes us less safe. However, this is neither the time nor the bill to deal with this. Both Democrats and Republicans agree. The Democrats, under no circumstances, will move forward without a comprehensive, responsible plan from the President. I believe that is bipartisan in nature. I think the Republicans agree with that. And we will never allow terrorists to be released into the United States. That is what this is all about.

I think this is the best way to approach this. I think the President will come up with a plan. Once that plan is given to us, then we will have the opportunity to debate his plan. Now is not the time to do it.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I will add that both President Bush and Senator MCCAIN indicated they would like to close Guantanamo but never suggested a specific time for doing it. The reason for that is they were confronted with the realities of this decision. If there were a specific timeline, it was difficult to figure out what to do with the detainees.

In addition to that, this administration—at least the Attorney General—has indicated there is a possibility they are going to allow some of the Chinese terrorists, the Uighars, to be released in the United States not in a prison. In other words, presumably they would be walking around in our country. So this issue is not totally behind us.

Again, I congratulate our friends on the other side for their movement on this issue. All these problems have not yet been solved. We all want to protect the homeland from future attacks. We know incarceration at Guantanamo has worked. No one has ever escaped from Guantanamo.

We know what happened when you had a terrorist trial in Alexandria, VA. Ask the mayor of Alexandria. The Moussaoui trial—it made their community a target for attacks. When they moved Moussaoui to and from the courtroom, they had to shut down large sections of the community.

It raises all kinds of problems if you bring a terrorist to U.S. soil, about whether they are going to be granted, in effect, more rights by having the

Bill of Rights apply to them in a Federal court system than a U.S. soldier tried in a military court. There are lots of very complicated issues, which led both Senator MCCAIN, who is fully able to speak for himself on this issue, and President Bush to never put a specific timetable for closure. That is the difference between their position and the position of the President.

Having said that, the President has demonstrated, as I said earlier, a lot of flexibility on these national security issues. I am hopeful he will continue to work his way in the direction of a policy that will keep America safe.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2346, which the clerk will report.

The bill clerk read as follows:

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

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to thank both leaders of the Senate for their gracious remarks.

Today, the Senate will begin to consider the request for supplemental appropriations for fiscal year 2009. As we all know, the President has requested $84.9 billion in new budget authority, first, to cover the costs of ongoing operations in Iraq and Afghanistan, and it includes funds for the supporting costs to those operations, and to prepare for natural disasters, including wildfires and the swine flu. In addition, last Tuesday, the administration requested proposals to increase the borrowing power of the International Monetary Fund. This proposal would cost $5 billion under the scoring of the Congressional Budget Office.

After reviewing the President's request, the proposals made by the committee and included in the recommendation before you total $91.3 billion, $1.3 billion above the President's estimate. This amount is $5.4 billion below the measure just passed by the House. I would point out that the House did not consider the $5 billion request for the IMF by the administration.

The President requested funding in four basic areas: national defense, international affairs, protection against swine flu, and funding in response to natural disasters, all of which I will briefly discuss.

The President's request included $73.7 billion for items under the jurisdiction of the Defense Subcommittee. The committee has provided $73 billion for this purpose. The remaining $700 million was requested for programs that more appropriately are funded by other subcommittees, such as Military Construction; Commerce, Justice, State; and Homeland Security. So in this mark, we recommend transferring these funds to the relevant subcommittees.

I would note there are several differences between the specific items requested and the amounts recommended by the committee. For example, the committee recommended $1.9 billion to cover the costs of higher military personnel retention and other necessary personnel bills.

We provide an additional $1.55 billion for the purchase of the all-terrain MRAP vehicle and $500 million for equipment for our National Guard and Reserve forces. The committee also addressed the readiness needs of the Navy and provides for an increase in the enhancement of our intelligence surveillance and reconnaissance capabilities.

For the Department of State and other international affairs funding, including the IMF, the committee recommends $11.9 billion, nearly the same as the amount requested. The committee recommendation is similar to that requested, but I would note that additional funding has been allocated for Jordan and for the Global AIDS Program within the overall total.

For military construction, the committee is recommending $2.3 billion, about the same as that sought by the administration.

The committee has recommended $1.5 billion, as requested, for the swine flu, and has worked with the administration to identify the best allocation of these resources among the relevant Federal agencies.

Funding of $250 million is recommended for fighting wildfires, and $700 million is provided for international food assistance under PL–480.

The committee has responded to damage caused by natural disasters by adding nearly $900 million to the amount requested for damage from flooding in the Midwest and in response to Hurricane Katrina.

Each subcommittee was tasked with reviewing the President's request in their jurisdiction and recommending funding both for items in the request and other items necessary to meet legitimate emergency needs.

The vice chairman, Senator COCHRAN, and I also offered each subcommittee the opportunity to recommend earmarks or other nonemergency increases so long as the costs were offset within existing funding.

As the Senate considers this bill, I would point out that under the budget resolution, any item which seeks to add funding to the bill will be subject to a Budget Act point of order unless it is offset.

This is an important bill which responds to the requirements of our men and women in uniform and to members of our population who have been ravaged by natural disasters. It also seeks to protect our people and our country with funding to deter wildfires and the swine flu, in addition to terrorists.

This is a good bill. It is necessary to deal with a myriad of problems. We should act expeditiously to pass it, get it to conference, and on to the President for his signature. Therefore, I join my leaders in urging my colleagues to help us attain quick passage of this very important measure.

Mr. President, I yield to the vice chairman of the committee.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to join the distinguished chairman of the Committee on Appropriations in presenting to the Senate the fiscal year 2009 supplemental appropriations bill. This bill includes funding to combat violent extremism in Iraq and Afghanistan, and supports other emergency requirements both at home and abroad.

This bill includes funding for the men and women in the Armed Forces and our diplomatic corps, and gives them the resources necessary to carry out the missions assigned to them by our Government.

I commend the distinguished chairman for moving this bill in a timely manner to ensure that our service men and women have the resources they need while still allowing time for the Senate to carefully consider the bill.

I hope this year we can complete action on the supplemental in time to avoid putting the Secretary of Defense in a position where he is compelled to postpone acquisitions or transfer funding between accounts, and take other inefficient steps to maintain the flow of resources to our troops in the field.

This bill contains several important initiatives that will strengthen our military's ability to prosecute its mission and improve the overall readiness of our forces. Several of these priorities were identified by the Department of Defense but were not included in the President's request. We were able to fund these additional needs while staying within the overall spending level requested by the President for Defense programs.

The bill contains more than $18 billion for military pay and benefits, including $1.9 billion to cover shortfalls not requested by the administration. The bill also includes funding for continued operations, equipment repair and replacement, and enhanced support to wounded warriors and military families.

The bill contains $4.2 billion for mine resistant ambush protected vehicles. This recommendation is $1.5 billion more than the administration's request and will help speed the delivery of an ''All Terrain'' version of the vehicle to Afghanistan where harsh terrain challenges the mobility of our forces.

The committee also recommends $332 million above the President's request to fund urgent requirements identified by the Secretary of Defense's Intelligence, Surveillance, and Reconnaissance Task Force. These funds will be used to procure additional sensors, platforms, and communication systems that are critical for finding and neutralizing al-Qaida and insurgent forces.

To maintain the readiness of our forces, the bill includes an additional $246 million above the President's request for the Navy's P–3 surveillance aircraft. These planes are not only used

for maritime patrol, but also to support Army and Marine ground forces in Iraq and Afghanistan. The funds will allow the Navy to procure wing kits needed to address structural fatigue issues that have led to the grounding of many of these aircraft.

The committee also recommends $190 million above the President's request for ship depot maintenance to address damage done to three Navy vessels during recent mishaps. These repairs are truly unforeseen emergencies, and the funds in this bill will help ensure these ships return to the operational fleet as soon as possible.

Although the President's request did not include funding in the National Guard and Reserve equipment account, the committee recommends $500 million. Currently there are over 140,000 National Guard and Reserve personnel activated. This funding will help ensure those personnel have the resources necessary to perform their duties. These funds will be used to procure equipment for National Guard and Reserve units to be used to support combat missions and taskings from State Governors.

The Defense title also contains $400 million for the Pakistan Counterinsurgency Capability Fund. This new initiative proposed by the President is intended to bolster efforts to eliminate terrorist safe havens in the rugged border region of Pakistan and Afghanistan. I understand the legitimate concern raised by Senators who believe that such a program should be administered by the Department of State, but I believe the needs of the commanders on the ground warrant short-term funding for the Defense Department until this program can be effectively transferred to the State Department.

While this supplemental is predominantly focused on American efforts abroad, I am pleased that the bill also responds to emergencies here at home. The bill includes several provisions to aid in my State's ongoing recovery from Hurricane Katrina, including funding to restore the federally owned barrier islands that serve as the first line of protection for the Mississippi coastline. These islands were significantly diminished by Katrina, and according to a Corps of Engineers' study their restoration will go a long way toward mitigating future damage.

I greatly appreciate the bipartisan manner in which the chairman worked with me and other members on our side in crafting this bill. He and his staff have been very open to requests, even while producing a bill that adds very little to the top-line amount requested by the President.

In this bill, Chairman INOUYE made a sincere effort to respond to security concerns at Guantanamo Bay without denying outright the resources requested by the President to analyze and implement closure of the facility. I understand, however, that the funding and language relating to Guantanamo remain controversial. I anticipate these matters will be thoroughly discussed and that several Senators are likely to propose amendments.

Senators may also have amendments relating to the International Monetary Fund. The bill reported by the committee includes language sought by the President to expand the United States commitment to the IMF. This request was submitted only a week ago, and there was very little time prior to the committee markup in which to consult with the relevant authorizing committees and other experts. I am not aware that there have been Senate hearings on this request. I look forward to further discussion of this important subject, but wish to express my concern that the manner in which this request has been presented could endanger the timely enactment of this supplemental. I hope that is not the case.

I would like once again to thank the Senator from Hawaii for the manner in which he has put this bill together. I look forward to working with him to get the bill to the President in a timely fashion, and to beginning work in earnest on the regular fiscal year 2010 appropriations bills. We have a busy summer ahead of us.

I urge my colleagues on the Republican side who may have amendments to the supplemental to contact us so that we can make efficient use of the Senate's time.

Mr. President, I know the Senator from Oklahoma wants to make a comment. I will yield first, though, to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 1131

(Purpose: In the nature of a substitute)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator COCHRAN and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself and Mr. COCHRAN, proposes an amendment numbered 1131.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The PRESIDING OFFICER. Under the previous order, this amendment is adopted and is considered as original text, with no points of order being waived.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. INOUYE. Mr. President, I am pleased to yield.

AMENDMENT NO. 1133

Mr. INHOFE. Mr. President, I am a little confused as to where we are. I have an amendment I do want filed. It is amendment No. 1132 at the desk right now. I say to the senior Senator from Hawaii that it is essentially the same thing as the wording of an amendment he will be bringing up.

My request of the Senator—and I cleared this with the Senator from Mississippi—is that I be the first cosponsor on his amendment so that it would be the Inouye-Inhofe amendment.

Mr. INOUYE. No question about that. Is it the pending amendment at this moment, the Inouye-Inhofe amendment?

Mr. INHOFE. Mr. President, I can clarify this. I had sent my amendment to the desk, which we don't plan to take up, but I wanted it filed because we have a number of cosponsors who, I am sure, will want to join me in cosponsoring the Inouye amendment, since it is the same amendment.

AMENDMENT NO. 1133

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself and Mr. INHOFE, proposes an amendment numbered 1133.

The amendment is as follows:

(Purpose: To prohibit funding to transfer, release, or incarcerate detainees detained at Guantanamo Bay, Cuba, to or within the United States)

Strike section 202 and insert the following:

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term ''United States'' means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading ''SALARIES AND EXPENSES'' is hereby reduced by $30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' under paragraph (3) is hereby reduced by $50,000,000.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, this amendment has been discussed rather fully by our two leaders.

I now yield to Senator INHOFE.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator for yielding.

First of all, I heard the dialogue going back and forth on the amendment and the positions taken several times in statements made, and there are several people in this Chamber who want to close Guantanamo Bay.

Let me make it very clear: I have never had any intentions of wanting to close it. I keep asking: What would be the reason someone would want to close an asset that we have that can't be replaced anywhere else? My feeling was since there was no answer to that, and since this is one of the few good deals, I say to both the distinguished chairman and ranking member of the Appropriations Committee: Have you ever had a better deal than this?

It costs us $4,000 a month, the same price it cost us back in 1903, and it is a great $200 million facility. It has facilities to try these cases. They have the expeditionary legal complex there,

which they don't have anyplace else. So if you close that down, you couldn't have the tribunals. Somehow they might end up being—I am talking about the terrorists—in our court system, in which case the rules of evidence are different.

So for any number of reasons, and because everyone who goes down there—and I am talking about even Al-Jazeera the media goes down and comes back and shakes their heads and wonders why we would want to close it.

So I want to go on record that I want to go further than just not funding Guantanamo, but also what we are going to be doing with some 245 detainees. Hopefully, we can end this discussion about closing an asset that has served us very well for a number of years.

So I wholeheartedly support the Inouye amendment, which is the same language I had in my amendment. I think that will pretty much accomplish what I wish to accomplish.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senator from Alabama, Mr. SHELBY, be added as a cosponsor to this amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Mr. President, let me do this, if it is all right with the Senator from Hawaii. There are apparently several people wanting to come down and speak on this bill, and I think Senator DURBIN is going to be coming down. So while we are waiting, instead of sitting in a quorum call, let me mention that on my bill we had Senators BARRASSO, BROWNBACK, DEMINT, JOHANNS, ROBERTS, THUNE, VITTER, SESSIONS, CORNYN, COBURN, HUTCHISON, and BENNETT, I believe, who all wanted to be or were cosponsors of my amendment.

Since this is the same amendment, they also requested that—some of them wanted to come down and speak on behalf of this amendment. So if it is acceptable, we could wait until they get down here. Until they do, I wish to perhaps elaborate a little bit more about what is existing there right now in terms of any problems.

A lot of times people are talking about maybe this is perceived by Europeans, or somebody else, to be an institution that sometimes is perhaps guilty of or accused of torturing detainees. Let me assure my colleagues that has never happened. There has never been a case of waterboarding.

Most of the people who have come back—including Eric Holder, the Attorney General—came back with a report that the conditions and the circumstances under which these detainees exist are probably better than any of our Federal courts. Right now, there is one doctor for every two detainees, and they are giving them treatments they never had before. I have been down there numerous times only to find out that their treatment—the food they are eating and all of that—is actually better than they had at any other time during their lifetimes.

So it is very difficult to look at a suggestion such as this. Seeing where this, to me, is the only place in the world where they actually are set up to handle these types of detainees, the suggestion was made that perhaps they wanted to—they were looking for 17 places in the continental United States to put these detainees. My view at that time was that we would end up having 17 targets for terrorism.

One of those places they suggested was in my State of Oklahoma at Fort Sill. So I went down to Fort Sill to look at the detainee facility there. Sergeant Major Carter, who is in charge of it, said to me: Senator, why in the world would they close down Guantanamo?

She said: I have been there on two different tours and there is no place that can handle detainees better. Besides that, there is a court system there where they can actually conduct tribunals, and there certainly is not in Fort Sill, OK.

So in support of what we are doing with this amendment, some 27 States now have expressed themselves that they don't want to have these detainees, any of them, in their States. We are talking about State legislatures. So that is over half of the State legislatures that are saying they wouldn't want to do that.

So I think if we have an asset, if we have something that is working, we are in a position to keep detainees there. Some of them have to be there for a long period of time. The only choice would be to keep them there or to try them. If you try them and there is no way of disposing of them after the trial, they would have to go back.

Right now, of the 245 detainees, there are 170 of them whose countries would not take them back. So you have to ask the question: What would we do with them?

So the bottom line is this: It is a state-of-the-art prison. People are treated right. They have proper medical care. They have better food than most of them have ever had before. Besides that, some of these are the Khalid Sheikh Mohammed-type of individuals whom we want to be sure don't get in the wrong court system where something could happen to them.

So of the 240 detainees now, 27 are members of al-Qaida's leadership cadre, 95 lower level al-Qaida operatives, 9 members of Taliban's leadership cadre, 92 foreign fighters—that is 38 percent of all of them—and 12 Taliban fighters and operatives. These people are tough guys. We are going to have to do something with them. So I do support the Inouye-Inhofe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to speak to the pending amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. Mr. President, I want to commend the chairman of the Appropriations Committee, Senator INOUYE, for this amendment he has offered. President Obama is formulating a plan in terms of the future of the Guantanamo Bay detention facility and any appropriation at this moment would be premature. We should wait until the administration submits that plan and then try to work to implement that plan on a bipartisan basis.

What I find incredible are the Members of the Senate who are coming to the floor and basically suggesting that the Guantanamo detention facility should stay open indefinitely; that there is no reason to close Guantanamo. I don't understand that thinking. Wasn't it President Bush of the Republican Party who called for closing Guantanamo? I thought he did. In fact, he did. I don't recall the Republican Senators standing up at that point and objecting when President Bush said that was his goal, to close Guantanamo.

Mr. INHOFE. Will the Senator yield?

Mr. DURBIN. No, I will yield when I am finished.

When President Obama was elected, he made it clear that we were going to have a clean break from some of the policies of the past and we were going to try to reestablish America's position in the world—a position of leadership and respect. I think that is a goal Americans heartily endorse, both political parties and Independents as well. The results of the November 4 election last year indicate that.

When President Obama took office and said that the Guantanamo Bay detention facility would be phased out over a 1-year period of time, when he said we were going to do away with some of the interrogation techniques that had become so controversial, I felt it was a statement of principle and it was, practically speaking, important for our Nation to do.

Arthur Schlesinger, Jr., a historian who died a couple of years ago, wrote histories of the United States beginning with the age of Jackson through F.D.R. and John F. Kennedy. Before he died, he said:

> No position taken has done more damage to the American reputation in the world—ever.

The tragic images that emerged from Abu Ghraib and the stories that came out afterwards, unfortunately, left an impression in the minds of people around the world that was mistaken—an impression that we were not a caring, principled people.

I think President Obama's decision to move forward toward the closing of the Guantanamo Bay detention facility was the right decision, but it wasn't just President Obama who came to that conclusion. Closing the Guantanamo Bay detention facility is an important national security priority for our Nation. Many national security and military leaders agree that closing Guantanamo will make us safer.

Let me give a few examples: General Colin L. Powell, the former Chairman of the Joint Chiefs of Staff and former Secretary of State under President Bush, Republican Senators JOHN MCCAIN and LINDSEY GRAHAM, and former Republican Secretaries of State James Baker, Henry Kissinger, and Condoleezza Rice.

The two most vocal supporters of keeping Guantanamo open are former Vice President Dick Cheney and talk show host Rush Limbaugh. With all due respect, when it comes to the national security of the United States of America, I will side with Colin Powell and JOHN MCCAIN over Vice President Cheney and Rush Limbaugh.

According to experts, Guantanamo Bay, unfortunately, has become a recruiting tool for al-Qaida that is hurting America's security.

Let me give one example. Retired Air Force MAJ Matthew Alexander led the interrogation team that tracked down Abu Musab al-Zarqawi, the leader of the al-Qaida operation in Iraq, and this is what he said:

> I listened time and again to foreign fighters, and Sunni Iraqis, state that the number one reason they decided to pick up arms and join al-Qaida was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay. . . .It's no exaggeration to say that at least half of our losses and casualties in that country have come at the hands of foreigners who joined the fray because of our program of detainee abuse.

This is not a statement that comes out of some leftwing publication. It is a statement by a retired Air Force major, Matthew Alexander.

I visited Guantanamo Bay in 2006. I left proud of the good job our soldiers and sailors were doing there. They are being asked to carry a heavy burden of the previous administration's policies.

For many years, President Bush announced publicly that he wanted to close the Guantanamo detention facility, and there were no complaints from the Republican side of the aisle when President Bush made that suggestion. But President Bush didn't follow through.

Now President Obama has taken on the challenge of solving this problem that he inherited from the Bush administration.

I listened here as the previous speaker talked about the dangerous people at Guantanamo. There is no doubt that some of them are dangerous and have to be regarded as such, and releasing them would not be in the best interest of the security of the United States. But having said that, since Guantanamo was opened initially, the Bush administration released literally hundreds of detainees who were brought there, many of whom were later determined by the Bush administration not to be any threat or guilty of any wrongdoing. They were sent back to their countries of origin or to other countries that would receive them.

One particular case I am aware of involves a young man who was from Gaza. He was turned over as a suspected terrorist and sent to Guantanamo. He was sent there at the age of 19. He languished in Guantanamo for 6 years, never being charged with any wrongdoing. Just last year, his attorney was given a communication by our Government that said: We have found no evidence of wrongdoing by this man who is your client, and he is free to leave as soon as we can determine which country will accept him. A year and 3 months have passed since then. He still sits in Guantanamo. He came there at the age of 19; he is now 26. Is that justice in America? Is that an outcome we applaud? Do we want to keep Guantanamo open so he can continue sitting there year after year? Of course not. We want to detain those who are dangerous and bring to trial those who can be charged with criminal wrongdoing. We want to release those who are innocent and of no harm to the United States.

The President is taking the time to carefully plan for the closure of Guantanamo in a way that will protect our national security. One thing is eminently clear, and it is almost painful for me to have to say the words on the Senate floor, and if anybody suggests otherwise, I cannot imagine they would do it in good faith, but I will say them anyway. This President of the United States will never allow terrorists to be released in America.

This President has set up three task forces to review interrogation and detention policies and conduct an individualized review of each detainee who is currently held at Guantanamo. These task forces are staffed by career professionals with extensive experience in intelligence and counterterrorism. They will make recommendations on how to close Guantanamo and what our interrogation and detention policies should be. We should give these national security experts the time to conduct a careful review and make their recommendations.

The Obama administration's approach is in stark contrast to the previous administration, where policies were made by political appointees with no background in counterterrorism. They ignored concerns expressed by FBI agents and military personnel with years of experience in dealing with al-Qaida.

When the President issued his Executive order, Republican Senators JOHN MCCAIN and LINDSEY GRAHAM said:

> We support President Obama's decision to close the prison at Guantanamo, reaffirm America's adherence to the Geneva Conventions, and begin a process that will, we hope, lead to the resolution of all cases of Guantanamo detainees.

That is a responsible statement. I applaud my Republican colleagues for stepping up and acknowledging that this President is trying to do the right thing. It doesn't benefit the debate for people to come here and create a specter of fear, that somehow this President—or any President—would be party to releasing dangerous people into the United States.

Last week, Senator LINDSEY GRAHAM said:

> I do believe we need to close Guantanamo Bay. I do believe we can handle 100 or 250 prisoners and protect our national security interests, because we had 450,000 German and Japanese prisoners in the United States. So this idea that they cannot be housed somewhere safely, I disagree.

But some Republicans have decided to turn Guantanamo into a political issue on the floor. Some have even gone so far as to claim the President wants to release terrorists into the United States. This is an absurd, offensive, and baseless claim.

Our colleagues on the other side of the aisle are criticizing the President, but the sad reality is that they have no plan to deal with the Guantanamo problem.

Richard Clarke, President George W. Bush's first counterterrorism chief, said the following last week:

> Recent Republican attacks on Guantanamo are more desperate attempts from a demoralized party to politicize national security and the safety of the American people.

Let me address one specific claim—that transferring Guantanamo detainees to U.S. prisons will put Americans at risk.

Last week, Philip Zelikow, who was the Executive Director of the 9/11 Commission and counselor to Secretary of State Condoleezza Rice, testified before the Judiciary Committee. Mr. Zelikow told me that it would be safe to transfer Guantanamo detainees to U.S. facilities and that we are already holding some of the world's most dangerous terrorists in the United States.

Here are a few examples of those currently being held in American prisons: Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing; 9/11 conspirator Zacarias Moussaoui; Richard Reid, the so-called shoe bomber; and numerous al-Qaida terrorists responsible for bombing the U.S. Embassies in Kenya and Tanzania.

If we can safely hold these individuals, I believe we can also safely hold Guantanamo detainees. I don't know if this will be part of the President's recommendation or plan. We are still waiting for that.

I should make it clear in this debate that no prisoner has ever escaped from a U.S. Federal super-maximum security facility.

President Obama inherited this Guantanamo problem from the previous administration. Solving it will require leadership and difficult choices, and it will take some time.

I think the decision by Senator INOUYE to remove this money from the supplemental is the right decision. The supplemental covers the next 4 months. During that period of time, the President will come out with his plan, and we can work forward from there.

The President is showing that he is willing to lead and make hard decisions. I urge my Republican colleagues to pay close attention to their colleagues, Senators MCCAIN and GRAHAM, who I think have been reasonable in discussing this issue. We should not play politics with national security.

Give the Obama administration a chance to present their plan for closing Guantanamo. As Colin Powell, JOHN MCCAIN, and many others have said, closing Guantanamo is an important step toward restoring American values and actually making America a safer country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. JOHANNS. Mr. President, I rise today to commend President Obama on his recent decision to continue military commissions at Guantanamo Bay. I think the decision shows the President's realistic assessment of the value of the commissions. Resuming them will also ensure that justice will be brought to the suspected terrorists currently awaiting the commission. The President has also shown an invigorating commitment to winning the war in Afghanistan, and he has resisted brash decisions to exit Iraq before the security situation has been fully stabilized.

However, today, I must temper my comments with an admonition. The President needs to reverse his order to close Guantanamo Bay. We are all familiar with the President's Executive order. It was signed in the first hours of his Presidency. It announced the closure of the prison within 1 year. To say the Executive order is short on detail is an understatement. We have learned that the Justice Department is reviewing the cases of the individual detainees and that the President would like to move the detainees somewhere else. That is really all the Executive order tells us.

About 240 detainees are now being held at Guantanamo Bay. The administration claims that not every detainee is a terrorist and that a few are kept at Guantanamo simply because other countries are very slow to accept them. Well, let me tell you, in my judgment, that speaks volumes about the character and the fitness for society of these detainees. Other countries are literally dragging their feet in accepting them. In April, the President of France famously agreed to accept one detainee. A number of countries, such as Germany and Lithuania, have only said they will consider accepting detainees, despite the Attorney General's round-the-world tour to ask our allies to accept more.

Let's assume the administration's projection that only half of the detainees there would be considered terrorists. Well, that is 120 terrorists who would be brought to facilities on our soil; 120 terrorists who would entice their brothers in arms worldwide to make every effort to break them out or at least wreak havoc on places where they are jailed; 120 terrorists whose trials and hearings will cause a community to virtually lock down every time they have to be transported from point A to point B.

Last Friday, I had the opportunity to actually go to Guantanamo and visit the prison. Having seen the facilities, I am more confident than ever that we should keep Guantanamo operating.

On my visit, I saw firsthand the treatment detainees receive there. The facilities there rival any Federal penitentiary. Detainees receive three meals per day that adhere to cultural dietary requirements.

They stay in climate-controlled housing with beds. It was a warm day when we were there. Their housing is air-conditioned. They have flushing toilets and had all of the hygiene items we would use, such as toothbrushes, toothpaste, soap, and shampoo. They have the opportunity to worship uninterrupted. They are provided prayer beads, rugs, and copies of the Koran. The Muslim call to prayer is observed in the camps five times a day, followed by 20 minutes of uninterrupted time to practice their faith. In fact, we happened to be there during the call of the prayer, and the camp literally shuts down to allow them to have that time. They have access to satellite TV and a library with more than 12,000 items in 19 languages, including magazines, DVDs, and Arabic newspapers. I will bet their big-screen television—really state-of-the-art television—is bigger than most in the average home in America.

Most remarkable, though, is the medical care provided to detainees at Guantanamo. Most people don't realize this, but detainees receive the same quality of medical care as the U.S. servicemembers who guard them. They have access to medical care anytime they need it, and there is a two-to-one detainee-to-medical-staff ratio. They get preventive care, such as vaccinations and cancer screenings. In addition to routine medical care, detainees have been treated for preexisting medical conditions, even to the extent of receiving cancer treatment or prosthetic limbs. This is likely better treatment than they would receive in their home countries.

The courtroom constructed at Guantanamo was designed specifically to deal with military commissions. I am a lawyer myself, and I have to tell you that I have never seen anything like this. To say that it is state of the art is to understate the quality of that courtroom. I will tell you that I am convinced there is not another courtroom anywhere in the world with better equipment than what we have installed at Guantanamo.

To top it all off, earlier this year, the Vice Chief of Naval Operations reviewed conditions at Guantanamo and issued a report that the detainees' confinement conformed to the Geneva Conventions. Despite public perception, no detainee has ever been waterboarded at Guantanamo.

Why would we throw away a $200 million, state-of-the-art facility just to meet an artificial deadline in 2010 that I think really originated from an uninformed campaign promise?

These are very dangerous people being held at Guantanamo. These are not a couple of teenagers who robbed a corner convenience store. There are 27 members of al-Qaida's leadership cadre currently housed at the prison, plus 95 lower level al-Qaida operatives, which combined is about half the prison population at Guantanamo. There are also scores of Taliban members and foreign fighters.

There was a survey that was done awhile back—it was released in April—and it indicated that 75 percent of Americans oppose releasing Guantanamo detainees in the United States, while only 13 percent support that. I am willing to bet the numbers opposing the transfer of prisoners to the United States would skyrocket even higher, although that is hard to imagine, if you told people that the terrorist detainees would be held in a prison near their town. But if moved to the United States, they have to be near some town.

The President submitted an $80 million funding request for the detainees to be transferred, despite having no plan outlining their destination. Fifty million dollars of the President's funding request would go to the Department of Defense to actually transfer the detainees from the prison. But we don't know where. This lack of a plan and lack of transparency deeply disturbs me.

Alarmingly, two of the sites on U.S. soil that some speculate would house transferred detainees are at Fort Leavenworth, KS, or the supermax facility in Colorado. Both facilities are within 250 miles of the Nebraska border. That alarms me and my constituents. That is why I sent a letter to Attorney General Holder on April 23 requesting a personal briefing before any decision is made to move current Guantanamo detainees within 400 miles of Nebraska's borders.

But simply being notified that detainees are about to be transferred won't suffice. That amounts to telling the passengers to hold on before the bus crashes. It is for these reasons that I believe we should deny funding to transfer detainees and in fact not close the prison at Guantanamo. It is for these reasons that I support S. 370, the Guantanamo Bay Detention Facility Safe Closure Act of 2009, introduced by the senior Senator from Oklahoma.

The bill prohibits Federal funds from being used to transfer any detainees out of Guantanamo to any facility in

the United States or its territories. It also prohibits any Federal funds from being used for the construction or enhancement of any facility in the United States in order to house any detainee. Finally, it prohibits any Federal funds from being used to house or otherwise incarcerate any detainee in the United States or its territories. It will keep our communities safe by preventing terrorists from being thrust into our cities and towns.

I will close by reminding Senators that in 2007, the Senate voted 94 to 3 to express its opposition to moving Guantanamo detainees to U.S. soil or releasing them into American society. President Obama's Executive order to close the prison at Guantanamo demonstrates his intention to ignore the will of the Senate and the American people. Despite an overwhelming vote, the administration apparently still plans to bring terrorist detainees from Guantanamo near our communities.

I hope we have the opportunity to once again address this issue. There is a pending amendment which I support. But I also urge the President to reconsider his decision to close the prison. I encourage my colleagues to support the amendment that is before this body to deny funding for closing the prison.

I look forward to a robust debate on this issue as we delve into this very important matter. Amendments will be offered. I think this is the most important issue we are going to face in a long time. Action to close the prison and move these people here is unacceptable. It is unthinkable to the American public. We must yield to their collective wisdom and hear their call. Anything else would be a grave mistake.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

AMENDMENT NO. 1136

Mr. MCCONNELL. Mr. President, I wish to say a few words about an amendment I am about to offer that relates to the President's Executive order of January 22 on the disposition of detainees at Guantanamo.

As part of that Executive order, a so-called detainee task force was created for the purpose of reviewing the records of detainees to determine whether they should be released. It is my view that any information obtained by this task force should be made readily available to the appropriate chairman and ranking members of the committees of jurisdiction. So the amendment I am about to send to the desk establishes a reporting requirement that would require the administration to provide a threat assessment of every detainee held at Guantanamo. This threat assessment, which could be shared with Congress in a classified report—remember, this would be in a classified report only—would indicate the likelihood of detainees returning to acts of terrorism. It would also report on and evaluate any threat that al-Qaida might be making to recruit detainees once they are released from U.S. custody.

Many of the remaining 240 detainees at Guantanamo are from Yemen, which has no rehabilitation program to speak of, and Saudi Arabia, which has a rehab program, but which, frankly, hasn't been very successful at keeping released detainees from rejoining the fight even after they go through this rehabilitation program. The recidivism among released detainees is of great concern to those of us who have oversight responsibilities here in Congress. So according to my amendment, the President would have to report to Congress before—I repeat, before—releasing any of the detainees at Guantanamo. More specifically, the administration would have to certify that any detainee it wishes to release prior to submitting this report poses no risk—no risk—to American military personnel stationed around the world.

This is a simple amendment that reflects the concerns of Americans about the dangers of releasing terrorists either here or in their home countries where they could then return to the fight. Until now, the administration has offered vague assurances it will not do anything to make Americans less safe. This amendment says that Americans expect more than that. Americans want the assurance that the President's arbitrary deadline to close Guantanamo by next January will pose no risk to our military servicemembers overseas.

I know there is an amendment pending at the desk, so I ask unanimous consent that it be set aside and that my amendment be sent to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 1136.

Mr. MCCONNELL. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the release of detainees at Guantanamo Bay, Cuba, pending a report on the prisoner population at the detention facility at Guantanamo Bay)

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Guantanamo Bay.

(d) FORM.—The report required under subsection (a), or parts thereof, may be submitted in classified form.

(e) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 1137

Mr. INOUYE. Mr. President, I ask unanimous consent that the pending amendment be set aside to allow me to call up a technical amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 1137.

The amendment is as follows:

(a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for ''Operation and Maintenance, Air Force''.

Mr. INOUYE. Mr. President, this technical amendment clarifies the treatment of a rescission proposal included in the bill, and has been cleared by both sides.

The PRESIDING OFFICER. Is there further debate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

Mr. MARTINEZ. The issue before the Senate includes the question of Guantanamo, and I know there has been some recent activity on this legislation.

Addressing this issue, the Federal Government has no higher responsibility than ensuring the safety and security of every American. Since 9/11, our Nation has taken a number of steps to safeguard us from the threat of terrorism, including the development of a facility to detain enemy combatants at U.S. Naval Station Guantanamo Bay.

Over the course of our campaign against terrorism, that detention facility came under harsh scrutiny; doing great harm to our stature around the world.

In June of 2005, I told a group of newspaper editors that the detention facility at U.S. Naval Station Guantanamo Bay had become a lightning rod for global criticism, and at some point a country has to reexamine the cost-benefit ratio of operating a facility that has such a poor public face.

As a lawyer, I noted that it wasn't very American to be holding people indefinitely with no system in place to process and grant review of the detention and some form of due process.

Suspected enemy combatants had essentially become akin to POWs; but because of the unique nature of the ongoing war on terror, they could not be released.

What I knew then, and what I know now is that though many wanted to close Guantanamo—a view that would eventually be shared publicly by President Bush and both candidates for President Senators JOHN MCCAIN and Barack Obama—we did not have a good plan for how to legally advance beyond that wish.

So we had an idea—to close Guantanamo—but no good path to achieve that without endangering Americans.

The world has changed since 2005.

Since then, a military commission system was established, prisoners were processed; the trying of unlawful enemy combatants began; trials concluded; and in some cases former Guantanamo Bay detainees were convicted of their charges, while others were acquitted and released.

But now, we have gone from the rhetoric of the campaign to the very real pronouncement by the President that Guantanamo shall be closed down by January 2010.

I agree, we need to close Guantanamo, but not before we have a concrete plan in place that holds captured enemy combatants accountable for their actions, while also not endangering the American public.

President Obama's Director of National Intelligence, Admiral Dennis Blair clearly laid out that:

> The guiding principles for closing the center should be protecting our national security, respecting the Geneva Conventions and the rule of law, and respecting the existing institutions of justice in this country.
>
> I also believe we should revitalize efforts to transfer detainees to their countries of origin or other countries whenever that would be consistent with these principles.
>
> Closing this center and satisfying these principles will take time, and is the work of many departments and agencies.

So again, we have the idea that we can all agree on, but in practice there is no plan; there is no clear path to achieving these goals.

When choosing a path, we need to act very carefully and consider this decision in the context of our ability to continue processing prisoners under the Military Commissions Act; we need to consider whether and how habeas corpus would apply to detainees transferred to U.S. facilities; and we need to know the implications of trying Gitmo detainees in Federal Court.

Today, some 240 individuals are held at Gitmo's detention center.

Of these, eighty detainees potentially face prosecution for war crimes before Military Commissions at Guantanamo and two individuals have already been convicted of war crimes before the Commissions.

These Commissions were created by Congress under the Detainee Treatment Act and the Military Commissions Act as a means for prosecuting the unique type of enemy we confront in this new type of warfare.

But then came the Supreme Court's opinion in Boumediene v. Bush.

In that opinion, authored by Justice Kennedy on behalf of the five-member majority, the Court did something that has never been done in the history of our Nation.

The Court extended the constitutional writ of habeas corpus to foreigners detained in foreign lands.

That means the Court extended to foreign terror suspects detained at Guantanamo Bay the same constitutional rights and privileges that U.S. citizens enjoy in U.S. courts.

Seizing on this unprecedented constitutional interpretation, the lawyers of several Gitmo detainees quickly filed motions in Federal district courts seeking to have their clients brought into the U.S., and in some cases, asked that their clients be released or ''paroled'' onto the streets of American cities and communities.

This is the world we live in given the Court's decision in Boumediene—a world in which foreigners, who have been trained at terrorist camps in Afghanistan, have been granted the right to be released onto the streets of American cities.

It was against this backdrop that President Obama decided on his first day in office to halt further Military Commission trials and to mandate the closing of Gitmo by January of next year.

Let's be clear about what we are dealing with here.

These detainees are not accused of shoplifting; they are not accused of robbing a bank; they are not accused of organizing a single or double homicide.

They are accused of working as unlawful enemy combatants with the aim of killing as many Americans as they can kill, most of them completely committed to their goal, they are ''irreconcilables.''

We are still in the midst of a global war on terror against an enemy bent on attacking Americans wherever and whenever it can. There is no question that this war is unprecedented. There is no question we face unique and difficult choices. But one thing is very clear: We should never allow alleged enemy combatants to enter or be released in the United States. No court, civilian or military, should ever be asked to decide whether the foreign terrorist trainee before it is ''safe enough'' to be brought into the United States and released into our streets. The American people deserve greater protections from us than that would warrant them, and we must remember that their personal safety and our national security is our No. 1 priority.

Guantanamo is a world-class facility that is well-suited for the unique circumstances of the global war on terror. Even Attorney General Holder has declared the facility to be ''well run'' and noted that Gitmo personnel conduct themselves in an appropriate way. I myself have visited there, and I understand what he is saying, because it is a good example of a fine detention facility. It is good that the military commissions were working and were achieving fair results and may be coming back.

For example, Salim Hamdan, Osama bin Laden's personal driver and body man, was convicted of providing material support to al-Qaida and sentenced to a mere 5½ years by a jury of military officers. This result demonstrates the effectiveness and the type of justice provided by the military commissions. This is why they should resume immediately at the only venue in the world that has been built to facilitate them, and that is the facility at Gitmo.

One thing I do want to make clear as we continue to have debate over the facility's future, I remind my colleagues that when we talk about Gitmo's future, we are referencing the detention center, not the U.S. Naval Station at Guantanamo Bay. That naval base is

the landlord to the detention center, but it also serves as a vital base for our Navy and is a key strategic place.

The overall facility is the U.S. Naval Station providing fleet support, ship replenishment, and refueling for the U.S. Navy and also for the Coast Guard as well as allied and friendly nations. It is a key processing center for Haitians and Cubans seeking asylum. The U.S. Naval Station at Guantanamo Bay is home to more than 8,500 active-duty servicemembers and their families and civilian support contractors.

We cannot lose sight of the important role the base plays in our national security, and the continued need for infrastructure improvements and enhancements, all that have absolutely nothing to do with the detention facility. As we continue to debate the facility's future, I want to underscore the importance of making a thoughtful and careful decision rather than one that may be what is expedient, for the moment.

We need a plan on how to move forward given the considerations I have discussed today. So I hope as the discussion goes forward, we will put the interests and the safety of the American people first. I know the portion of this bill before us which dealt with the Guantanamo facility and the allocation of $80 million to close down the facility may be removed from the bill or considered in a different form. I would be encouraged if we are not at the moment funding the closing of this facility until we have a game plan in mind of what we are going to do with the facility and the detainees who are there.

We still have not addressed what we are going to do between now and January of 2010. There still is no plan. There still is no future for what will happen to the 240 detainees who currently reside at the detention facility at the United States Naval Station in Guantanamo, Cuba.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH.) The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise today to support and thank the distinguished chairman of the Appropriations Committee, the Senator from Hawaii, for his amendment to strike the Guantanamo Bay funding in the supplemental bill before us.

Last week in the Appropriations Committee which he chairs, I raised this issue at the markup with the intent to strike the funding for the Department of Justice. At the behest of the chairman and ranking member, I did not offer the amendment which I intended to offer today.

This supplemental, as reported out of the Appropriations Committee, fulfilled the Department of Justice request originally for $30 million to fund the President's reckless campaign promise to shut down the Guantanamo Bay detention facility and determine the fate of the 241 terrorists being held there.

I also believe that funding for the Department of Justice to carry out the President's Executive order is just the beginning of efforts to begin the investigations of U.S. officials who interrogated terrorists who killed or attempted to kill American citizens.

In a Department of Justice hearing before the Appropriations Subcommittee on May 7, I asked the Attorney General if he knew about or sanctioned any of the renditions that occurred when he served as the Deputy Attorney General during the Clinton administration. He said he did, but could not provide specifics and would get back to the committee with a response. We are still waiting for that response. Yesterday, in following up with that, I sent a letter to the Attorney General following up on many of the unanswered questions left after the hearing.

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

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

U.S. SENATE,
Washington, DC, May 18, 2009.

Hon. ERIC HOLDER,
Attorney General, Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL HOLDER: I am writing to follow up on some of the issues raised during your hearing before the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies on May 7, 2009. Below are a number of questions posed during the hearing, as well as some additional questions I have relating to a potential criminal investigation of U.S. officials who drafted the legal opinions upon which the CIA based its interrogation program, and who actually participated in the interrogation of detainees. Also included are questions relating to the disposition of Guantanamo Bay detainees. Your immediate response would be greatly appreciated.

1. During your tenure as the Deputy Attorney General of the United States, 1997 to 2001, did you know that President Clinton approved of and actively engaged in the practice known as rendition? Did you or anyone in the Department of Justice express a legal opinion on, participate in, or approve any rendition? What actions did you take to ensure any such rendition complied with United States or international law? What actions did you take to ensure that any interrogations of any such individuals rendered by the United States were conducted by the receiving country in a manner consistent with United States or international law? Did you or anyone on your behalf ever determine whether any useful intelligence was obtained from any such individuals rendered by or on behalf of the United States? Did you or anyone on your behalf ever attempt to determine how that information was obtained and whether any such individuals rendered by or on behalf the United States was subjected to any treatment that would violate United States or international laws?

2. In an exchange with Senator Alexander during the hearing you mentioned an Office of Professional Responsibility (OPR) inquiry into the work of the attorneys who prepared the Office of Legal Counsel (OLC) memoranda regarding interrogation. It has been reported that the OPR report criticizes the competence of the authors of the memoranda.

a. Has the OPR. prior to this review. ever reviewed legal opinions drafted by the OLC? If so, please explain in detail, including whether any such review involved intelligence matters or the President's war powers?

b. Presuming the OPR reviewed the legal opinions of the OLC regarding the CIA's interrogation program, please describe, in detail, the standards of review applicable to any such OPR review. Also, provide a copy of any standards of conduct or any other Department of Justice policy guidance regarding the conduct of attorneys used by the OPR in its reviews. What conclusions did OPR reach in any such review?

c. How many attorneys currently work in the Office of Professional Responsibility? Do any of them have expertise in constitutional law, intelligence matters, treaty compliance, and/or separation of powers? If so, please provide detailed information regarding each attorney's individual expertise in these areas. Is the OPR seeking outside guidance in any of these areas? If so, please provide specific information on these individuals or sources.

d. Did any of the personnel in the OPR work on cases or policies arising from our government's response to the 9/11 attacks? If so, please provide the names of these individuals.

3. Attorney General Mukasey and Deputy Attorney General Filip were presented with a draft of an OPR report near the end of the Bush Administration. This was after more than four years of investigation and thousands of dollars in taxpayer funds being expended. Press reports have suggested that Mukasey and Filip rejected the idea that OLC attorneys should be subject to sanctions.

a. Please explain why you have decided to overrule Attorney General Mukasey's decision. Also, please provide the Committee with all instances, if any, where an incoming Attorney General has reversed the decision of his or her predecessor regarding a recommendation by the OPR.

b. News reports suggest that the OPR will criticize the Bybee memorandum that argues that the anti-torture statute cannot interfere with the President's constitutional authorities. Did the OPR ever investigate the opinions of the Clinton Justice Department to determine if it claimed that the President's constitutional authorities would allow him to act in violation of Acts of Congress? If not, why not? If so, please provide those opinions.

c. Does the OPR report address whether the interrogation methods used actually produced useful intelligence? If not, why not? If so, please list all U.S. Government personnel interviewed by the OPR to make such a determination.

4. The provision of accurate legal advice regarding the conduct of intelligence operations will necessarily entail the consideration of not only many types of activities, but also very difficult legal issues. On many occasions, reasonable attorneys may disagree on whether such activities are consistent with or violate United States or international law. The investigation, and possible sanctioning, of attorneys for the provision of legal advice in areas of law that are less than clear will absolutely have a chilling effect on their ability to provide accurate legal opinions. Faced with sanctions, attorneys will undoubtedly choose to stay well within the law. Intelligence operations will then he unnecessarily limited falling well short of what the Congress and the President may be prepared to sanction. With this in mind, won't risk aversion driven by chilled legal advice recreate the bureaucratic attitude that contributed to our inability to detect and stop the 9/11 attacks?

5. Do you believe the President has the legal authority to bring terrorists, former

terrorists or anyone who has received terrorist training into the United States and release them into our communities? If so, please provide a copy of that authority?

6. In your testimony before the Committee you stated that with ''regard to the release decisions that we will make, we will look at these cases on an individualized basis and make determinations as to where they can appropriately be placed.'' What are the criteria on which you will base a decision to place an individual currently being held in Guantanamo in the United States? Please be more specific than the general guidance given in the President's Executive Order.

Thank you for your immediate attention to these matters.

Sincerely,

RICHARD SHELBY.

Mr. SHELBY. Mr. President, renditions and interrogations were carried out on Attorney General Holder's watch, when he was the Deputy Attorney General. I have serious concerns that the Attorney General could eventually be leading investigations and prosecutions against U.S. officials who carried out the very same actions he approved during his time as Deputy Attorney General.

Yet the Executive orders failed to include any investigation of his role in approving renditions of detainees and terrorists that occurred during his previous tenure at the Justice Department.

To go back in time, the first terrorist attack on the World Trade Center occurred on February 26, 1993. We later saw the bombings of the USS Cole, the embassies in Africa, and Khobar Towers take place before the second attack on the World Trade Center.

Many of the terrorists who committed these acts were trained in the very same camps as the terrorists held at Guantanamo Bay. When I asked the Attorney General if the Government had the legal authority to admit someone who had received terrorist training into the United States, he would not answer the question directly. He indicated he would not release anyone who he thought was a terrorist in the United States—who he thought.

All of the detainees being held at Guantanamo Bay, I believe, are terrorists. Does anyone but the administration and the Attorney General believe anything to the contrary? I think it is misguided to close a facility housing terrorists when there is no plan. All of the prisoners housed at Guantanamo Bay are terrorists. Terrorists attacked our Nation and killed our citizens and pose a threat still today to our national security.

We should not, I believe, let this Attorney General or anyone else brand these terrorists as victims worthy of living in the United States of America, nor should we follow the plans of the Director of National Intelligence, Dennis Blair, who suggested that terrorists be provided with a taxpayer-funded subsidy to establish a new life here in America.

Until we are clear about Attorney General Holder's role in renditions and interrogations prior to 9/11, and what this administration is proposing to do with these terrorists once Guantanamo is closed, I believe it is premature to provide this funding.

I again commend the chairman for his actions today and I believe the Senate is on the right track. I hope we stay there.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1139

Mr. CORNYN. Mr. President, I have conferred with the bill managers, the distinguished chairman of the Appropriations Committee and the distinguished ranking member. I have an amendment I would like to call up. I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. INOUYE. I object momentarily.

The PRESIDING OFFICER. Objection is heard.

The Senator from Hawaii.

Without objection, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 1139.

Mr. CORNYN. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To express the sense of the Senate that the interrogators, attorneys, and lawmakers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds the following:

(1) In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks on the United States was the most urgent responsibility of the United States Government.

(2) A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives concluded that the September 11, 2001 attacks demonstrated that the intelligence community had not shown ''sufficient initiative in coming to grips with the new transnational threats''.

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

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

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

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

(7) The Office of Legal Counsel is the proper authority within the executive branch for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out official duties.

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

(9) The legal questions posed by the Central Intelligence Agency and other executive branch officials were a matter of first impression, and in the words of the Office of Legal Counsel, ''substantial and difficult''.

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

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

(12) The majority and minority leaders in both Houses of Congress, the Speaker of the House of Representatives, and the chairmen and vice chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on the legal analysis by the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency as early as September 4, 2002.

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

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

(15) Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel provides national leaders a means to detect, deter, and defeat further terrorist acts against the United States.

(16) The enhanced interrogation techniques approved by the Office of Legal Counsel

have, in fact, accomplished the goal of providing intelligence necessary to defeating additional terrorist attacks against the United States.

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

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

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

Mr. CORNYN. May I inquire, my amendment is currently the pending amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CORNYN. I thank the Chair.

Mr. President, my amendment calls for an end to the poisonous environment of recriminations and second-guessing and even threats of prosecution that have overtaken the debate about detention and interrogation policy in the aftermath of September 11, 2001. This amendment expresses the sense of the Senate that neither the lawyers who offered good-faith legal advice regarding the legality of interrogation techniques, nor any person who relied in good faith on that legal advice, nor any Member of Congress who was briefed beforehand on these enhanced interrogation techniques and who did not object should be prosecuted or otherwise sanctioned. This is, obviously, a sense of the Senate, but I think it is important that the Senate's will be determined and recognized on such a sensitive and important topic.

I know it is hard for us to remember now what it was like in the days following 9/11. Believe it or not, there was a broad bipartisan consensus that America and all Americans, including Congress, should work aggressively within the law to detect, deter, and indeed to defeat further terrorist attacks. Responding to this consensus, patriotic Americans in our intelligence service; namely, the Central Intelligence Agency, the administration, and Congress did everything within our legal power to protect the country from a follow-on terrorist attack.

We recall the horrible day when we saw two airplanes fly into the World Trade Center in New York. But it is not beyond the realm of concern that, indeed, the same terrorists who effected those horrible attacks, killing 3,000 Americans, roughly, on that day, would use some more effective weapon of perhaps a nuclear, biological, or chemical nature. So we know our intelligence officials and the administration and Congress were acutely aware of the environment in which they were acting.

Our intelligence officials believed they could produce actionable intelligence by using some enhanced interrogation techniques, including one that is performed as part of training on some of our own U.S. military personnel; that if the Office of Legal Counsel at the Department of Justice determined this was a legal way for them to gain actual intelligence, perhaps, just perhaps, it could generate intelligence which would allow the Central Intelligence Agency and our military forces to defeat any follow-on terrorist attacks.

It is worthwhile to remember, as my sense-of-the-Senate resolution does, that after the Central Intelligence Agency asked whether these enhanced interrogation techniques were, in fact, lawful, the Office of Legal Counsel, which is the authoritative branch that provides legal advice to the executive branch and the U.S. Government, was asked to render an opinion on whether use of these enhanced techniques, including waterboarding, was, in fact, legal. In fact, after much input and consultation within the executive branch and the lawyers for various parts of the executive branch discussed and interpreted what the constraints of the law were under both international as well as domestic laws, they concluded that under specific guidelines and limitations, it would be lawful for the Central Intelligence Agency, in questioning known al-Qaida leaders, to use this technique in order to gain intelligence that would perhaps save many more lives in the future.

We know how controversial this turned out to be, but it is important to remember that at the time, it did not prove to be so controversial. In fact, after the CIA asked for permission to use these enhanced techniques, we know the Office of Legal Counsel rendered legal opinions authorizing the use of these techniques under certain limitations. And then, in fact, leadership here in Congress was briefed on those techniques. Specifically, under these circumstances, as the sense-of-the-Senate resolution points out, not only would the Speaker of the House of Representatives be briefed but also the majority and the minority leaders in both Houses of Congress, as well as the chairman and ranking member of both the House Intelligence Committee and the Senate Select Committee on Intelligence. That would have been back in 2002—of course, much closer in proximity to the horrible events of 2001—when, no doubt, Members of Congress and members of the executive branch were thinking: What can we do to prevent further terrorist attacks against the United States?

One of the things that we have heard in the days since these opinions out of the Office of Legal Counsel have been controversial is that some lawyers have different opinions from those rendered by the lawyers at the Office of Legal Counsel. I can tell my colleagues, as a lawyer myself for 30 years, what lawyers do best is disagree with one another. There is nothing unexpected about that. But we should not turn disagreements between lawyers into witch hunts and into pursuing good-faith rendition of legal opinions as well as intelligence officials relying on those opinions in order to try to protect our country.

One distinguished law professor testified to the Judiciary Committee last week:

> To ratchet-up simple disagreement with the legal analysis of a prior administration into the claim that such analysis was beyond the pale of legitimate legal analysis, and therefore should be investigated and punished, is to be engaged in a mild form of legal neo-McCarthyism.

Mr. President, I was not in Washington, DC, on September 11, 2001. I was in my home in Austin, TX, when I saw these terrible images of these planes flying into the World Trade Center. But one of the images I remember in the aftermath of those attacks was of the Members of Congress, of both parties, joined together on the Capitol steps singing ''God Bless America.''

In the aftermath of that day, Americans, at least for a time, were united in our determination that it would not happen again. That is why it is particularly sad to see the bitter political divisions of the present being invoked to condemn the good-faith actions of the past and to hear calls to prosecute not only the intelligence officials in the CIA but also prior administration officials and, indeed, the Congress who answered the call when the American people demanded with one voice that we keep them safe.

If we want to be able to look back at our detention and interrogation policies, and learn what worked and what did not, we need to try to maintain our sense of perspective and objectivity and fairness and be respectful of both the circumstances under which these officials reached these opinions and the reliance the intelligence officials and other high Government officials had upon those legal opinions in deciding what they could and could not do. Indeed, who would question their use of all legitimate means to gain actual intelligence that may indeed have saved American lives? We cannot learn together from our past successes or failures while recklessly accusing one another of crimes while criminalizing policy differences.

In the end, this sense-of-the-Senate resolution is an appeal to a sense of decency. We should be united in our commitment to liberty, justice, and security under the law.

The American people want unity and not partisan prosecutions or sanctions imposed against those officials who were simply trying, to the very best of their ability, to do their job and to keep the American people safe. This amendment says, in the end, that the Senate agrees with that proposition. I

would ask for the support of all my colleagues.

Mr. President, I yield the floor.

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. ROBERTS. 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. ROBERTS. Mr. President, today, those of us who have strongly insisted that no terrorist currently in Guantanamo Bay should or will be transferred to the United States, I think, have won a big victory.

I am going to be very frank about it. Faced with an embarrassing defeat, and listening to the American people, the Democratic leadership has accepted an amendment offered by Senator JIM INHOFE of Oklahoma, myself, and many others that prohibits the use of Federal funds to transfer or locate any Gitmo terrorist to the United States.

This is an important, commonsense victory for the security of our country and more especially for Fort Leavenworth, KS. Following President Obama's decision to close Gitmo at the end of this year, there has been much speculation about moving terrorists to Leavenworth, especially in the press, and even on the Senate floor. I responded with remarks several weeks ago: ''Not on my watch.''

The problem is that while we have prohibited the use of funds to transfer terrorists to the United States, the Obama administration still has proposed no plan to meet their own January deadline. That does remain a challenge, and it means that while we won a victory today—no funds—it seems to me we must remain vigilant to make sure future plans do not include locations in the United States, including Leavenworth.

There are simply too many security risks and the possibility of negative impacts on our Kansas citizens and the Intellectual Center of the Army at Fort Leavenworth to even consider moving terrorists to Kansas.

I hope President Obama and his team designated to come up with a plan can come to the realization that closing Gitmo actually poses new problems in terms of security and logistics and legal issues.

Now that we are all on the same page, let's find a better answer and one that does not endanger Leavenworth, KS, or any other community in the United States.

I also wish to associate myself with the remarks of the distinguished Senator from Nebraska, MIKE JOHANNS, who I think summarized the whole situation very well. I wish to thank Senator INHOFE for persevering. I wish to thank my dear friend and colleague, the distinguished Senator from Hawaii, Mr. INOUYE, for his leadership in this regard.

But during this debate, and for some time, it seems to me we have seen a change in how those who are incarcerated at Gitmo are now being defined and described in the media, in the administration and, as a consequence, by some Americans.

I understand there is a poor perception of Guantanamo Bay. I think that is a fact we all realize. We heard another Senator from the other side of the aisle describe that in detail—as a matter of fact, ascribed all the problems to the Bush administration. But I do not think that is relevant. To say there are no terrorists there, to say there are not even enemy combatants there, is doing a disservice to us all by trivializing the crimes committed by the men at Guantanamo Bay.

I ask you, when did we start making terror politically correct? This same question was asked by Daniel Pearl's father, Judea Pearl, in an article that ran in the Wall Street Journal this past February. It is called: ''Daniel Pearl and the Normalization of Evil.'' I think every Senator and every American should read it, more especially in regard to this debate on where we locate these terrorists.

As you may know, and we should all remember, Daniel Pearl was the American journalist who was captured and beheaded—beheaded—on a video by the ''nonterrorist, nonenemy combatant'' Khalid Shaikh Mohammed in 2002—beheaded by Khalid Shaikh Mohammed, who is actually sitting at Guantanamo Bay right now.

Listen to what Judea Pearl, a respected professor at UCLA, has to say about that act of terror on his son:

> Those around the world who mourned for Danny in 2002 genuinely hoped that Danny's murder would be a turning point in the history of man's inhumanity to man, and that the targeting of innocents to transmit political messages would quickly become, like slavery and human sacrifice, an embarrassing relic of a bygone era.
>
> But somehow, barbarism, often cloaked in the language of resistance, has gained acceptance in the most elite circles of our society. The words ''war on terror'' cannot be uttered today without fear of offense. Civilized society, so it seems, is so numbed by violence that it has lost its gift to be disgusted by evil.

Well, this Senator remains disgusted by evil. I am disgusted by those who target innocent civilians as they spew their hatred. I refuse to adopt what Danny's father calls ''the mentality of surrender.'' And that is weaved throughout this debate in regard to what happens to these terrorists.

It is not too late. We can all refuse to surrender to the idea that terrorism is somehow a tactic, to refuse to believe it is an acceptable tool of resistance.

There is still time for Americans to remember that there are men at Guantanamo who cannot be released and most certainly should not be on American soil.

Mr. President, I yield back.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Connecticut.

CREDIT CARD REFORM

Mr. DODD. Madam President, I wish to speak off the bill. I know my colleagues are talking about the supplemental appropriations bill. But I wish to take a few minutes, if I could, with the permission of the managers of the legislation, to talk about the credit card legislation that passed this morning. I did not have the opportunity, given the time constraints, to express some brief thoughts about the passage of that legislation.

So I rise to thank my colleagues. By an overwhelming vote of 90 to 5, this body voted earlier today to adopt the credit card reform legislation. I am very grateful to my colleagues. I am grateful to Senator SHELBY, my cochair, if you will, the former chairman of the Banking Committee, for his work.

Obviously, this was a bipartisan effort, with a vote of 90 to 5. The final conclusion was one that was embraced by an overwhelming majority of our colleagues. I thank them for that.

Twenty years ago, many of my colleagues who are still in this Chamber will recall how we stood to try to get the credit card industry to respond to some of the activities that began then. In those days, they were not quite as pernicious as they have become. But, nonetheless, you could see the handwriting on the wall as to where these issuers were headed. We did not engage as effectively then as we probably should have. We said then that too many of these companies were starting to cross a line, starting to engage in abusive, deceptive, and misleading practices that were trapping their customers into far more debt than certainly they, the customers, ever agreed to.

But that was more than two decades ago, and since that time, we have all seen what has happened across our Nation: penalty fees that are increasingly common, for infractions that are increasingly ridiculous—for paying by phone or by e-mail or by check, which are ways you get penalized today; anytime, any reason under contracts, where interest rates could be raised that can turn a few hundred dollars of obligation into a lifetime of debt; disclosures that you need a microscope to read and a lawyer's degree to understand.

For too long, credit card companies have resorted to tactics that drive families deeper and deeper and deeper into debt.

Well, today the Senate let them know that those days are coming to an end. I am grateful to my colleagues for their votes.

I wish to take a few minutes to thank fellow Senators and staff who have worked diligently to help me improve this legislation.

As I mentioned earlier, Senator SHELBY of Alabama played an important role, and I am grateful to him for agreeing to work on this bill. It came out of the committee on an 11-to-12 vote—the narrowest of margins. It was after that time that we worked to develop a bipartisan bill.

In all, I believe this was an inclusive process—striking a very good balance that ensures we provide tough protections for consumers while making sure to maintain the flow of credit into our economy that is so essential to our long-term economic recovery.

I wish to thank Senators CARL LEVIN of Michigan and CLAIRE MCCASKILL of Missouri, who led the charge to restrict overlimit fees and deceptive marketing of free credit reports.

Senator BOB MENENDEZ of New Jersey has been a champion from the very beginning on issues impacting young people—requiring credit card companies to consider consumers' ability to pay when issuing credit cards, increasing protections for students against aggressive credit card marketing, and more transparency in affinity arrangements between credit card companies and universities.

With respect to affinity cards and protection of students, I also wish to thank Senator CASEY of Pennsylvania, Senator FEINSTEIN of California, Senator CORKER of Tennessee, and Senator GRASSLEY of Iowa for their leadership as well.

Let me also thank several of our colleagues with whom we worked to include protections regarding small business—Senator BEN CARDIN of Maryland, Senator JOHANNS of Nebraska, and Senator MARY LANDRIEU of Louisiana. They strove mightily to include a study and report on the use of credit cards by small businesses.

Senator OLYMPIA SNOWE of Maine worked with our Senate colleague from Louisiana to include the establishment of a Small Business Information Security Task Force in this legislation.

Several additional measures were included at the behest of my colleagues that I think strengthen the legislation.

Senator CHARLES SCHUMER of New York authored the provision to scale back abuses on prepaid gift cards, and that provision is now included in the bill that passed. Senator DAN AKAKA of Hawaii wisely suggested we seek a clarification of the certification process for credit counselors—something I believe will prove extremely valuable given the clear need for greater financial literacy among consumers.

Senator SUSAN COLLINS of Maine, with my colleague, Senator LIEBERMAN of Connecticut, asked that we include provisions to prevent money laundering through the use of what they call stored value cards which are being increasingly used by drug cartels to smuggle money across our borders. I am happy we were able to include those provisions in the bill as well.

My colleagues from California and New Hampshire, Senator FEINSTEIN and Senator GREGG, worked with us to include a study and report on emergency PIN technology that would allow banking customers to signal for help when forced to withdraw cash from ATMs.

Another study and report on which we worked with Senator KOHL of Wisconsin to include is on the marketing of products such as debt cancellation agreements, which some have long argued are of questionable benefit to consumers.

Finally, I wish to thank the President of the United States, President Obama, for stepping up and stepping in, and for using the bully pulpit of his Presidency to help us gain public awareness of these issues as well.

As we cross the finish line today and the House considers what we have sent them, I believe the victory will not be, of course, for our President or for the Congress or for the authors of this legislation or even for the Members I have mentioned in these remarks. Truly the victory will be for people such as Don and Samantha Moore of Guilford, CT, and their three daughters; or Kristina Jorgenson of Southbury CT; and Phil Sherwood, a member of the city council, of New Britain, CT. All of these constituents of mine came to me with stories about how they had seen abuses by the credit card industry.

In the case of Don and Samantha Moore: 40 years of credit card allegiance, one 3-day-late payment resulted in an increase from 12 to 27 percent in interest rates and reducing their credit limit from $32,000 to $4,000. They run a small business. It probably put them out of business—just for being 3 days late for the first time in 40 years.

In the case of Kristina Jorgenson in Southbury: She watched her rates go from 5 percent to 24 percent for being 3 days late—the first time ever—in a credit card payment. One of those days was a Sunday, by the way. She had taken out the credit card debt to pay off her student loans. They charged her because of the retroactive fees, the 24 percent, making it almost impossible for her to ever meet those obligations. To meet that criteria, she dipped into her individual retirement account which she had saved. She was in retirement and she has now cut that retirement down to 45 percent of its value in order to pay off the credit card debt. Three days late, one time, 5 percent to 24 percent. Phil Sherwood didn't do anything at all. He paid his bills every month, never a day late, and watched his rates skyrocket, he and his wife.

These stories I tell could be repeated over and over all across the country. More than 70 million accounts in one 11-month period, affecting one out of four families, saw interest rates skyrocket. For the life of me, I don't quite understand what the industry was thinking of, having just overreached time and time again. But as a result of the bill we passed today by the vote I mentioned, we have made significant inroads into the kind of practices the people I mentioned here were afflicted with.

Unfortunately, it doesn't happen overnight. The bill has a period of time before the new restrictions go into effect. I would have liked to have had a much shorter period, but these bills require compromise, and they don't become the fulfillment of the wishes of any one Member of this body. It requires working with each other and, as a result of that effort, we ended up with a longer period of time than I liked but, nonetheless, less than the official period of the Federal Reserve Board's regulations, which would be a year and a half from now.

So American consumers have a responsibility. That needs to be said over and over. But they also have rights, and those rights ought to be that they can count on a contract they enter into. I know of no other contractual relationship, whether it is purchasing a home, buying an automobile or an appliance, where the one party can virtually unilaterally change the terms of the contract. Yet that goes on every day with credit card issuers.

Madam President, 20 to 25 percent of students now have over $7,000 in credit card debt—25 percent of our student body at the university and collegiate level. The average college graduate owes over $4,000, a major factor of some students dropping out of school.

The average family in our country, with credit cards, now has what they call revolving debt—the bulk of which is credit card debt—well in excess of $10,000 per family. So, clearly, with those kinds of obligations and debts, something needed to be done. That is what we have done with this legislation.

So the industry has obligations. Consumers have the right not to be taken to the cleaners, and they have a right to expect that they will be treated fairly when they enter into a contractual agreement; that they won't be the only ones required to uphold their end of the bargain. Certainly, consumers have a right not to live in fear that a clause buried in the fine print of their credit card contracts might someday be their financial undoing, and they should have a right to trust that their child won't be saddled with debt before they have turned 21.

Standing up for those families and their children and forcing those rights is what this legislation was designed to do, and we accomplished that goal.

So I wish to thank my colleagues again for their efforts, their diligence, their commitment to ensuring that we pass a strong bill that will benefit consumers across the country.

I wish to thank majority leader HARRY REID, and I wish to thank the minority leader, the Republican leader. HARRY REID provided the time and space for the consideration of this bill which would not have happened if the leadership didn't decide to make that time available for something as complicated as this, with many different ideas that were brought to the table. I wish to thank the floor staff that is here for their work, both the majority and minority side as well. They were very patient. It has been over 2 weeks now.

We dealt with the housing bill last week, and now the credit card bill this

week, and they had to put up with me for 2 straight weeks on the floor of this Chamber. I am very grateful to them. I wish to thank my staff as well.

LINSEY GRAHAM, who is on the Banking Committee staff, has done a magnificent job over the years and in working on this legislation. Amy Friend, Charles Yi, Colin McGinnis, along with other members of the staff, but they were the principal ones who spent long hours and nights over the weekends over the past several weeks to pull this legislation together.

Bill Duhnke and Mark Oesterle of Senator SHELBY's staff as well worked very hard, and I am very grateful to them.

I wish to thank the staff here as well. Certainly, the majority leader's staff, Gary Myrick and Randy Devalk, who did a great job, and I thank them. I can't say enough about Lula Davis and about Tim Mitchell. Trish Engle and Jacques Purvis did a wonderful job. I thank them. I thank David, as well, on the minority staff. They were just wonderful.

I tried their patience, I know, on more occasions than I care to remember, but without their involvement over these past several days we would not have been able to achieve this accomplishment today. That also includes Joe Lapia and Brandon Durflinger, Meredith Mellody and Esteban Galvan as well from the cloakroom staff who worked so hard.

I am sure I have left some people out, and I apologize if I have done so in thanking them for their work. But all of these people in their own way contribute to what happens here. They don't often get mentioned. Those of us who have the right to speak in this Chamber are the ones who are seen and heard, but I want my constituents and people in this country to know there are people every day whose names you will never know, whose faces you will never see, who contribute mightily to the products that get produced in this body. It takes cooperation on the part of all of us, regardless of where we come from, what party affiliation we are, what ideological leanings we may have. They are wonderful, remarkable people who give their time and their professional careers to this institution and who make these kinds of events and these kinds of results achievable.

So I thank them all, and I thank all of my colleagues again.

I look forward to a day in the hopefully not too distant future when President Obama will sign this legislation into law.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1140

Mr. BROWNBACK. Madam President, I have an amendment that I wish to call up at the desk. I wish to note that the chairman of the committee has been very good to work with me on getting this called up.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 1140.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate on consultation with State and local governments in the transfer to the United States of detainees at Naval Station Guantanamo Bay, Cuba)

At the end of title III, add the following:

SEC. 315. (a) FINDINGS.—The Senate makes the following findings:

(1) In response to written questions from the April 30, 2009, hearing of the Committee on Appropriations of the Senate, the Secretary of Defense stated that—

(A) in order to implement the Executive Order of the President to close the detention facility at Naval Station Guantanamo Bay, Cuba, ''it is likely that we will need a facility or facilities in the United States in which to house'' detainees; and

(B) ''[p]ending the final decision on the disposition of those detainees, the Department has not contacted state and local officials about the possibility of transferring detainees to their locations''.

(2) The Senate specifically recognized the concerns of local communities in a 2007 resolution, adopted by the Senate on a 94–3 vote, stating that ''detainees housed at Guantanamo should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods''.

(3) To date, members of the congressional delegations of sixteen States have sponsored legislation seeking to prohibit the transfer to their respective States and congressional districts, or other locations in the United States, of detainees at Naval Station Guantanamo Bay

(4) Legislatures and local governments in several States have adopted measures announcing their opposition to housing detainees at Naval Station Guantanamo Bay in their respective States and localities.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

Mr. BROWNBACK. Madam President, I wish to thank my colleague, the chairman of the committee, for allowing this to be brought up. Obviously, people can object to different things, but he is allowing this to be brought up.

It is a very simple amendment. It is germane as far as the Guantanamo Bay issue. Basically, what it says is, the Department of Defense needs to consult with local communities and States before they locate these detainees in a State or locale in the United States. I think that is something all of us would basically agree to—that this is something that should be done. This is a very contentious issue. It is obviously a very contentious issue in my State, having been mentioned a number of times as a possible site for detainees.

People in the community of Leavenworth, KS, and people across the State of Kansas, including former Governor Sebelius, now Cabinet Secretary, sent a letter to the Department of Defense saying we can't handle the detainees at Leavenworth, the military disciplinary barracks that are there.

So what I hope is that at some point in time we could vote on this amendment and send that clear message to the administration and the Department of Defense that before any of these things are considered, State and local officials are consulted because, obviously, on security issues, we are going to have to do a lot of cooperation. If these detainees are moved anywhere into the continental United States—anywhere into the United States—they are going to have to be dealt with.

Further, I wish to speak about the Inouye-Inhofe amendment. Last week, on Friday, I led a congressional delegation of four Members to view the facility at Guantanamo Bay. I would urge all of my colleagues to go and look at the facility. It is really an extraordinary piece of real estate which the Navy has used for many years, but it is also an extraordinary facility where we have invested several hundred million dollars into this mission. They built it up over a period of time. They have security that is being provided.

The conclusion I came away with is that Guantanamo Bay is a highly specialized detention system for hundreds of terrorists, and replicating it would be enormously difficult, expensive, and unnecessary. I think my view represents the views of the colleagues of mine who went on the trip with me. I would urge people to go.

Attorney General Holder has gone and said it is a well-run facility. I would urge President Obama to go and to look at the facility firsthand. What they have put in there is a very specialized facility to handle a very difficult situation.

I know it has an image issue around much of the world. But an image issue is one thing. The practicality of dealing with the prisoners we have there, the detainees, is another. This is a specialized facility for handling them. I found they were able to handle dangerous detainees. I found that how they were being handled was quite fair.

I think we should treat detainees fairly, humanely, according to the conventions, and they are being treated as such. But to transfer the detainees to the United States, we don't have a facility that could handle this. I question whether we could get a locale that

wants to handle the detainees in the United States. It would also delay the justice of the military commissions operating. We have constructed a courtroom at Guantanamo, at the cost of several million dollars, which is completely secure, which is ready to start the military commission trials. It has a video streaming system in it that is completely secure, so that witnesses can be interviewed around the world into this courtroom setting. It is set up and ready to go.

Now that the President has gone forward with some adjustments in the military commission process, it would delay the process further if you required this military commission facility to be constructed somewhere else in the United States or around the world. It would delay it in the setup and in the movement of these detainees to other places around the world.

There is a second key point I want to make, which is that when you look at the situation at Guantanamo Bay and meet with the military personnel who are handling it—who I think are doing an excellent job—they point out clearly that the members of al-Qaida who are there continue the battlefield in the prison. They talk about various things that are being done, a number of which—I will not mention some here—are quite difficult to deal with among our military personnel. Our people look at the detainees as continuing the battlefield in the prison.

Do we want to bring that into the prison system in the United States—a continuation of the battlefield into the prison system here? I don't think so. We are not set up to handle that. We need to consider that issue. The practical issue here is what we do with the detainees, which is a difficult problem for us. They are not in the criminal system in the United States, nor should they be. They are not enemy combatants, as far as representing a foreign country.

We are going to have to figure out our way through it. I invite the administration to talk with Members in opposition to closing it. We shouldn't have an artificially specific date to close Guantanamo Bay, when we don't have an alternative set up. We don't have a system set up for how we are going to handle the detainees we are going to try. It makes better sense to not have this arbitrary timeline set and for us to work together on how we are going to work our way through this, and we should work together in a bipartisan fashion. I think we can do it. I support the Inouye-Inhofe amendment. It is appropriate and I think it represents where most U.S. citizens are.

I close by congratulating and thanking our military personnel who work at Guantanamo Bay. I think they are doing an outstanding job under very difficult circumstances. It is a tough setting they are working in. It is a tough issue we are dealing with. I think they are doing a good job. I think we are going to have to detain these people for some time because too many are answering the battlefield again. They even continue it in incarceration. There is no reason to think they wouldn't continue it if they are allowed to get back onto the battlefield. I look forward to votes on my amendment and others.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Madam President, I will make a few remarks about what is perhaps the most contentious issue in this supplemental funding bill, and that is the issue we have been discussing throughout the day, and that is how to handle the United States detention facility at Guantanamo Bay, Cuba.

In the last few days, we have seen a flurry of amendments relating to this issue, some Republican and others from Democrats. Indeed, it seems that this issue has overshadowed the necessary focus on the ongoing wars in Iraq and Afghanistan and the way forward in each. I am afraid this bipartisan expression of concern and surge of legislative activity has a single cause: the decision by President Obama in one of his first acts after his inauguration to announce that he would close Guantanamo Bay 1 year after taking office, without presenting a plan for the disposition of the prisoners there. By announcing Guantanamo's closure without first conducting an in-depth review of the difficult issues posed by the Guantanamo detainees, we are left today arguing over the wisdom of shuttering the prison in the absence of any plan for what comes next.

With the administration unable to propose and seek support for a comprehensive plan that encompasses all aspects of detainee policy, the Congress has been understandably reluctant to fund the closure of Guantanamo as the President requested in this supplemental. In fact, the Democratic chairmen of the Appropriations Committee in both the House and Senate have now stripped funding for closing Guantanamo from their respective supplemental funding bills. The Senate majority leader now says his party will not proceed in the absence of a comprehensive plan for Guantanamo's closure.

It didn't have to be this way. During the past election, I too supported closing Guantanamo and pledged to do so. I continue to believe it is in the interest of the United States of America to close Guantanamo. But all policymakers must understand how essential it is to gain the trust of the American people on this sensitive national security issue. We cannot simply proceed without explaining to the American people what the plan is for how these prisoners will be handled in a way that is consistent with American values and protective of our national security. The American people deserve a detailed explanation of what will take place the day after Guantanamo is closed, and they must be certain their Government will execute its most fundamental duty, which is to keep America and its citizens safe.

When the President announced his decision last Friday to restart military commissions to try Guantanamo detainees for war crimes, I applauded that decision. I have long believed that military commissions should be the chief venue for trying alleged war crimes violations committed by Guantanamo detainees. There is no doubt that the coordination, complexity, and massive scale of the 9/11 attacks that left over 3,000 innocent people dead constitute war crimes. There is also no doubt that al-Qaida and its supporters were then, and continue to be today, committed to the destruction of our values and our way of life and our values in a fashion that bears no resemblance to the acts of common criminals.

But while I applauded the President for restarting military commissions, I also pointed out that the President's overall decisionmaking on detainee policy has left more questions than it has provided answers. The numerous unresolved questions include: where the Guantanamo inmates will be held and tried; how we will handle those who cannot be tried but are too dangerous to release; how we will deal with the prisoners held at Bagram Air Base in Afghanistan, some of whom were captured off the Afghan battlefield.

I point out to my colleagues—and most of them know, and many Americans know—that we have already had the experience of around 10 percent of those detainees who were released return to the battlefield. One of them is a high-ranking al-Qaida operative in southern Afghanistan and another in Pakistan. So this is a real threat.

The lack of a comprehensive, well-thought-out plan led to a predictable political backlash to any movement on Guantanamo. Instead of unifying Americans behind a plan that keeps us safe and honors our values, the administration's course of action has unified the opposition to moving forward—and move forward we must. National security issues of this dimension require more than announcements and future promises. They require full detailed explanations of a proposed course in order to gain the support of the American people and their elected leadership in Congress. That is what will be required for success in closing the prison at Guantanamo Bay.

I know we will hear arguments during this debate that we should deny funding to close Guantanamo until we see a plan on what to do with the detainees, and we will also probably see amendments to deny detainees any sort of entry or asylum into the United States, whether it is for trial, post-trial incarceration, long-term preventive detention, or administrative detention pending deportation. We will

do the best we can to deal with these issues, with the information from the administration that is available to us.

I look forward to working with my colleagues on both sides of the aisle on this issue. But most important, I again say to the President that I will work with him to forge a bipartisan solution to this very difficult problem that faces all of us. I urge again that we address all the detainee policy issues in a comprehensive fashion and lay out a plan that will keep us safe and honor our values. I strongly believe a comprehensive plan will lead to success, while a piecemeal approach, without addressing the legitimate concerns of the American public and Congress, will continue to divide us.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. 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. BENNETT. Madam President, I rise to thank the chairman of the full committee, along with the ranking member, for their wisdom with respect to the money allocated for Guantanamo Bay and the prison there. I want to make a few comments with respect to the prison at Guantanamo Bay.

I have visited the prison at Guantanamo Bay. I led a CODEL—for those watching on television, that means a congressional delegation—of myself, members of the House, and, on this occasion, I took some members of the European Parliament. That is interesting, because when we came back and held a press conference to report what we had found, members of the European Parliament on the CODEL said, ''We cannot participate in this press conference.'' I said, ''Why?'' They said, ''If we told the truth about what we saw at Guantanamo, we could not go home to Europe. The animosity toward Guantanamo in Europe is so strong that if we told the truth about how good things are down there, we would be attacked politically in Europe and we would lose our seat in the European Parliament.''

I said: Well, I don't want you to lose your seats in the European Parliament. I won't ask you to participate. But we did hold a press conference, and one of those who did participate said: I wish the prisons in my district back home were as good as the prison in Guantanamo.

Let me describe what we found in Guantanamo, not with respect to how well the prison was designed or how well the prison was administered but who the prisoners are, or, as they are appropriately called, the detainees.

If you talk to the detainees, every one of them is a goat herder picked up by accident by the American troops when they were in Afghanistan or in Iraq or wherever it was. None of them had any connection with al-Qaida at all. This was all a huge mistake.

I have been in the storeroom where they keep all of the items that were taken from these detainees when they were picked up. The question arises: What is a goat herder doing with hundreds of dollars of American money in $100 bills? What is a goat herder doing with sophisticated explosive equipment in his back sack? What is a goat herder doing with forged passports and other information and documentation? Maybe these people are not all goat herders. Maybe these people really are connected with al-Qaida, just based on what they found.

I have watched an interrogation take place at Guantanamo by closed-circuit television. The interrogation room is one which has stuffed furniture, pleasant surroundings. The detainee, to be sure, has irons on his legs so that he cannot leave his chair where he is sitting. They are not tying him directly to the chair, but he couldn't get up and walk out. But he is sitting on the chair, and the interrogator is sitting across the room in another chair, and they are having a pleasant conversation.

You say: What kind of an interrogation is this? The interrogation is a conversation, and it goes on for an hour, an hour and a half. Then next week there is another conversation that goes on for an hour, an hour and a half, 2 hours, whatever it might be. Out of those conversations, little items begin to slip from the mouth of the detainee. The interrogator is able to take those items and piece them together, and pretty soon, after a few weeks or maybe a month or two, the interrogator knows that goat herder A has just identified goat herder B as an explosives expert high in the level of al-Qaida. Then, based on that information, when goat herder B is in for his interrogation, there is a conversation, and another thing starts to slip. Over a period of months, a pattern of information emerges that makes it possible to identify who is what and where in the whole al-Qaida operation.

Understand, the interrogation is not Soviet style to try to beat a confession out of anybody. It is to find out information that can be used in the war against terror. This information is painstakingly put together over a period of time. Pretty soon, the pattern emerges, and the interrogators begin to understand who these people are, what their relationship to each other may be, and what their role was out on the battlefield.

One of the things I had not realized until I got there was that as a result of this process, the determination has been made with respect to hundreds of these detainees that they are no longer dangerous, they no longer have any information we need, they are no longer in a position to be dangerous to the United States. When that determination is made, they are released.

Hundreds of the detainees at Guantanamo have been released. Many of them have showed up again on the battlefield. Indeed, some of them have been killed by American troops on the battlefield as they have been fighting back, which means the interrogators who decided they were no longer dangerous made a mistake. It turns out they really were dangerous, they really were connected at a higher level than we were able to determine through the interrogator, and they had fooled the interrogator into believing they were innocent bystanders who somehow did not belong there, and they got released and found their way back to Afghanistan, back to the battlefield. Some of them whom we knew well enough from their time in Guantanamo identified on the battlefield were shot and killed by American forces in firefights where they were attacking Americans.

One of the things they do at Guantanamo—''they'' being the detainees—is to make every effort to communicate with each other and create conspiracies within the prison. Conspiracies to do what? Conspiracies to create incidents that will create international outrage against the United States.

Two weeks before we arrived there, there was one such incident. I had not seen it in the American newspapers. I was told that it was reported in the American newspapers but only in passing. When we got the details from the guards and the administrators of the prison describing the specifics of what had happened, I realized that the story in the American newspapers was very sketchy.

Over a period of months, the detainees conspired together to create an incident in the area that was part of the exercise facility. They planned it very carefully. They worked together. They complied with all of the rules in the prison that would allow them greater freedom because as the commandant of the prison said to us: I don't have very many sticks; I only have carrots.

To get people to cooperate, if they abide by the rules they lay down, we give them greater freedom, we give them greater opportunities. So these people would comply in every way until they could get to a circumstance where they could talk to each other, be on the exercise field, and hatch their plan.

Finally, this is what they did. They put up some screens in the form of clothing or some kind of cover so that the guards, for a short period of time, could not see what they were doing in this room. In that period of time, they pulled down the fluorescent tubes from the light fixtures in the ceiling so that they could use them as weapons. At the same time, they covered the floor with a variety of liquids, their purpose was to make the floor as slippery as possible. Then when the guard came in to see what was going on because the screens had gone up, as he walked in, suddenly he was standing on liquids that were slippery so that he couldn't

get his footing very well, and they were attacking him with the fluorescent tubes as weapons, trying to create a significant incident. Fortunately, he was able to keep his footing. He was able to pull out his weapon. He was able to gain control of the situation, and the rest of the guards were alerted fast enough to come in before it turned into serious injury. But the American guard came very close to serious injury.

Their hope was, as nearly as the interrogators could figure out, to provoke the Americans into killing one of them. Their hope was to create a circumstance where there would be a death in Guantanamo that would create a worldwide outcry of outrage against the brutal Americans in this prison and thereby make their political point.

There were many other examples which were given to us of attacks on the guards by the prisoners in circumstances, again, that are not appropriate to discuss in this setting but that are thoroughly disgusting and outrageous in terms of the violation of the person of the guards involved.

On one occasion where it was particularly outrageous, it was a young woman who had joined the Navy and was in her first assignment doing her best to patrol up and down an aisle between the cells. In this case, the cells had screens on them through which items could be thrown. They were thrown at her and in her face.

Their commanding officer said to her: Go take a shower and take the afternoon off, to recover from this horrendous kind of experience for her.

She said: I will take the shower, I will get a clean uniform, but I will come back. I will not let them intimidate me to say I can no longer walk my patrol.

That is the kind of valor and integrity we have from the Americans who are there policing these people.

I could go on about other things we discovered. The primary health care problem the detainees have in Guantanamo is obesity. They are fed so well and they have no control on how much they eat; they can use whatever they want from the food as they come into the commissary. The doctors and the nurses who are there to take care of them say we have a problem of overweight with every one of them. They have never had this much food available to them in their lives.

They are all looked after. Many of them came with significant health care problems off the battlefield, and it is the American medical corps that has made them well and whole.

Why do I dwell on all of this about the nature of the prisoners? Because I am sympathetic with those Americans who say: We don't want these people in our prisons. And indeed we don't—not because of a ''not in my backyard'' syndrome, but guards who are trained to deal with the kinds of prisoners who show up in American prisons now are not prepared to deal with people who are potential suicides to make a point, people who will deliberately provoke the guard in the hope that they will get killed or seriously injured in order to make an international incident. This is not your average automobile stealer. This is not even your average drug dealer. This is someone who has a political agenda and sees the prison in America as the stage on which that agenda can be acted out. To put that prisoner into an American prison where they are going to be rubbing shoulders with other convicts who have absolutely no idea what they are getting into and call upon guards to deal with them who have no idea what they are getting into is seriously not a good idea.

Where do you keep people like this? You keep them in a facility that is designed to deal with them. You keep them with guards who are trained to deal with them. And you use the facility to get the information they can give you to be helpful in the war on terror. That is what the prison at Guantanamo was built to become, and that is what it is.

If the President of the United States now decides that keeping Guantanamo open is a political embarrassment with other countries in the world and it becomes necessary for us in our diplomacy to close Guantanamo, I say that is his decision. The Constitution gives him the responsibility of foreign affairs, and I will respect that decision. But as a Member of the Congress, I don't want to fund that decision until I know what he has in mind as an alternative place to put them. The idea of breaking them up and scattering them around the United States and letting them go to ordinary prisons—be they Federal, State, or local—in the United States is to ignore who they are and ignore what they can do and ignore the challenge they represent to law enforcement and penitentiary personnel in America's existing prisons. So that is why I applaud the chairman in his decision to say we are going to put this off. We are going to delay the time when Guantanamo will be closed until we have a logical place to put them.

Because right now, if you want to describe the logical place to put these prisoners at this time, in this particular struggle with al-Qaida and the rest of the terrorists, the logical place is where they are right now. If it means keeping Guantanamo prison for an extra year or an extra 2 years or whatever it takes to get an intelligent alternative, I say, let's do that. Because the intelligent alternative does not exist at the moment.

I hear no plans being drawn to create it in the future. I think we owe it to those Americans who would otherwise have to deal with it if the U.S. Navy doesn't, to say we are not going to turn them over to you until you have a legitimate and well-thought-out plan as to the way to deal with it.

It is for that reason, again, that I congratulate the chairman and the committee on the decision to withhold this funding until such a plan has been made available to us.

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

The legislative clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. Madam President, I, again, rise to express my concerns regarding the closure of the Guantanamo Bay Detention Center. The closure of this Nation's only secure strategic interrogation center puts our Nation at risk.

I am uncompelled by the Obama administration's legal and policy reasons to justify closing Guantanamo within the next 8 months. Currently, there is no suitable replacement for Guantanamo. This $200 million facility is secure and is a state-of-the-art facility. Moreover, it is located away from population centers and staffed by trained military personnel. Guantanamo has no equal within the continental United States.

On March 19, 2009, it was reported by the Wall Street Journal that Attorney General Eric Holder made reference to the idea that the Department of Justice would bring some of the detainees to this country and release them. The Attorney General's statement that he is open to a policy of outright release of terrorists brought to the United States is disturbing, coming as it does from the senior administration official charged with executing this plan. It also does not dispel my grave concerns about closing Guantanamo Bay.

Indeed, the manner in which this closure has been orchestrated has provided few details and little assurance about how this facility will be closed within the next 8 months and what will be the superior alternative to Guantanamo.

Of the approximately 240 detainees remaining at Guantanamo, 174 of them received or conducted training at al-Qaida camps and facilities in Afghanistan. There is direct evidence that 112 participated in armed hostilities against U.S. or coalition forces. Furthermore, 64 of these remaining detainees either worked for or had direct contact with Osama bin Laden, and 63 of the remaining detainees had traveled to Tora Bora.

In 2001, the Tora Bora cave complex became the fallback position for the Taliban and was believed to be the hideout for Osama bin Laden. Not just anyone could gain access to these caves. We have gone through these particular features. There were 174 who received training in al-Qaida camps in Afghanistan; 112 participated in armed hostility with the U.S. or coalition forces; 64 worked for or had contact with Osama bin Laden; 63 traveled to Tora Bora.

The administration has stated that they will bring the Chinese Uighurs to

the United States for the sole purpose of releasing them. All 17 Uighurs have demonstrable ties to the East Turkistan Islamic Movement, the ETIM, a designated terrorist organization since 2004. The ETIM made terrorist threats against the 2008 Beijing Olympics, and, regardless of previous terrorist activity, any member of this organization would be ineligible to enter the United States, pursuant to Federal immigration law, let alone be allowed to roam this country.

One of the trainers for these Chinese nationals was Hassan Mahsun, an associate of Osama bin Laden. The Uighurs traveled to Afghanistan by using al-Qaida resources. They were also lodged in al-Qaida safe houses and terrorist training facilities. This alone is indicative that these terrorists were vetted and respected enough to be allowed access to al-Qaida havens.

Title 8, section 1182 of the United States Code defines inadmissible aliens. Under this law, any alien who has engaged in terrorist activity or is a representative of a terrorist organization is ineligible to enter the United States. The ''Guantanamo'' Uighurs have certainly met this definition, but to completely address this argument, I want to take this analysis one step further. The law also states that ''any alien who has received military-type training from or on behalf of any organization that, at the time the training was received, was a terrorist organization, is ineligible to enter the country.''

That is what this says:

In general any alien who has received military training as identified in section 2339 D(c)(1) of title 18, from or on behalf of any organization that, at the time training was received, was a terrorist organization as defined in clause VI.

I also would like to point out that my esteemed colleague from the Judiciary Committee, Senator SESSIONS, has brought this statute to the attention of the Attorney General. My colleague has asked for the reasoning behind the Justice Department's assertion that the Uighurs could be foisted upon unsuspecting American communities as Chinese citizens in need of asylum. The Justice Department's opinion that terrorists can be brought to this country for the purposes of nondetention is preposterous. It is another example of this administration's propensity to leap before it looks—to rush headlong into making policy without carefully analyzing what the unwanted byproducts or consequences of that policy will be. I am interested in hearing the Justice Department's legal reasoning for justifying this transfer.

Three weeks ago, while in Germany, Attorney General Holder described the closure of Guantanamo as ''good for all nations.'' He argued that anger over the prison has become a ''powerful global recruiting tool for terrorists.'' With all due respect to the Attorney General, neither he nor anyone else in this administration has yet demonstrated a strong analytic understanding of what is motivating terrorist recruitment. Furthermore, terrorist organizations did not appear to face a shortage of recruits for violent jihad prior to the media frenzy on the Guantanamo facility. Jihadists are ideologically motivated. In fact, corroborated evidence obtained from interviews and interrogations of detainees at Guantanamo has revealed that 118 of the remaining detainees in custody were recruited or inspired by a terrorist network. Therefore, closing Guantanamo in the next 8 months is simply not going to be a ''silver bullet'' and solve the problem of recruitment to violent jihad.

For this and other reasons, I am simply not willing to trade Guantanamo for the possibility of trying to appease and become more popular with our critics living in foreign countries. Popularity is an inappropriate and extremely mushy measure of policy soundness. Many of our foreign critics would like our nation to abandon its support for Israel. Of course we wouldn't. If our Nation's popularity abroad is our primary concern, wouldn't we have to consider that option? I know this Senator will never consider that, irrespective of what our foreign critics say or what the contemporary media or oversensitive diplomats suggest.

If the administration follows its timeline, as I have said before, Guantanamo will be closed in 8 months. Any detainees left in custody at the end of that time will be transported to the United States. I think it bears repeating that this transport will be from a secure, state-of-the-art facility—one that is already operational and fully staffed with trained military personnel. Relocation of these detainees to the United States would require agencies like the U.S. Marshal Service, FBI and the Bureau of Prisons—BOP—to divert assets and manpower from essential programs and facilities to secure these detainees.

It is worth noting that the Bureau of Prisons does not have enough space available to house these detainees in high-security facilities. BOP officials have previously stated that they consider these prisoners a ''high security risk.'' As such, they would need to house them in a maximum-security facility. The BOP has 15 high-security facilities. These installations were originally built to hold 13,448 prisoners, yet they currently house more than 20,000 high-security inmates. So it doesn't take a rocket scientist to see that the BOP cannot receive these Guantanamo detainees. The Bureau's high-security facilities are already woefully overcrowded by nearly 7,000 inmates.

Look at the current population, the yellow bar graph. The blue one is the total rated capacity. We have enough people in these high maximum security prisons that they are overfilled now. Yet they want to put these high-risk terrorists—somewhere. They certainly can't be in these high-risk facilities.

Moreover, it does not appear to be fiscally smart to shutter a functional $200 million facility that has no equal domestically. Why would the Federal Government transfer detainees from a secure military facility located on an island that is isolated from populous areas to a domestic military installation? Why should we make the Marshal Service or the Bureau of Prisons jump through hoops to recreate or replicate the proven effective model of a detention facility that Guantanamo has become.

A few weeks ago President Obama asked his Cabinet to find ways to save $100 million from the Federal budget. However, the President's Defense Supplemental contained $80 million for the closure of Guantanamo. The administration had no plan on how to spend that $80 million and had not identified a replacement that is superior to Guantanamo. Fortunately, the House of Representatives addressed this flawed plan or lack of a plan, and correctly stripped the $80 million out of the Defense Supplemental. Since 1903, we have been paying rent to Cuba for the use of Guantanamo Bay. This amount is less than $5,000 a month. Despite this, the administration insists on closing Guantanamo and spending millions of taxpayer dollars without a defined plan. That is ludicrous.

In February, a Department of Defense report determined that Guantanamo far exceeds any detention facility here in the United States. This report also found that the facility is in compliance with Common Article III of the Geneva Convention. I am sure I need not remind my colleagues, many of whom have visited Guantanamo as I have, that this facility has the capability to accommodate a trial, provide health care and securely house some of the most dangerous terrorists ever captured.

Sadly, the epitaph of the Guantanamo Bay Detention Facility was written the day the executive orders to close it were signed. Despite not having a process to close Guantanamo, the administration is determined to do it anyway. Therefore, Guantanamo will be closed in 8 months—not because its current conditions violate the Geneva Convention, but because of a slanderous campaign by the media to paint Guantanamo as a symbol of injustice. Unfortunately, some of my colleagues have drank the Kool-Aid and bought into this canard. Let me remind my colleagues that Common Article III of the Geneva Convention requires that prisoners of war not be held in civilian prisons and should not be tried in civilian courts.

Guantanamo is still an asset to this country. I don't see how anyone who is honest about the matter can characterize it any other way, especially when there is not a sufficient replacement located domestically to meet the Justice Department's needs. It is my fervent hope that the President and the Attorney General will reconsider their

ill-considered plan to close Guantanamo and recognize the obvious—that a $200 million dollar facility that is already operational and in compliance with international treaties should not be shuttered and closed.

Mr. President, I yield the floor.

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

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

AMENDMENT NO. 1137

Mr. INOUYE. Madam President, I ask unanimous consent that the pending amendment be set aside and that the Senate return to the consideration of amendment No. 1137. This technical amendment has been cleared by both sides.

The PRESIDING OFFICER. Without objection, the amendment is pending.

Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1137) was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, tomorrow, May 20, after any statements of the leaders, the Senate resume consideration of H.R. 2346 and Inouye amendment No. 1133; that there be 2 hours of debate equally divided and controlled between the leaders on that amendment or their designees, with the time allocated as follows: The first 30 minutes under the control of the Republican leader, the second 30 minutes under the control of the majority leader, and the final 60 minutes divided equally, with 10-minute limitations, with the final 5 minutes of time under the control of Senator INOUYE; that upon the use of this time, the Senate proceed to vote on the Inouye amendment with no amendment in order to the amendment.

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the clerk will report the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 2346, the Supplemental Appropriations Act of 2009.

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

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum also be waived.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators allowed to speak therein for up to 10 minutes each.

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

CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is $90.745 billion, and for 2010, it is $130 billion.

On May 14, 2009, the Senate Appropriations Committee reported S. 1054, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes. The reported bill will be offered as a complete substitute to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

I find that the amendment in the nature of a substitute to H.R. 2346 fulfills the conditions of section 401(c)(4). As a result, for fiscal years 2009 and 2010, I am revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays. For 2009, the total amount of the adjustment is $88.290 billion in discretionary budget authority and $26.353 billion in outlays. For 2010, the total amount of the adjustment is $5 billion in discretionary budget authority and $34.753 billion in outlays. I am also adjusting the aggregates consistent with section 401(c)(4) of S. Con. Res. 13 to reconcile the Congressional Budget Office's score of S. 1054 with the amounts that were assumed in section 104(21) of S. Con. Res. 13 for the 2009 supplemental appropriation bill.

I ask unanimous consent that the following revisions to S. Con. Res. 13 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 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.571
FY 2010	1,653.682
FY 2011	1,929.625
FY 2012	2,129.601
FY 2013	2,291.120
FY 2014	2,495.781
(1)(B) Change in Federal Revenues:	
FY 2009	0.000
FY 2010	−12.304
FY 2011	−159.006
FY 2012	−230.792
FY 2013	−224.217
FY 2014	−137.877
(2) New Budget Authority:	
FY 2009	3,673.472
FY 2010	2,888.696
FY 2011	2,844.910
FY 2012	2,848.117
FY 2013	3,012.193
FY 2014	3,188.847
(3) Budget Outlays:	
FY 2009	3,358.476
FY 2010.	3,002.654
FY 2011	2,968.219
FY 2012.	2,882.741
FY 2013	3,019.399
FY 2014	3,174.834

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS

[In millions of dollars]

	Initial allocation limit	Adjustment	Revised allocation limit
FY 2009 Discretionary Budget Authority	1,391,471	88,290	1,479,761
FY 2009 Discretionary Outlays	1,220,843	26,353	1,247,196
FY 2010 Discretionary Budget Authority	1,082,250	5	1,082,255
FY 2010 Discretionary Outlays	1,269,471	34,753	1,304,224

FURTHER CHANGES TO S. CON. RES. 13

Mr. CONRAD. Mr. President, section 401(c)(4) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the section 401(b) discretionary spending limits, allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, and aggregates for legislation making appropriations for fiscal years 2009 and 2010 for overseas deployments and other activities by the amounts provided in such legislation for those purposes and so designated pursuant to section 401(c)(4). The adjustment is limited to the total amount of budget authority specified in section 104(21) of S. Con. Res. 13. For 2009, that limitation is $90.745 billion, and for 2010, it is $130 billion.

I have already made on adjustment pursuant to section 401(c)(4) for the bill reported by the Senate Committee on Appropriations making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes. The reported legislation was offered as a complete substitute to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

I now file further changes to S. Con. Res. 13 pursuant to section 401(c)(4) for an amendment offered under the authority of the Senate Committee on Appropriations. I find this amendment satisfies the conditions of section 401(c)(4). As a result, for fiscal years 2009 and 2010, I am further revising both the discretionary spending limits and the allocation to the Senate Committee on Appropriations for discretionary budget authority and outlays. For 2009, the total amount of the adjustment is $925 million in discretionary budget authority and $34 million in outlays. For 2010, the total amount of the adjustment is $661 million in outlays. With the further adjustment in budget authority in 2009, the Senate will have used $89.215 billion of the $90.745 billion permitted in adjustments under section 401(c)(4). Finally, I am also further adjusting the aggregates consistent with section 401(c)(4) of S. Con. Res. 13 and to reflect the changes made by this amendment.

I ask unanimous consent that the following revisions to S. Con. Res. 13 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 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.571
FY 2010	1,653.682
FY 2011	1,929.625
FY 2012	2,129.601
FY 2013	2,291.120
FY 2014	2,495.781
(1)(B) Change in Federal Revenues:	
FY 2009	0.000
FY 2010	−12.304
FY 2011	−159.006
FY 2012	−230.792
FY 2013	−224.217
FY 2014	−137.877
(2) New Budget Authority:	
FY 2009	3,674.397
FY 2010	2,888.696
FY 2011	2,844.910
FY 2012	2,848.117
FY 2013	3,012.193
FY 2014	3,188.847
(3) Budget Outlays:	
FY 2009	3,358.510
FY 2010	3,003.315
FY 2011	2,968.400
FY 2012	2,882.775
FY 2013	3,019.404
FY 2014	3,174.836

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 401(c)(4) TO THE ALLOCATION OF BUDGET AUTHORITY AND OUTLAYS TO THE SENATE APPROPRIATIONS COMMITTEE AND THE SECTION 401(b) SENATE DISCRETIONARY SPENDING LIMITS

[In millions of dollars]

	Initial allocation/limit	Adjustment	Revised allocation/limit
FY 2009 Discretionary Budget Authority	1,479,761	925	1,480,686
FY 2009 Discretionary Outlays	1,247,196	34	1,247,230
FY 2010 Discretionary Budget Authority	1,082,255	0	1,082,255
FY 2010 Discretionary Outlays	1,304,224	661	1,304,885

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

CONFIRMATION OF MARGARET HAMBURG

• Mr. KENNEDY. Mr. President, I commend my Senate colleagues for confirming the President's nominee for FDA Commissioner, Dr. Margaret Hamburg. Strong, new leadership is needed to improve the operations and morale of the agency and make the FDA again the world class agency that Americans trust to protect the health of their families.

Dr. Hamburg's expertise in community health, biodefense, and nuclear, biological, and chemical preparedness is well-known and highly respected, and her experience makes her eminently well-qualified to lead the FDA at this difficult time.

As a student and researcher, Dr. Hamburg learned first hand about many of the issues which confront the FDA. Later, at the Office of Disease Prevention and Health Promotion, as assistant director of the National Institute of Allergy and Infectious Diseases at NIH, and as the commissioner of the New York City Department of Health and Mental Hygiene, she proved herself to be a brilliant scientist and leader. Her skills were particularly impressive on tuberculosis, which was the leading infectious killer of youths and adults in the city in the 1990s and had become resistant to standard drugs. Within 5 years, the TB rate in New York City fell by 46 percent overall, and 86 percent for the most drug-resistant strains.

Dr. Hamburg's impressive experience was further enhanced by her service as President Clinton's Assistant Secretary for Policy and Evaluation at HHS, as a member of the Institute of Medicine, and as vice president for Biological Programs at the Nuclear Threat Initiative.

Dr. Hamburg will face many challenges as FDA Commissioner but she is obviously well-prepared to deal with them. She has impressive experience in both clinical practice and research, and her background makes her ideal to lead the FDA as it combats food-borne illnesses, works with other agencies to combat disease outbreaks, and protects our food, drugs, and medical devices. Her confirmation marks the beginning of a welcome new era at FDA, and I look forward very much to working with her.•

Mr. ENZI. Mr. President, I rise today to congratulate Dr. Margaret Hamburg on her confirmation last night by the Senate to be commissioner of the Food and Drug Administration. I wish to also thank Dr. Hamburg for her previous public service and her willingness to once again go through the process of Senate confirmation. The vetting process for executive nominees is thorough and not without some degree of personal and professional sacrifice. I thank Dr. Hamburg for her willingness to serve.

Dr. Hamburg is an internationally recognized leader in public health and medicine, and an authority on global health, public health systems, infectious disease, bioterrorism and emergency preparedness. This background is especially important given that the swine flu—H1N1 influenza—has been on the front pages for several weeks and spread across the globe during that time. Dr. Hamburg has a tremendous amount of experience with emergency preparedness.

The FDA has a very broad and critical mission in protecting the public health. Dr. Hamburg is in charge of an agency that regulates $1 trillion worth of products a year. The FDA ensures the safety and effectiveness of all drugs, biological products such as vaccines, medical devices, and animal drugs and feed. It also oversees the safety of a vast variety of food products as well as medical and consumer products, including cosmetics.

As commissioner of the FDA, Dr. Hamburg is responsible for advancing the public health by helping to speed innovations in its mission areas, and by helping the public get accurate, science-based information on medicines and foods.

Another core mission of FDA is approving drugs and ensuring their safety. However, the FDA can not ensure the safety of deadly products such as tobacco—it kills people, not cures them. Yet this week the HELP Committee, of which I am the ranking member, is set to consider legislation that would require the FDA to regulate tobacco. At a time when federal dollars are stretched and resources are limited, I have serious concerns about adding more statutory responsibilities at FDA. In addition, given the recalls of spinach, peanuts, peppers, and tomatoes over the past two years, FDA's resources are already stretched too thin on the food safety front.

I represent a State that has substantial agricultural interests. Food safety and food labeling are critically important to me and my constituents. I am hopeful that Dr. Hamburg and I can work together on protecting the American food supply.

Additionally, I look forward to working with the new commissioner to restore the FDA's status as one of the strongest regulatory agencies in the world. I have no doubt that with the right leadership in place and with Congressional oversight, the FDA will again be the gold standard and our regulatory process the envy of the world.

Given Dr. Hamburg's expertise in emergency preparedness, pandemics and public health, I am pleased that the Senate acted quickly on this nomination. Again, I would like to congratulate Dr. Hamburg on her confirmation.

Mr. DURBIN. Mr. President, yesterday the Senate confirmed Dr. Margaret ''Peggy'' Hamburg as Commissioner of the Food and Drug Administration, FDA.

Dr. Hamburg comes to the job at a time when our Nation's food safety system is in crisis. In the last couple of years we have seen nationwide outbreaks associated with spinach, tomatoes and peppers, and peanuts and peanut butter. With peanuts, we also saw the biggest food recall in our nation's history as hundreds of companies recalled thousands of products from crackers to ice cream to even pet food. Our food safety problems don't just start and stop at home: we have also seen chemically tainted pet food, milk products, and seafood from China.

It is no secret that our food safety system is in serious trouble. It is all over the headlines. It's also no secret that the FDA the agency responsible for protecting nearly 80 percent of our food hasn't kept up, with its outdated statutes, eroding budgets, and inadequate resources and authorities.

Congress hasn't passed a major food safety bill in decades, and we are seeing the results of that inaction. More than 76 million Americans become sick because of a food-borne illness each year, 325,000 are hospitalized, and 5,000 die. Companies lose the confidence of their customers and shareholders, and they lose profits. Some experts estimate that the peanut growers will lose $1 billion as a result of the latest outbreak. Kellogg, just one company among hundreds, lost $70 million.

The time for comprehensive food safety reform is long past due. In March, Senator GREGG and I introduced the FDA Food Safety Modernization Act, a bipartisan bill that gives the FDA the new authorities and resources it needs to protect our food supply. This bill improves the FDA's capacity to prevent, detect, and respond to food safety problems, whether it's salmonella-tainted peanut butter from Georgia or melamine-spiked baby formula from China.

For the first time in a long time, we are also seeing leadership on food safety from the other end of Pennsylvania Avenue. The Food Safety Working Group, led by Health and Human Services Secretary Kathleen Sebelius and Agriculture Secretary Tom Vilsack, is doing what hasn't been done in decades: taking a comprehensive, coordinated look at the outdated food safety laws on the books and making recommendations on reform.

Last week I had the opportunity to attend a first-ever listening session hosted by the White House focused on food safety reform. This was a chance for members of Congress, the administration, consumer groups, and industry to come together and talk about the challenges facing the safety of our food supply as well as the solutions.

Dr. Hamburg, with her public health expertise and impressive record of success as former health commissioner of New York City, is a welcome addition to the working group. I had a chance to meet with Dr. Hamburg before her confirmation. During our meeting, as well as in her confirmation hearing, she made clear her commitment to the long term goal of transforming food safety oversight at FDA to focus on the public health goal of prevention. I am confident that she is the right person to tackle this challenge and others facing the FDA, and to restore morale and public confidence in the agency. I look forward to working with her and the other members of President Obama's food safety working group to enact FDA food safety legislation this year.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

GEORGE MITCHELL SCHOLARS

● Mr. KENNEDY. Mr. President, today, Taoiseach Brian Cowen met with the ninth class of George J. Mitchell Scholars. His decision to meet with this impressive group of students demonstrates the major contribution this program is making to strengthen the future of the United States-Ireland relationship.

The United States-Ireland Alliance was created in 1998 by my former foreign policy adviser, Trina Vargo. With limited resources and staff, the alliance has been at the forefront of recognizing, and then responding to, the fundamental changes in the United States-Ireland relationship.

The Mitchell Scholarship program is the keystone of the United States-Ireland Alliance. It has been led ably by Mary Lou Hartman, and has gone from strength to strength. In a few short years, the program has become as competitive and as sought after as other renowned scholarships such as the Rhodes, Marshall, and Fulbright Scholarships. This year, 300 people applied for the 12 annual Mitchell Scholarships. I have followed the causes of these former Mitchell Scholars and they are already making outstanding contributions and reflect the commitment to service exemplified by our former Senate colleague, George Mitchell.

One former Mitchell Scholar, Seena Perumal, lives in Cambridge, MA, where she serves is chief of staff for the Massachusetts Division of Health Care Finance and Policy. Seena graduated with a bachelor's degree in religion and a master's in public health from Case Western Reserve University. She founded and was president of Project Sunshine, which serves hospitalized children, and founded and was president of Alternative Break, an organization that helps organize community service trips during spring breaks from college. She also worked with Cleveland Jobs With Justice, a group that ensures workers' rights. As a Mitchell Scholar, she obtained a master's degree in international human rights at the National University of Ireland in Galway. She then served as the director of new initiatives for the New York City Department of Homeless Services, the agency that oversees policies and programs for the city's approximately 37,000 homeless persons.

The U.S. Government has provided $500,000 each year for the Mitchell Scholarship Program. I commend Irish businessman Derek Quinlan for his commitment to raise 20 million euros toward establishing a permanent endowment for this program. The Irish Government has agreed to match what is raised for this impressive program, and I am sure that United States-Ireland ties will continue to benefit significantly from these important scholarships in the years ahead.●

LETTER TO MEDTRONIC, INC.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that my letter dated May 18, 2009, to Medtronic, Inc. 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 FINANCE,
Washington, DC, May 18, 2009.

BILL HAWKINS,
President and Chief Executive Officer, Medtronic, Inc., Medtronic Parkway, Minneapolis, MN.

DEAR MR. HAWKINS: The United States Senate Committee on Finance (Committee) has jurisdiction over the Medicare and Medicaid programs. As a senior member of the United States Senate and as Ranking Member of the Committee, I have a special responsibility to protect the health of Medicare and Medicaid beneficiaries and safeguard taxpayer dollars authorized by Congress for these programs. This includes the responsibility to conduct oversight of the health care industry, including makers of medical devices, which receive hundreds of billions of taxpayer dollars every year for the care of Americans.

In carrying out this duty, I have been examining the substantial financial ties between the device industry and practicing physicians. I have also been examining the safety and cost of medical devices that are sold to the American public. As the largest medical device company in the United States, the practices of Medtronic, Inc. (Medtronic) have a profound impact on American healthcare.

Last October, I sent you a letter asking Medtronic to disclose payments to ''all physicians with whom Medtronic has consulting agreements for Infuse.'' This request was spurred by an article in the Wall Street

Journal (WSJ), which reported on allegations of financial incentives provided to doctors that included ''entertainment at a Memphis strip club, trips to Alaska and patent royalties on inventions they played no part in.''

With the exception of one individual who is now deceased, listed below is the financial information documenting all consultants who received compensation, which Medtronic provided to me [Attached].

I am concerned that Medtronic did not include Dr. Timothy Kuklo in response to my written request. It is clear that Dr. Kuklo had some sort of consulting agreement with Medtronic and was named as a Medtronic consultant for Infuse in an article that ran in the New York Times on May 13, 2009. There is of course the possibility that Dr. Kuklo had a more general type of consulting agreement with Medtronic that may have included Infuse, as well as other Medtronic products. In the future, I hope that instead of not providing me with the name of the physician involved in Infuse, or any other matter that I am looking into, that Medtronic contact me to avoid the situation in which we find ourselves.

In light of the issues set forth above, I would greatly appreciate Medtronic explaining why Dr. Timothy Kuklo was not listed in the information provided me earlier.

Thank you in advance for your continued cooperation in this matter and commitment to transparency. I look forward to hearing from you by no later than June 1, 2009. 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.

Attachment.

MEDTRONIC INC. REPORTING: PHYSICIANS WITH WHOM MEDTRONIC HAS CONSULTING AGREEMENTS FOR INFUSE

Name	Year	Total amount
Lisa Cannada	2005	$2,000
	2006	20,700
	2007	14,000
	2008	7,700
Michael Carstens	2006	46,800
	2007	21,600
	2008	31,200
David Cochran	2006	35,200
	2007	18,000
	2008	14,000
Curtis Dickman	2003	12,900
	2004	100
Rajeev Garapati	2007	8,600
Judith Gogola	2006	500
David Hak	2008	10,500
James Hardacker	2006	2,100
	2007	9,200
	2008	7,100
B. Matthew Hicks	2004	6,600
	2005	24,000
	2006	23,000
	2007	5,100
	2008	11,600
Thomas Lyons	2006	41,300
	2007	43,200
	2008	12,200
Jay Malmquist	2007	23,100
	2008	24,100
Robert Marx	2006	57,500
	2007	24,100
	2008	28,200
Todd Melegari	2006	2,300
Peter Moy	2008	59,900
Myron Nevins	2007	35,600
John O'Donnell	2006	4,400
Chetan Patel	2006	1,100
	2007	4,200
	2008	15,800
Philip Pryor	2006	2,100
	2007	2,600
	2008	6,600
Kevin Pugh	2005	1,300
	2006	13,000
	2007	16,100
Daniel Spagnoli	2006	28,100
	2007	67,600
	2008	42,700
Gilbert Triplett	2005	6,400
	2007	29,000

MEDTRONIC INC. REPORTING: PHYSICIANS WITH WHOM MEDTRONIC HAS CONSULTING AGREEMENTS FOR INFUSE—Continued

Name	Year	Total amount
	2008	16,000
John-Louis Ugbo	2005	2,000

ADDITIONAL STATEMENTS

2009 NATIONAL SCIENCE BOWL CHAMPIONS

● Mrs. BOXER. Mr. President, I am pleased to recognize the 2009 U.S. Department of Energy National Science Bowl Champions Mira Loma High School in Sacramento, CA.

The National Science Bowl is a national high school competition that tests each team's knowledge in astronomy, biology, chemistry, earth science, general science, mathematics, and physics at a college freshman level. Mira Loma's National Science Bowl team consisted of senior team captain Rishi Kulkarni; juniors Edward Lee and Heather Yee; sophomores Andrew Chen and Sriram Pendyala, and Coach James Hill.

The Mira Loma team qualified for the national competition by winning the Sacramento Regional Science Bowl in the spring. At the National Science Bowl, Mira Loma High School joined 67 high schools from 42 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands to compete for the national championship in Washington, DC. Mira Loma High School's victory at the National Science Bowl has earned the team a research trip to the prestigious International Science School in Sydney, Australia, to further pursue their studies in science.

In competing for the national championship, the Mira Loma High School team learned many valuable lessons, including tenacity, dedication to their schoolwork, and teamwork. It is with great pride that I congratulate them on this remarkable accomplishment and wish them continued success.

I invite my colleagues to join me, Mira Loma High School, and the Sacramento community in recognizing the Mira Loma High School Science Bowl Team on this wonderful achievement.●

TRIBUTE TO JOHNNY'S CAR WASH

● Mr. BUNNING. Mr. President, today I pay tribute to and congratulate Jeff Simpson, owner of Johnny's Car Wash in Erlanger, KY, on their 50th year in business.

In 1959, John Simpson, father of Jeff Simpson, converted the original Town Car Wash, an establishment in Covington, KY, where cars were washed by hand, to an automatic car wash he named Johnny's Car Wash. Mr. Simpson opened a second location in Erlanger, KY, that still thrives today. Nearly four decades later, in 1992, Mr. Simpson sold his original Johnny's Car Wash to his son Jeff, and this year they celebrate 50 years of hard work, ambition, and the long success of their business.

A hearty congratulations to the Simpson family and Johnny's Car Wash. They are an excellent example of a steady and thriving small business in the Commonwealth.●

CONGRATULATING JHPIEGO ON ITS 35TH ANNIVERSARY

● Mr. CARDIN. Mr. President, today I wish to commemorate the 35th anniversary of Jhpiego, an exceptional organization dedicated to helping the less fortunate in developing countries around the world.

Jhpiego is an international, nonprofit health organization affiliated with Johns Hopkins University and is located in my hometown, the city of Baltimore. For 35 years, Jhpiego has empowered front line health care workers by designing and implementing effective, low-cost, hands-on solutions to strengthen the delivery of health care services for women and their families.

From their origins as technical experts in reproductive, maternal and child health, Jhpiego has grown to embrace new challenges, including prevention and treatment of HIV/AIDS, malaria and cervical cancer. The staff of Jhpiego have worked in 150 countries around the globe and currently run 60 programs in over 40 countries.

Scientific innovations are the cornerstone of Jhpiego's approach to reducing the preventable deaths of women. I particularly want to highlight their work combating cervical cancer. In 1990, Jhpiego established its Cervical Cancer Prevention—CECAP—Program. Working with colleagues and stakeholders, the CECAP program pioneered a unique, medically safe, acceptable and cost-effective approach to cervical cancer prevention for low-resource settings called the ''single visit approach.'' Hundreds of thousands of women have been spared the horrible death of cervical cancer as the result of this intervention.

Amid many areas of expertise and effort, Jhpiego has worked tirelessly in its efforts to call the world's attention to the second leading cause of death of pregnant women in developing countries, postpartum hemorrhaging. Today, through system wide changes from the home birth to the hospital, physicians, nurses, midwives and healthcare workers have training and strategies to address this preventable death. These interventions have saved countless lives around the world.

I commend the staff of Jhpiego for their dedication and commitment to improving the lives of women and their families around the world. They work some of our world's most remote, difficult and complicated regions. Day in and day out, they with nations to develop strategies that are sustainable, proven and effective to improve the lives of the most vulnerable sectors of society.

I ask my colleagues to join me today in congratulating Jhpiego on its 35th anniversary.●

2008 SLOAN AWARDS

● Mr. CRAPO. Mr. President, today I join with my colleague, Senator LINCOLN, to congratulate the 2008 winners of the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility, which recognizes companies that have successfully used flexibility to meet both business and employee goals. Our offices coordinate and lead the Senate Staff Work Group on Workplace Flexibility, now in its 8th month. Since September 2008, our staff and that of at least 16 of our colleagues and as many as four different committees have gathered once a month to hear from research experts and listen to first-hand employer and employee experience on this important issue facing our Nation's workforce and families today. It is our goal to better define the appropriate role of government in this equation, moving from there to achieve bipartisan policies that help and do not frustrate families or hinder businesses. The Sloan Awards are an important component in the national shift toward employment policies that work better for both employers and employees as this Nation faces the reality of dual income households struggling to balance the multiple time commitments of children, disabled or aging family members and their jobs. The Sloan Awards are presented by the When Work Works initiative, which is a project of the Families and Work Institute in partnership with the Institute for a Competitive Workforce, an affiliate of the U.S. Chamber of Commerce, and the Twiga Foundation Inc. The When Work Works initiative is sponsored by the Alfred P. Sloan Foundation.

The companies receiving Sloan Awards are to be commended for their excellence in providing workplace flexibility practices which benefit both employees and employers. Achieving greater flexibility in the workplace, the goal of which is to maximize productivity while attracting the highest quality employees, is a key challenge facing American companies in the 21st century.

Businesses in the following 30 cities were eligible for recognition in the 2008 Sloan Awards: Atlanta, GA; Aurora, CO; Birmingham, AL; Boise, ID; Brockton, MA; Chandler, AZ; Charleston, SC; Chicago, IL; Dallas, TX; Dayton, OH; Detroit, MI; Durham, NC; Houston, TX; Lexington, KY; Long Beach, CA; Long Island, NY; Louisville, KY; Melbourne-Palm Bay, FL; Milwaukee, WI; Morris County, NJ; Providence, RI; Richmond, VA; Rochester, MN; Salt Lake City, UT; San Francisco, CA; Savannah, GA; Seattle, WA; Spokane, WA; Washington, DC; and Winona, MN. The Chamber of Commerce in each city hosted an interactive business forum to share research on workplace flexibility as an important component of workplace effectiveness. In these same communities, businesses applied and winners were selected for the Sloan Awards through a process that included employees' views as well as employer practices.

Together, we congratulate the 2008 winners of the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility.

In Atlanta, GA, the winners are Alston + Bird LLP; BDO Seidman, LLP; Cobb County Convention and Visitors Bureau; Ernst & Young LLP; KPMG LLP; Merrick & Company; North Highland; and Sprint.

In Aurora, CO, the winners are Arapahoe/Douglas Works! Workforce Center; Aurora Chamber of Commerce; Medical Center of Aurora and Centennial Medical Plaza; and Merrick & Company.

In Birmingham, AL, the winners are Allstates Technical Services; AQAF; Barfield, Murphy, Shank, & Smith PC; Concept, Inc.; Deloitte; Ernst & Young LLP; ITAC Solutions; Birmingham Metropolitan YMCA; One Stop Environmental, LLC; Resources Global Professionals; and Sellers, Richardson, Holman & West, LLP.

In Boise, ID, the winners are American Geotechnics; Business Psychology Associates; Children's Home Society of Idaho; Givens Pursley LLP; LeMaster Daniels PLLC; Merrick & Rowley Accounting, LLC; and Trey McIntyre Project.

In Brockton, MA, the winner is KGA, Inc.

In Chandler, AZ, the winners are A & S Realty Specialists; Arizona Interactive Media Group; Arizona Weddings Magazine & Website; BCD Low Voltage Systems; The Chandler Chamber of Commerce; Clifton Gunderson LLP; Dava & Associates, Inc.; Henry & Horne, LLP; IBM; Intel; Johnson Bank; Keats, Connelly & Associates Inc.; MDI; Microchip Technology Inc.; New Horizons Independent Living Center; Omega Legal Systems, Inc.; Point B; Prescott Transit Authority; RIESTER; Salt River Materials Group; Western International University; WhitneyBell Perry Inc.; Wist Office Products; and WorldatWork.

In Charleston, SC, the winners are Booz Allen Hamilton LLP; Community Management Group; KFR Services, Inc.; LS3P Associates LTD.; Noisette Company, LLC; and Scientific Research Corporation.

In Chicago, IL, the winners are AzulaySeiden Law Group; BDO Seidman, LLP; Deloitte; Ernst and Young LLP; Frost, Ruttenberg & Rothblatt, P.C.; IBM—Central Region; KPMG LLP; Microsoft Corporation—Midwest District; National Able Network; Perspectives, Ltd; Plante & Moran, PLLC; Sanchez Daniels & Hoffman LLP; Shakespeare Squared; Teen Living Programs; True Partners Consulting; Turner Construction Company—Chicago Business Unit; Type A Learning Agency; and Vox, Inc.

In Dallas, TX, the winners are Aguirre Roden, Inc.; Amerisure Mutual Insurance Company; BDO Seidman, LLP; The Beck Group; Community Council of Greater Dallas; Deloitte; Grant Thorton LLP; KPMG LLP; Lee Hecht Harrison; McQueary Henry Bowles Troy, L.L.P.; State Farm Insurance Companies; Symbio Solutions, Inc.; and Workforce Solutions Greater Dallas.

In Dayton, OH, the winners are Barco, Inc.; Deloitte; and LJB Inc.

In Detroit, MI, the winners are Albert Kahn Family of Companies; Amerisure Mutual Insurance Company, The Children's Center of Wayne County; BDO Seidman, LLP; Detroit Regional Chamber; The Farbman Group; Image One; Lee Hecht Harrison; Menlo Innovations; Michigan Occupational Safety and Health Administration—MIOSHA; Mill Steel Company; and Peckham Inc.

In Durham, NC, the winners are The American Institute of Certified Public Accountants—AICPA; CrossComm, Inc.; Durham's Partnership for Children, a Smart Start Initiative; McKinney; North Carolina Mutual Life Insurance Company; The Shodor Education Foundation; Skanska USA Building Inc.; and U.S. Environmental Protection Agency.

In Houston, TX, the winners are Continental Airlines; Deloitte; El Paso Corporation; Fulbright & Jaworski LLP; Hall Barnum Lucchesi Architects; Klotz Associates, Inc.; KPMG LLP; Pannell Kerr Forster of Texas, P.C.—PKF Texas; Rice University; St. Luke's Episcopal Health System; The VIA Group LLC.; University of Phoenix; and Vinson & Elkins L.L.P.

In Lexington, KY, the winners are Ashland Terrace Retirement Home; Benefit Insurance Marketing; JRA Architects; Lexmark International, Inc.; Potter & Company, LLP; Smiley Pete Publishing; United Way of the Bluegrass; and Woodward, Hobson & Fulton, LLP.

In Long Beach, CA, the winners are AES Alamitos, LLC; Healstone; HR NETwork, Inc.; KPMG LLP; Long Beach Rescue Mission; and PeacePartners.

In Long Island, NY, the winners are Albrecht, Viggiano, Zureck & Co., PC; The Alcott Group; Child Care Council of Nassau, Inc.; Deloitte; KPMG LLP; and YES Community Counseling Center.

In Louisville, KY, the winners are A Speaker For You; Delta Dental of Kentucky, Inc.; Deming Malone Livesay & Ostroff CPAs, Girl Scouts of Kentuckiana Inc.; KPMG LLP; McCauley, Nicholas & Company, LLC, CPAs; Metromojo.com; Prestige Healthcare; Pro-Liquitech International; Strothman & Company PSC; and Woodward, Hobson & Fulton, L.L.P.

In Melbourne-Palm Bay, FL, the winners are Brevard Workforce Development Board, Inc.; Craig Technologies; Hoyman Dobson; Kinberg & Associates,

LLC; Mercedes Homes; and Space Coast Early Intervention Center.

In Milwaukee, WI, the winners are Clifton Gunderson LLP; Deloitte; Ernst & Young LLP; Kahler Slater; KPMG LLP; Laughlin/Constable; Metropolitan Milwaukee Association of Commerce; Robert W. Baird & Co; Tushaus Computer Services, Inc.; Urban Ecology Center; and West Bend.

In Morris County, NJ, the winners are Berkeley College; Fein, Such, Kahn & Shepard, P.C.; Girl Scouts of Northern New Jersey; KPMG LLP; Schenck, Price, Smith & King, LLP; Shade Tree Garage; and Solix Inc.

In Providence, RI, the winners are Embolden Design, Inc.; KPMG LLP; Lefkowitz, Garfinkel, Champi & De Rienzo PC; Narragansett Bay Commission; Quality Partners of Rhode Island; Rhode Island Legal Services, Inc; and Sansiveri, Kimball & McNamee LLP.

In Richmond, VA, the winners are Bon Secours Richmond Health System; Capital One, Hilb Rogal & Hobbs—HRH; Lee Hecht Harrison; Rink Management Services Corporation; and Virginia Commonwealth Health Systems—VCUHS.

In Rochester, MN, the winners are Cardinal of Minnesota; Custom Alarm/Custom Communications, Inc.; First Alliance Credit Union; IBM; RSM McGladrey, Inc. and McGladrey & Pullen, LLP; Southeast Service Cooperative; Stanley Jones & Associates, Inc.; Venture Computer Systems; and Winona State University—Rochester.

In Salt Lake City, UT, the winners are 1–800 CONTACTS; AAA Fair Credit Foundation; Cactus & Tropicals; Café Rio Mexican Grill; Cooper Roberts Simonsen Associates, Inc.; Employer Solutions Group; Governor's Office of Economic Development; Intermountain Financial Group/Mass Mutual; Intermountain Healthcare; McKinnon-Mulherin, Inc.; Redmond, Incorporated; SelectHealth; and Stayner, Bates & Jensen.

In San Francisco, CA, the winners are Fenwick & West LLP; KPMG LLP; Lee Hecht Harrison; Mother Jones Magazine/Foundation for National Progress; Presynct Technologies, Inc.; Sirna Therapeutics, Inc.; and Woodruff-Sawyer & Company.

In Savannah, GA, the winner is Environmental Services, Inc.

In Seattle, WA, the winners are BabyLegs LLC; Bader Martin, P.S.; BECU; Blue Gecko, Inc.; Cascadia Consulting Group, Inc.; Deloitte; EarthCorps; MarketFitz, Inc.; National CASA Association; NRG::Seattle; The Puget Sound Center for Teaching, Learning and Technology; Seattle Hospitality Group; Washington Health Foundation; WithinReach; and Worktank.

In Spokane, WA, the winners are Career Path Services; Humanix Staffing and Recruiting; and Inland Northwest Health Services.

In Washington, DC, the winners are Booz Allen Hamilton; Capital One; Clovis; Craig Technologies; Discovery Communications, Inc.; KPMG LLP; List Innovative Solutions, Inc.; and Morgan Franklin Corporation.

In Winona, MN, the winners are Catholic Charities of the Diocese on Winona; Hiawatha Broadband Communications; Management Recruiters of Winona; Mediascope, Inc.; Sport & Spine Physical Therapy of Winona; Winona ORC Industries; and Winona Workforce Center.●

REMEMBERING BRIAN O'NEILL

● Mrs. FEINSTEIN. Mr. President, it is with a very heavy heart that I rise today to inform the Senate of the recent passing of one of the most incredible civil servants it has been my honor to know. Sadly, Brian O'Neill, the National Park Service superintendent at the Golden Gate National Recreation Area in San Francisco, passed away last week following complications from heart surgery.

To know Brian was to have known an extraordinary human being; someone who was completely devoted to his profession, his family, his friends, and to the national parks he so dearly loved.

Since 1986, when he became the superintendent at Golden Gate, Brian has been the inspiration and the driving force behind the success of one of the largest urban parks in the world. What set him apart, though, was not just a talent for the day-to-day management of a national park, but his grasp of the principal that a park is far more than a circle drawn on a map. He knew early on that, for a park to flourish, particularly an urban park, it needed the support of the local community, and that the best way to build that support was through the building of partnerships—partnerships that were the product of personal relationships.

Brian understood that a single park employee could only produce a set amount of work. But if you could turn that employee into an ambassador for the park, then others could be brought in to lighten the load and advance the cause. That is why Brian often said that what he really did was run a ''friend-raising'' business. And with well over 20,000 volunteers, I would say Brian's instincts were pretty good.

Too often in what passes for political discourse today the term ''bureaucrat'' is used as a pejorative. Anyone who would suggest such a meaning obviously never met Brian O'Neill. He was, by any definition and in the finest tradition of the civil service, the consummate bureaucrat; a skilled manager whose talents, whose energy, and whose sheer larger-than-life personality will be missed. I am proud to have had the privilege of knowing Brian O'Neill.

Mr. President, I am sure I speak for all my Senate colleagues in expressing my sincere condolences to Brian's friends, his coworkers, and especially the O'Neill family.●

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

● Mr. LUGAR. Mr. President, I wish today to take the opportunity to express my congratulations to the winners of the 2008–2009 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for 8th grade students in my home State. The purpose of this contest is to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently craft an essay responding to the assigned theme. The theme chosen for this year was ''Working Our Way to Energy Independence.''

Along with my friends at the Indiana Farm Bureau and Farm Bureau Insurance Companies, I am pleased with the annual response to this contest and the quality of the essays received over the years. I applaud each of this year's participants on their thoughtful work and wish, especially, to highlight the submissions of the 2008–2009 contest winners—Lynnette Whitsitt of Huntingburg, IN, and Brandon Wells of Evansville, IN. I submit for the RECORD the complete text of Lynnette's and Brandon's respective essays. I am pleased, also, to include the names of the many district and county winners of the contest.

The winning essays are as follows:

UNTITLED

(By Lynnette Whitsitt)

Could you imagine a world where you flip on a light switch or press power on the TV and nothing happens? This will be our planet in the foreseeable future if we don't do anything about it. Many people believe that the future isn't their problem and that it's scientists' dilemma to solve, but it's not. If we don't do something about this energy crisis now, Earth will pay for it dearly in the future. We Hoosiers should do what we can, and contribute our available resources to produce renewable sources of power for our country. Without it, a global disaster is imminent.

Many alternate fuel sources need crops to manufacture them—especially corn and soybeans. Corn produces ethanol, while Biodiesel is made from soybeans. Portions of farmers' crops are sold to manufacturers that produce these energy sources. Organic waste materials, know as biomass, can now be broken down to become biogas. The waste materials used vary from crop remains to animal manure. Biogas can be transformed into diverse forms of energy, but of the renewable energy sources that generate electricity, biomass is most abundant. The conversion of waste materials to biogas is a purely organic procedure in which microorganisms break wastes down into methane. Hoosier farmers could also utilize farmland for wind farms, which will not only provide the farms with energy but also income from spare energy sold to power companies. While wind turbines would occupy land, it could still be used for its main intention, agriculture.

Farmers have been hugely affected by the energy crisis and can be part of the solution. By helping to make biodiesel, ethanol, biogas, and wind power Indiana farmers will greatly affect the future of energy. This major energy change will revolutionize rural towns, Indiana, and our nation as a whole.

INDEPENDENCE

(By Brandon Wells)

The issue of becoming independent from foreign energy is challenging, but vital. The fact remains: if we do not break away from foreign oil soon, we may fall into an economic depression far greater than Americans have ever known. Gasoline prices are substantially inflated; many families are finding it difficult to budget for the commute to and from work. What can we, as American citizens, do to halt this crisis and put an end to insane oil prices?

One solution to the challenge of making our own less expensive fuel comes straight from Indiana farmers. Biodiesel fuel is a diesel fuel made from organic feedstock. It includes soybeans, animal renderings, and salvaged oil from restaurants. It is domestically produced. Therefore, every gallon of biodiesel fuel takes the place of imported fuels, thus ensuring American dollars remain in the American economy.

A considerable advantage of biodiesel fuel over gasoline and regular diesel fuels is that biodiesel emits far lower emissions, ensuring cleaner air for both present and future generations. Also, it has better lubricity characteristics, which means less wear on engine parts such as fuel injectors and fuel injection pumps. Biodiesel fuels are compatible with all modern diesel engines and fuel systems.

There is a clear and definite need to concentrate on breaking away from foreign oil consumption and imports. While the issue of fuel alternatives is great, Indiana farmers are growing answers for all of America right now. We cannot continue to depend on foreign lands to fuel our lives. America has historically fought for independence and once again, we find ourselves fighting. With the help of Indiana farmers, this battle can be won, and America will once again be independent . . . fuel independent.

2008–2009 DISTRICT ESSAY WINNERS

DISTRICT 1

Katlynn Surfus, Zachary Glick.

DISTRICT 2

Kristi Brennan, Gabe Curtis.

DISTRICT 3

Jessie LeBeau, Jonah Pritchett.

DISTRICT 4

McKinzie Horoho, Trevor Homan.

DISTRICT 5

Miranda Gerrard, Cameron Guernsey.

DISTRICT 6

Kristen McCarthy, Jack Garner.

DISTRICT 7

Riki Crowe, Ethan Fettig.

DISTRICT 8

Morgan Tomson, Aaron Kaiser.

DISTRICT 9

Lynnette Whitsitt, Brandon Wells.

DISTRICT 10

Amy Burbrink, Zach Carter.

2008–2009 COUNTY ESSAY WINNERS

BOONE

Cameron Guernsey, Western Boone Junior High School.

BROWN

Haley O'Neil, home schooled.

CLARK

Geoff Rafail and Morgan Mast, Borden Junior High School.

CLAY

Brandon Crowley and Saiti Booe, Clay City Junior High School.

DECATUR

Morgan Tomson, South Decatur Junior High School.

DUBOIS

Lynnette Whitsitt, Southridge Middle School.

FLOYD

Weston Spalding and Erin Duncan, Our Lady of Perpetual Help School.

FRANKLIN

Aaron Kaiser, Mount Carmel School; and Claire McKamey, St. Michael School.

GREENE

Ethan Fettig, Linton-Stockton Junior High School; and Riki Crowe, White River Valley Junior High School.

HAMILTON

Nicholas Jeffers and Kara Linton, St. Maria Goretti School.

HANCOCK

Joshua Hanselman and McKenze Qualkinbush, Doe Creek Middle School.

HENDRICKS

Drake Whicker, Cascade Middle School; and Jaclin Byrne, Tri-West Middle School.

HENRY

Jack Garner and Brooke Ballard, Tri Junior High School.

HOWARD

Austin Dishon, Northwestern Middle School; and McKinzie Horoho, Eastern Junior High School.

JACKSON

Zach Carter, Immanuel Lutheran School; and Avri Hackman, Lutheran Central School.

JASPER

Hunter Hickman and Tori Bryja, Rensselaer Middle School.

JAY

Trevor Homan and Miranda Reinhart, East Jay Middle School.

JENNINGS

Tanner Steele and Amy Burbrink, St. Mary School.

LAKE

Zachary Glick and Alejandra Almendarez, Our Lady of Grace School.

MARION

James Wang, Sycamore School; and Kristen McCarthy, St. Jude School.

MONROE

Logan Letner and Allie Jones, Batchelor Middle School.

NOBLE

Gabe Curtis and Kristi Brennan, St. Mary of the Assumption School.

PARKE

Will Harrison and Kendall Davies, Rockville Junior High School.

PERRY

Hunter Sandage, Tell City Junior High School.

POSEY

Brandon Wells and Stephanie Cook, North Posey Junior High School.

SCOTT

Hunter Steinkamp and Raven Alcorn, Scottsburg Middle School.

STARKE

Katlynn Surgus, Knox Middle School.

SULLIVAN

Harley-Alden Robert Davis and Savana Strain, Rural Community Academy.

SWITZERLAND

Devin Coy and Olivia Hewitt, Switzerland County Middle School.

VERMILLION

Dillon Boling and Abigail Calvin, North Vermillion Junior High School.

WABASH

Trae Cole and Alyssa Richter, Northfield Junior High School.

WARREN

Miranda Gerrad, Seeger Junior High School.

WAYNE

Henry Dickman and Katy Robinson, Seton Catholic Junior High School.

WELLS

Anna Gerber, Kingdom Academy.

WHITE

Jonah Pritchett and Jessie Lebeau, Tri County Junior High School.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:01 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S.386) entitled ''An Act to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.''.

ENROLLED BILL SIGNED

At 2:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 386. An act to improve enforcement of mortgage fraud, securities, and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

At 3:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, with an amendment:

S. 896. An act to prevent mortgage foreclosures and enhance mortgage credit availability.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on May 19, 2009, she had presented

to the President of the United States the following enrolled bill:

S. 386. An act to improve enforcement of mortgage fraud, securities and commodities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 35. A bill to amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records (Rept. No. 111–21).

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Allocation to Subcommittees of Budget Totals From the Concurrent Resolution, Fiscal Year 2009'' (Rept. No. 111–22).

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 Maj. Gen. Charles B. Green, to be Lieutenant General.

Air Force nomination of Maj. Gen. Herbert J. Carlisle, to be Lieutenant General.

Air Force nomination of Gen. William M. Fraser III, to be General.

Air Force nomination of Lt. Gen. William L. Shelton, to be Lieutenant General.

Air Force nomination of Lt. Gen. Daniel J. Darnell, to be Lieutenant General.

Navy nomination of Vice Adm. Richard K. Gallagher, to be Vice Admiral.

Marine Corps nomination of Maj. Gen. Terry G. Robling, to be Lieutenant General.

Marine Corps nomination of Lt. Gen. Joseph F. Dunford, Jr., to be Lieutenant General.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD 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 William A. Bartoul and ending with George T. Youstra, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Air Force nominations beginning with Peter Brian Abercrombie II and ending with Eric J. Zuhlsdorf, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Navy nomination of Deandrea G. Fuller, to be Commander.

Navy nominations beginning with Daniel G. Christofferson and ending with Albert D. Perpuse, which nominations were received by the Senate and appeared in the Congressional Record on January 7, 2009.

By Mr. KERRY for the Committee on Foreign Relations.

*Jeffrey D. Feltman, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State (Near Eastern Affairs).

*Philip J. Crowley, of Virginia, to be an Assistant Secretary of State (Public Affairs).

*Daniel Benjamin, of the District of Columbia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

Nominee: Daniel Benjamin.

Post: Coordinator for Counterterrorism.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $750, 06/30/08, Obama for America; $1000, 09/09/08, Obama for America; $1000, 10/03/08, Obama Fund; $300, 10/16/08, Obama Fund; $262.50, 12/28/07, Sestak for Congress; $2000, 10/26/04, Democratic Executive Committee of Florida; $500, 07/21/04, Kerry for President; $250, 03/28/06, Sestak, Joseph A. Jr.; $350, 10/16/06, Sestak, Joseph A. Jr.; $250, 10/20/06, Farrell, Diane Goss.

2. Spouse: Henrike Frowein: None.

3. Children and Spouses: Caleb Benjamin, Jonah Benjamin: None.

4. Parents: Burton & Susan Benjamin: $50, 09/23/08, Himes, Jim; $55, 09/23/08, Obama for America; $55, 08/29/08, Obama for America; $25, 07/02/08, DCC; $25, 02/26/08, DNC; $25, 11/15/07, DCC; $50, 12/13/05, Diane Farrell for Congress; $20, 11/09/05, 21st Century Democrats; $55, 09/06/04, DNC; $50, 06/19/04, Diane Farrell for Congress; $150, 05/17/04, Kerry for President.

5. Grandparents: Daniel Benjamin—deceased; Betty Benjamin—deceased; William Dorfman—deceased; Rose Dorfman—deceased.

6. Brothers and Spouses: William Benjamin & Jill Kowal Benjamin—none.

7. Jonathan Benjamin & Tricia Kim: $100, 10/21/08, Obama for America; $100, 09/10/08, Obama for America; $100, 04/30/08, Obama for America; $100, 12/10/07, Obama for America.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*Priscilla E. Guthrie, of Virginia, to be Chief Information Officer, Office of the Director of National Intelligence.

*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. FEINGOLD (for himself and Mr. BROWNBACK):

S. 1067. A bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWN:

S. 1068. A bill to amend the National Consumer Cooperative Bank Act to allow for the treatment of the nonprofit corporation affiliate of the Bank as a community development financial institution for purposes of the Community Development Banking and Financial Institutions Act of 1994; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. LANDRIEU (for herself and Mr. VITTER):

S. 1069. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Ms. LANDRIEU):

S. 1070. A bill to establish the Small Business Information Security Task Force to address information security concerns relating to credit card data and other proprietary information; to the Committee on Small Business and Entrepreneurship.

By Mr. CHAMBLISS (for himself, Mr. VITTER, Mr. ISAKSON, Mr. INHOFE, Mr. BURR, and Mr. ROBERTS):

S. 1071. A bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 1072. A bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. REED:

S. 1073. A bill to provide for credit rating reforms, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Ms. CANTWELL):

S. 1074. A bill to provide shareholders with enhanced authority over the nomination, election, and compensation of public company executives; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 1075. A bill to designate 4 counties in the State of New York as high-intensity drug trafficking areas, and to authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Ms. CANTWELL, Mr. LEVIN, and Mr. FEINGOLD):

S. 1076. A bill to improve the accuracy of fur product labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, and Mr. DURBIN):

S. 1077. A bill to regulate political robocalls; to the Committee on Rules and Administration.

By Mr. JOHNSON (for himself and Mr. VOINOVICH):

S. 1078. A bill to authorize a comprehensive national cooperative geospatial imagery mapping program through the United States Geological Survey, to promote use of the program for education, workforce training and development, and applied research, and to support Federal, State, tribal, and local government programs; to the Committee on Commerce, Science, and Transportation.

By Ms. KLOBUCHAR (for herself, Mr. VOINOVICH, Mr. INOUYE, Mr. UDALL of Colorado, and Mr. BENNET):

S. 1079. A bill to amend title XVIII of the Social Security Act to extend reasonable cost contracts under the Medicare program; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. KYL):

S. 1080. A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. BENNETT):

S. Res. 152. A resolution to amend S. Res. 73 to increase funding for the Special Reserve; considered and agreed to.

By Mr. NELSON of Florida (for himself and Mr. CARDIN):

S. Res. 153. A resolution expressing the sense of the Senate on the restitution of or compensation for property seized during the Nazi and Communist eras; to the Committee on Foreign Relations.

By Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. CARDIN, Mr. KERRY, Mrs. SHAHEEN, Mr. WICKER, Ms. CANTWELL, and Mr. ISAKSON):

S. Res. 154. A resolution honoring the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009; considered and agreed to.

By Mr. CARDIN (for himself, Mr. LUGAR, and Mr. NELSON of Florida):

S. Con. Res. 23. A concurrent resolution supporting the goals and objectives of the Prague Conference on Holocaust Era Assets; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 370

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 370, a bill to prohibit the use of funds to transfer detainees of the United States at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or to construct any facility for such detainees in the United States, and for other purposes.

S. 384

At the request of Mr. LUGAR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 384, a bill to authorize appropriations for fiscal years 2010 through 2014 to provide assistance to foreign countries to promote food security, to stimulate rural economies, and to improve emergency response to food crises, to amend the Foreign Assistance Act of 1961, and for other purposes.

S. 408

At the request of Mr. INOUYE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 408, a bill to amend the Public Health Service Act to provide a means for continued improvement in emergency medical services for children.

S. 476

At the request of Mrs. BOXER, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 476, a bill to amend title 10, United States Code, to reduce the minimum distance of travel necessary for reimbursement of covered beneficiaries of the military health care system for travel for specialty health care.

S. 546

At the request of Mr. REID, the names of the Senator from Colorado (Mr. BENNET) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 558

At the request of Mr. CARPER, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 558, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to nutrition labeling of food offered for sale in food service establishments.

S. 565

At the request of Mr. DURBIN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 565, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 572, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 597

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 608

At the request of Mr. TESTER, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 608, a bill to amend the Consumer Product Safety Improvement Act of 2008 to exclude secondary sales, repair services, and certain vehicles from the ban on lead in children's products, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 653

At the request of Mr. CARDIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 696

At the request of Mr. CARDIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 711

At the request of Mr. BAUCUS, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 793

At the request of Mr. BROWN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 793, a bill to direct the Secretary of Veterans Affairs to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility.

S. 812

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 812, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 908

At the request of Mr. BAYH, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 924

At the request of Ms. MIKULSKI, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 924, a bill to ensure efficient performance of agency functions.

S. 942

At the request of Mr. GRASSLEY, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 942, a bill to prevent the abuse of Government charge cards.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1010

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1010, a bill to establish a National Foreign Language Coordinator Council.

S. 1023

At the request of Mr. DORGAN, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Massachusetts (Mr. KERRY) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. RES. 71

At the request of Mr. WYDEN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 71, a resolution condemning the Government of Iran for its state-sponsored persecution of the Baha'i minority in Iran and its continued violation of the International Covenants on Human Rights.

S. RES. 141

At the request of Mr. JOHNSON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Res. 141, a resolution recognizing June 2009 as the first National Hemorrhagic Telangiecstasia (HHT) month, established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States.

AMENDMENT NO. 1079

At the request of Ms. LANDRIEU, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 1079 proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

AMENDMENT NO. 1129

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 1129 intended to be proposed to H.R. 627, a bill to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself and Mr. BROWNBACK):

S. 1067. A bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I am pleased to introduce the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009, and I am pleased to do so with a great champion on this issue: Senator SAM BROWNBACK. For many years, we have both sought to bring attention to the terror orchestrated by the Lord's Resistance Army, the LRA, and the suffering of the people of northern Uganda. We have come a long way in just a few years, thanks especially to young Americans who have become increasingly aware of and outspoken about this horrific situation. As a result, the U.S. has made increased efforts to help end this horror. Those efforts have yielded some success, but if we are now to finally see this conflict to its end, we need to commit to a proactive strategy to help end the threat posed by the LRA and support reconstruction, justice, and reconciliation in northern Uganda. This bill seeks to do just that.

For over two decades, northern Uganda was caught in a war between the Ugandan military and rebels of the Lord's Resistance Army, leading at its height to the displacement of 1.8 million people, nearly 90 percent of the region's population. Just a few years ago, northern Uganda was called the world's worst neglected humanitarian crisis. In 2007, I visited displacement camps in northern Uganda and saw firsthand the terrible conditions and the desperation of people forced to endure such conditions year after year. Meanwhile, the LRA survived throughout this conflict by kidnapping an estimated 66,000 children, indoctrinating them, and forcing them to become child soldiers.

In recent years, the LRA have come under increasing pressure. In 2005 and 2006, they largely withdrew from northern Uganda and moved into the border region between northeastern Congo, southern Sudan and even the Central African Republic. Then for almost two years, there was a lull in the violence as representatives from the Ugandan government and LRA engaged in sporadic peace negotiations in southern Sudan. The parties brokered a comprehensive agreement, but then hopes were dashed as the LRA's megalomaniac leader Joseph Kony refused to sign the agreement and reports surfaced that the LRA had been conducting new abductions to replenish his rebel group.

In December 2008, the Ugandan, Congolese and South Sudanese militaries launched a joint offensive against the LRA's primary bases in northeastern Congo. The operation failed to apprehend Kony and over the following two months, his forces retaliated against civilians in the region, leaving over 900 people dead. It's tragically clear that insufficient attention and resources were devoted to ensuring the protection of civilians during the operation. Before launching any operation against the rebels, the regional militaries should have ensured that their plan had a high probability of success, anticipated contingencies, and made precautions to minimize dangers to civilians. It is widely known that when facing military offensive in the past, the LRA have quickly dispersed and committed retaliatory attacks against civilians.

However, this botched operation does not mean that we should just give up on the goal of ending the massacres and the threat to regional stability posed by this small rebel group. Moreover, given that the U.S. provided assistance and support for this operation at the request of the regional governments, we have a responsibility to help see this rebel war to its end. In order to do that, I strongly believe we need a regional strategy to guide U.S. support—which includes political economic, intelligence and military support—for a multilateral effort to protect civilians and permanently end the threat posed by the LRA. The Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 requires of the administration to develop such a strategy. It leaves it up to the discretion of the administration to determine the most effective way forward, but it ensures this issue will not get put on the back burner and that we will not continue to rely on a piecemeal approach.

In addition to removing the threat posed by the LRA, we cannot lose sight of the importance that the Ugandan government address the conditions out of which the LRA emerged and which could give rise to future conflict if unchanged. Rebuilding northern Uganda's institutions and addressing political and economic grievances is the surest safeguard against future violence and instability. The government of Uganda committed last year to move forward with that reconstruction and reconciliation process under the framework of its Peace, Recovery and Development, the PRDP plan. International donors, including the United States, have already put forth substantial funds for that process. However, thus far it has been hampered by a lack of strategic coordination, weak leadership and the government's limited capacity. In particular, there has been very little progress toward establishing the mechanisms envisaged by the peace agreement to address the original causes of the war and promote reconciliation and justice.

Our legislation recognizes the importance of helping the Ugandan government to reinvigorate the PRDP process. The second part of the Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 encourages the U.S. to increase assistance in the upcoming fiscal years for recovery with the condition that the Ugandan government demonstrates a commitment to genuine, transparent and accountable reconstruction. We should better leverage our contributions to ensure that U.S. taxpayer dollars are used wisely. Finally, this legislation authorizes a small amount of additional assistance to see that mechanisms are finally established to promote accountability and reconciliation in Uganda on both local and national levels. A failure to address the underlying political grievances in northern Uganda could lead to new conflicts in the future.

As my colleagues know, I make it a practice to pay for all bills that I introduce, and the authorization in this bill is offset by reducing funds appropriated for excess secondary inventory for the Department of the Air Force. A report by the Government Accountability Office in 2007 found that more than half of the Air Force's secondary inventory or spare parts, worth roughly $31.4 billion, were not needed to support required on-hand and on-order inventory levels for fiscal years 2002 through 2005. The GAO report concluded that this is not only wasteful, but could also negatively impact readiness. The Air Force has acknowledged that it currently has over $100 million of spare parts on order for which it has no need.

Some may disagree with me on the need for an offset, but last year's Office of Management and Budget's projections confirm that we have the biggest budget deficit in the history of our country. We cannot afford to be fiscally irresponsible so we must make choices to ensure that our children and grandchildren do not bear the burden of our reckless spending. I believe reducing the excess secondary inventory for the Department of the Air Force by $40 million, a small amount, to pay for this bill is a responsible move that we can all support.

Americans from all states and all walks of life have been touched by the stories of children from northern Uganda abducted and forced to commit unspeakable acts. Congress, too, has a long history of being involved with efforts to help end this rebel war, dating back to the Northern Uganda Crisis Response Act that we passed in 2004, which committed the United States to work vigorously for a lasting resolution to the conflict. The Lord's Resistance Army Disarmament and Northern Uganda Recovery Act of 2009 reaffirms and refocuses that commitment to help see this—one of Africa's longest running and most gruesome rebel wars—to its finish. I believe that, with the necessary leadership and strategic vision envisioned by this legislation, we can contribute to that end. I urge my colleagues to support this bill.

By Mr. REED:

S. 1073. A bill to provide for credit rating reforms, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. REED. Mr. President, I rise to introduce the Rating Accountability and Transparency Enhancement, RATE, Act to strengthen the Securities and Exchange Commission's, SEC's, oversight of credit rating agencies and improve the accountability and accuracy of credit ratings.

Credit ratings have taken on systemic importance in our financial system, and have become critical to capital formation, investor confidence, and the efficient performance of the U.S. economy. However, in recent months we have witnessed a significant amount of market instability stemming in part from the failure of these agencies to accurately measure the risks associated with mortgage-backed securities and other more complex products.

As the Chairman of the Securities, Insurance, and Investment Subcommittee of the Senate Banking, Housing, and Urban Affairs Committee, I chaired a hearing in September of 2007 to examine the role of credit rating agencies in the mortgage crisis, and these issues were also addressed at a hearing by the full Committee last year. From these hearings, it is clear that problems at credit rating agencies contributed to the significant financial sector instability our country has been experiencing. In fact, an SEC investigation last summer found that credit rating agencies such as Moody's, Standard & Poor's, and Fitch Ratings conducted weak analyses and failed to maintain appropriate independence from the issuers whose securities they rated.

Credit rating agencies are in the business of providing investors with unbiased analysis, but the current incentive structure gives them too much leeway to hand out unjustifiably favorable ratings. Let us be clear: not every rating is suspect and these firms provide crucial information for investors and the marketplace, but credit rating agencies like any other industry should be held accountable if they knowingly or recklessly mislead investors.

According to a mortgage industry trade publication, the three major credit rating agencies have each downgraded more than half of the subprime mortgage-backed securities they originally rated between 2005 and 2007. Ratings agencies made these mistakes in part because of conflicts of interest and other problems with internal controls, underscoring the need for enhanced oversight of this industry.

The bill I introduce today gives the SEC strong new authority to oversee and hold rating agencies accountable for conflicts of interest and other internal control deficiencies that have weakened ratings in the past. The bill includes a carefully crafted liability provision that allows investors to take action when a rating agency knowingly or recklessly fails to review key information in developing the rating.

It also enhances disclosure requirements to allow investors and others to learn about the methodologies, assumptions, fees, and amount of due diligence associated with ratings. It requires rating agencies to notify users and promptly update ratings when model or methodology changes occur. Finally, the bill requires ratings agencies to have independent compliance officers, and to take other actions, to prevent potential conflicts of interest.

I hope my colleagues will join me in helping improve the accountability and transparency of credit ratings that are so critical to the functioning of our financial markets.

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. 1073

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 ''Rating Accountability and Transparency Enhancement Act of 2009'' or the ''RATE Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) because of the systemic importance of credit ratings and the reliance placed on them by individual and institutional investors and financial regulators, the activities and performances of credit rating agencies, including nationally recognized statistical rating organizations, are the subject of national public interest, as they are central to capital formation, investor confidence, and the efficient performance of the United States economy;

(2) credit rating agencies, including nationally recognized statistical rating organizations, play a critical ''gatekeeper'' role

that is functionally similar to that of securities analysts, who evaluate the quality of securities, and auditors, who review the financial statements of firms, and such role justifies a similar level of public oversight and accountability;

(3) because credit rating agencies perform evaluative and analytical services on behalf of clients, their activities are fundamentally commercial in character and should be subject to the same standards of liability and oversight as apply to auditors and securities analysts;

(4) in certain of their roles, particularly in advising arrangers of structured financial products on potential ratings of such products, credit rating agencies face conflicts of interest that need to be carefully monitored and that therefore should be addressed explicitly in legislation in order to give clear authority to the Securities and Exchange Commission;

(5) in the recent credit crisis, the ratings of structured financial products have proven to be inaccurate, and have contributed to the mismanagement of risks by financial institutions and investors, which impacts the health of the economy in the United States and around the world; and

(6) credit rating agencies should determine their ratings independently, without regulatory approval of methodologies, in order to avoid overreliance on ratings and to ensure that the rating agencies, rather than the Securities and Exchange Commission, are accountable for such methodologies, except that regulators should have strong authority to ensure that all other aspects of rating agency activities are designed to ensure the highest quality ratings and accountability for those creating them.

SEC. 3. ENHANCED REGULATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7) is amended—

(1) in subsection (c)—

(A) in the second sentence of paragraph (2), by inserting ''including the requirements of this section,'' after ''Notwithstanding any other provision of law,''; and

(B) by adding at the end the following:

''(3) REVIEW OF INTERNAL CONTROLS FOR DETERMINING CREDIT RATINGS.—

''(A) IN GENERAL.—Credit ratings by, and the policies, procedures, and methodologies employed by, each nationally recognized statistical rating organization shall be reviewed by the Commission to ensure that—

''(i) the nationally recognized statistical rating organization has established and documented a system of internal controls for determining credit ratings, taking into consideration such factors as the Commission may prescribe by rule; and

''(ii) the nationally recognized statistical rating organization adheres to such system; and

''(iii) the public disclosures of the nationally recognized statistical rating organization required under this section about its ratings, methodologies, and procedures are consistent with such system.

''(B) SCOPE OF REVIEWS.—The Commission shall conduct the reviews required by this paragraph—

''(i) for all types of credit ratings; and

''(ii) for new credit ratings, in a timely manner.

''(C) MANNER AND FREQUENCY.—The Commission shall conduct reviews required by this paragraph in a manner and with a frequency to be determined by the Commission.

''(4) PROVISION OF INFORMATION TO THE COMMISSION.—Each nationally recognized statistical rating organization shall make available and maintain such records and information, for such a period of time, as the Commission may prescribe, by rule, as necessary for the Commission to conduct the reviews under this subsection;'';

(2) in subsection (d)—

(A) by inserting ''fine,'' after ''censure,'' each place that term appears;

(B) in the subsection heading, by inserting ''FINE,'' after ''CENSURE,'';

(C) in paragraph (4), by striking ''or'' at the end;

(D) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(E) by adding at the end the following:

''(6) fails to conduct sufficient surveillance to ensure that credit ratings remain current, accurate, and reliable.'';

(3) by amending subsection (h) to read as follows:

''(h) MANAGEMENT OF CONFLICTS OF INTEREST.—

''(1) ORGANIZATION POLICIES AND PROCEDURES.—Each nationally recognized statistical rating organization shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of the business of such nationally recognized statistical rating organization and affiliated persons and affiliated companies thereof, to address, manage, and disclose any conflicts of interest that can arise from such business.

''(2) GOVERNANCE IMPROVEMENTS AT NRSRO.—Each nationally recognized statistical rating organization shall establish governance procedures to manage conflicts of interest, consistent with the protection of users of credit ratings, in accordance with rules issued by the Commission pursuant to paragraph (3).

''(3) COMMISSION AUTHORITY.—The Commission shall issue final rules to prohibit, or require the management and disclosure of, any conflicts of interest relating to the issuance of credit ratings by a nationally recognized statistical rating organization, including—

''(A) conflicts of interest relating to the manner in which a nationally recognized statistical rating organization is compensated by the obligor, or any affiliate of the obligor, for issuing credit ratings or providing related services;

''(B) conflicts of interest relating to the provision of consulting, advisory, or other services by a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

''(C) disclosure of business relationships, ownership interests, affiliations of nationally recognized statistical rating organization board members with obligors, or any other financial or personal interests between a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, and the obligor, or any affiliate of the obligor;

''(D) disclosure of any affiliation of a nationally recognized statistical rating organization, or any person associated with such nationally recognized statistical rating organization, with any person that underwrites securities, entities, or other instruments that are the subject of a credit rating; and

''(E) any other potential conflict of interest, as the Commission deems necessary or appropriate in the public interest or for the protection of users of credit ratings.

''(4) COMMISSION RULES.—The rules issued by the Commission under paragraph (3) shall include—

''(A) the establishment of a system of payment for each nationally recognized statistical rating organization that requires that payments are structured to ensure that the nationally recognized statistical rating organization conducts accurate and reliable surveillance of ratings over time, and that incentives for accurate ratings are in place;

''(B) a prohibition on providing credit ratings for structured products that it advised on, in the form of assistance, advice, consultation, or other aid that preceded its retention by any issuer, underwriter, or placement agent to provide a rating for the securities in question (or any assistance provided after such point for which additional compensation is paid directly or indirectly);

''(C) requirements that a nationally recognized statistical rating organization disclose any relationship or affiliation described in subparagraphs (C) and (D) of paragraph (3);

''(D) a requirement that, in each credit rating report issued to the public, a nationally recognized statistical rating organization disclose the type and number of ratings it has provided to the obligor or affiliates of the obligor, including the fees it has billed for the credit rating and aggregate amount of fees in the preceding 2 years that it has billed to the particular obligor or its affiliates; and

''(E) any other requirement as the Commission deems necessary or appropriate in the public interest, or for the protection of users of credit ratings.

''(5) LOOK-BACK REQUIREMENT.—

''(A) REVIEW BY NRSRO.—In any case in which an employee of an obligor or an issuer or underwriter of a security or money market instrument was employed by a nationally recognized statistical rating organization and participated in any capacity in determining credit ratings for the obligor or the securities or money market instruments of the issuer during the 1-year period preceding the date of the issuance of the credit rating, the nationally recognized statistical rating organization shall—

''(i) conduct a review to determine whether any conflicts of interest of such employee influenced the credit rating; and

''(ii) take action to revise the rating if appropriate, in accordance with such rules as the Commission shall prescribe.

''(B) REVIEW BY COMMISSION.—The Commission shall conduct periodic reviews of the look-back policies described in subparagraph (A) and the implementation of such policies at each nationally recognized statistical rating organization to ensure they are appropriately designed and implemented to most effectively eliminate conflicts of interest in this area.

''(6) PERIODIC REVIEWS.—

''(A) REVIEWS REQUIRED.—The Commission shall conduct periodic reviews of governance and conflict of interest procedures established under this subsection to determine the effectiveness of such procedures.

''(B) TIMING OF REVIEWS.—The Commission shall review and make available to the public the code of ethics and conflict of interest policy of each nationally recognized statistical rating organization—

''(i) not less frequently than once every 3 years; and

''(ii) whenever such policies are materially modified or amended.'';

(4) by amending subsection (j) to read as follows:

''(j) DESIGNATION OF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each nationally recognized statistical rating organization shall designate an individual to serve as a compliance officer.

''(2) DUTIES.—The compliance officer shall—

''(A) report directly to the board of the nationally recognized statistical rating organization (or the equivalent thereof) or to the senior officer of the nationally recognized statistical rating organization; and

''(B) shall—

''(i) review compliance with policies and procedures to manage conflicts of interest and assess the risk that such compliance (or lack of such compliance) may compromise the integrity of the credit rating process;

''(ii) review compliance with internal controls with respect to the procedures and methodologies for determining credit ratings, including quantitative and qualitative models used in the rating process, and assess the risk that such compliance with the internal controls (or lack of such compliance) may compromise the integrity and quality of the credit rating process;

''(iii) in consultation with the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior officer of the nationally recognized statistical rating organization, resolve any conflicts of interest that may arise;

''(C) be responsible for administering the policies and procedures required to be established pursuant to this section; and

''(D) ensure compliance with securities laws and the rules and regulations issued thereunder, including rules promulgated by the Commission pursuant to this section.

''(3) LIMITATIONS.—No compliance officer designated under paragraph (1), may, while serving in such capacity—

''(A) perform credit ratings;

''(B) participate in the development of rating methodologies or models;

''(C) perform marketing or sales functions; or

''(D) participate in establishing compensation levels, other than for employees working for such officer.

''(4) OTHER DUTIES.—The compliance officer shall establish procedures for the receipt, retention, and treatment of—

''(A) complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures required under this section; and

''(B) confidential, anonymous complaints by employees or users of credit ratings.

''(5) ANNUAL REPORTS REQUIRED.—The compliance officer shall annually prepare and sign a report on the compliance of the nationally recognized statistical rating organization with the securities laws and its policies and procedures, including its code of ethics and conflict of interest policies, in accordance with rules prescribed by the Commission. Such compliance report shall accompany the financial reports of the nationally recognized statistical rating organization that are required to be furnished to the Commission pursuant to this section.'';

(5) in subsection (k)—

(A) by striking '', on a confidential basis,'';

(B) by striking ''Each nationally'' and inserting the following:

''(1) IN GENERAL.—Each nationally''; and

(C) by adding at the end the following:

''(2) EXCEPTION.—The Commission may treat as confidential any item furnished to the Commission under paragraph (1), the publication of which the Commission determines may have a harmful effect on a nationally recognized statistical rating organization.'';

(6) by amending subsection (p) to read as follows:

''(p) NRSRO REGULATION.—

''(1) IN GENERAL.—The Commission shall establish an office that administers the rules of the Commission with respect to the practices of nationally recognized statistical rating organizations in determining ratings, for the protection of users of credit ratings and in the public interest, and to ensure that credit ratings issued by such registrants are accurate and not unduly influenced by conflicts of interest.

''(2) STAFFING.—The office of the Commission established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section.

''(3) RULEMAKING AUTHORITY.—The Commission shall—

''(A) establish by rule fines and other penalties for any nationally recognized statistical rating organization that violates the applicable requirements of this title; and

''(B) issue such rules as may be necessary to carry out this section with respect to nationally recognized statistical rating organizations.

''(q) TRANSPARENCY OF RATINGS PERFORMANCE.—

''(1) RULEMAKING REQUIRED.—The Commission shall, by rule, require that each nationally recognized statistical rating organization shall disclose publicly information on initial ratings and subsequent changes to such ratings for the purpose of providing a gauge of the accuracy of ratings and allowing users of credit ratings to compare performance of ratings by different nationally recognized statistical rating organizations.

''(2) CONTENT.—The rules of the Commission under this subsection shall require, at a minimum, disclosures that—

''(A) are comparable among nationally recognized statistical rating organizations, so that users can compare rating performance across rating organizations;

''(B) are clear and informative for a wide range of investor sophistication;

''(C) include performance information over a range of years and for a variety of classes of credit ratings, as determined by the Commission; and

''(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website and in written form when requested by users.

''(r) CREDIT RATINGS METHODOLOGIES.—The Commission shall promulgate rules, for the protection of users of credit ratings and in the public interest, with respect to the procedures and methodologies, including qualitative and quantitative models, used by nationally recognized statistical rating organizations that require each nationally recognized statistical rating organization to—

''(1) ensure that credit ratings are determined using procedures and methodologies, including qualitative and quantitative models, that are approved by the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior officer of the nationally recognized statistical rating organization, and in accordance with the policies and procedures of the nationally recognized statistical rating organization for developing and modifying credit rating procedures and methodologies;

''(2) ensure that when major changes to credit rating procedures and methodologies, including to qualitative and quantitative models, are made, that the changes are applied consistently to all credit ratings to which such changed procedures and methodologies apply and, to the extent the changes are made to credit rating surveillance procedures and methodologies, they are applied to current credit ratings within a time period to be determined by the Commission by rule, and that the reason for the change is disclosed publicly;

''(3) notify users of credit ratings of the version of a procedure or methodology, including a qualitative or quantitative model, used with respect to a particular credit rating; and

''(4) notify users of credit ratings when a change is made to a procedure or methodology, including to a qualitative or quantitative model, or an error is identified in a procedure or methodology that may result in credit rating actions, and the likelihood of the change resulting in current credit ratings being subject to rating actions.

''(s) TRANSPARENCY OF CREDIT RATING METHODOLOGIES AND INFORMATION REVIEWED.—

''(1) IN GENERAL.—The Commission shall establish a form, to accompany each rating issued by a nationally recognized statistical rating organization—

''(A) to disclose information about assumptions underlying credit rating procedures and methodologies, the data that was relied on to determine the credit rating and, where applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and

''(B) that can be made public and used by investors and other users to better understand credit ratings issued in each class of credit rating issued by the nationally recognized statistical rating organization.

''(2) FORMAT.—The Commission shall ensure that the form established under paragraph (1)—

''(A) is designed in a user-friendly and helpful manner for users of credit ratings to understand the information contained in the report; and

''(B) requires the nationally recognized statistical rating organization to provide the appropriate content, as required by paragraph (3).

''(3) CONTENT.—Each nationally recognized statistical rating organization shall include on the form established under this subsection, along with its ratings—

''(A) the main assumptions included in constructing procedures and methodologies, including qualitative and quantitative models;

''(B) the potential shortcomings of the credit ratings, and the types of risks excluded from the credit ratings that the registrant is not commenting on (such as liquidity, market, and other risks);

''(C) information on the reliability, accuracy, and quality of the data relied on in determining the ultimate credit rating and a statement on the extent to which key data inputs for the credit rating were reliable or limited (including, any limits on the reach of historical data, limits in accessibility to certain documents or other forms of information that would have better informed the credit rating, and the completeness of certain information considered);

''(D) whether and to what extent third party due diligence services have been utilized, and a description of the information that such third party reviewed in conducting due diligence services;

''(E) a description of relevant data about any obligor, issuer, security, or money market instrument that was used and relied on for the purpose of determining the credit rating;

''(F) an explanation or measure of the potential volatility for the rating, including any factors that might lead to a change in the rating, and the extent of the change that might be anticipated under different conditions; and

''(G) additional information, including conflict of interest information, as may be required by the Commission.

''(4) DUE DILIGENCE SERVICES.—

''(A) CERTIFICATION REQUIRED.—In any case in which third party due diligence services are employed by a nationally recognized statistical rating organization or an issuer or

underwriter, the firm providing the due diligence services shall provide to the nationally recognized statistical rating organization written certification of such due diligence, which shall be subject to review by the Commission.

''(B) FORMAT AND CONTENT.—The nationally recognized statistical rating organizations shall establish the appropriate format and content for written certifications required under subparagraph (A), to ensure that providers of due diligence services have conducted a thorough review of data, documentation, and other relevant information necessary for the nationally recognized statistical rating organization to provide an accurate rating.''; and

(7) by amending subsection (m) to read as follows:

''(m) ACCOUNTABILITY.—

''(1) IN GENERAL.—The enforcement and penalty provisions of this title shall apply to a nationally recognized statistical rating organization in the same manner and to the same extent as such provisions apply to a registered public accounting firm or a securities analyst under the Federal securities laws for statements made by them, and such statements shall not be deemed forward-looking statements for purposes of section 21E.

''(2) RULEMAKING.—The Commission shall issue such rules as may be necessary to carry out this subsection.''.

SEC. 4. STATE OF MIND IN PRIVATE ACTIONS.

Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(b)(2)) is amended by inserting before the period at the end the following: '', except that in the case of an action brought under this title for money damages against a nationally recognized statistical rating organization, it shall be sufficient, for purposes of pleading any required state of mind for purposes of such action, that the complaint shall state with particularity facts giving rise to a strong inference that the nationally recognized statistical rating organization knowingly or recklessly failed either to conduct a reasonable investigation of the rated security with respect to the factual elements relied upon by its own methodology for evaluating credit risk, or to obtain reasonable verification of such factual elements (which verification may be based on a sampling technique that does not amount to an audit) from other sources that it considered to be competent and that were independent of the issuer and underwriter''.

SEC. 5. REGULATIONS.

The Securities and Exchange Commission shall issue final rules and regulations, as required by the amendments made by this Act, not later than 365 days after the date of enactment of this Act.

SEC. 6. STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall undertake a study of—

(1) the extent to which rulemaking the Securities and Exchange Commission has carried out the provisions of this Act;

(2) the appropriateness of relying on ratings for use in Federal, State, and local securities and banking regulations, including for determining capital requirements;

(3) the effect of liability in private actions arising under the Securities Exchange Act of 1934 and the exception added by section 4 of this Act; and

(4) alternative means for compensating credit rating agencies that would create incentives for accurate credit ratings and what, if any, statutory changes would be required to permit or facilitate the use of such alternative means of compensation.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Comptroller General shall submit to Congress and the Securities Exchange Commission, a report containing the findings under the study required by subsection (a).

By Mrs. FEINSTEIN (for herself, Ms. SNOWE, and Mr. DURBIN):

S. 1077. A bill to regulate political robocalls, to the Committee on Rules and Administration.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Robocall Privacy Act of 2009.

This is a bill that is cosponsored by Senator SNOWE and Senator DURBIN, and that would protect American families from being inundated by automated political calls all through the day and night.

The bill would allow political outreach through these prerecorded ''robocalls'' to continue, but it would put some commonsense limits on them—to make sure that they are used in a way that informs voters, rather than harasses or misleads them.

In recent years, we have seen amazing development in technologies that help political candidates reach out to voters.

This is a good thing. Political speech is essential, and new technology that facilitates communication between candidates and voters serves to bolster the democratic process. When more information is available to voters, it promotes a more meaningful interchange of ideas.

The robocall is one of these recent developments. A robocall is a pre-recorded phone message that can be sent out to tens of thousands of voters at a low cost through computer automation.

With television and radio ads becoming so expensive, these robocalls can play a positive role in alerting voters to a candidate's position and urging their support at the polls.

But it is also a technology that can be abused. We all have heard stories about people being called over and over and over again at all hours of the day and night.

I believe this is wrong. When these calls are used improperly, they interrupt American families during their private time at home and interfere with their privacy rights. They can also turn people away from the political process itself.

When people become frustrated or annoyed by calls that are commercial in nature, they have the option to request to be put on the Federal Trade Commission's ''Do Not Call'' list. To date, millions of Americans have chosen to be part of that list.

But political calls are specifically exempted from this ''Do Not Call'' registry.

The First Amendment gives special protection to political speech, because the interchange of political ideas is essential to our democracy.

For that reason, the ''Robocall Privacy Act'' would not wholly ban political robocalls. It would, however, impose some carefully drawn restrictions that I think we can all agree are reasonable.

Let me tell you exactly what the bill would do.

It would apply during the 60 days leading up to a general election and the 30 days before a primary election.

It would ban robocalls between the hours of 9 p.m. and 8 a.m.—to try to prevent these calls from disturbing people when they are sleeping or trying to put their children to sleep.

It would stop any campaign or group from making more than two robocalls to the same telephone number in a single day.

It would prohibit groups making robocalls from locking the ''caller identification'' number that is supposed to show up on many phones; and it would require robocallers to include an announcement at the beginning of each call explaining who is responsible for the call and that it is a prerecorded message. This is to prevent people from using these calls in a way that is misleading.

The enforcement provisions of this bill are simple and intent on stopping the worst of these calls.

The bill creates a civil fine for violators of the law, with additional fines for callers who willfully violate the law.

The bill also allows voters to sue to stop those calls immediately, but to not receive money damages.

A judge can order violators of the law to stop these abusive calls.

Why are these provisions so important? Let me give you a few facts and stories from recent elections:

According to the Pew Foundation, the use of robocalls is on the rise. By April of 2008, 39 percent of voters overall had received pre-recorded political calls, and a full 81 percent of likely caucus-goers in Iowa had been contacted with robocalls.

As the 2008 campaign went forward, voters expressed disagreement both with the number of these calls, and with their content, saying that some calls were deliberately misleading.

In 2007, hundreds of voters in New York were woken up at 2 am because of a software programming error with a robocall. The calls were supposed to occur at 2 p.m.

In 2006, there were complaints about robocalls across the country. In the Nebraska 3rd District Congressional Election, voters complained to candidate Scott Kleeb when they received dozens of calls, containing poor-quality versions of his voice. Kleeb's supporters claim that his voice was recorded, and used in an abusive robocall against him.

In Illinois, voters received a recorded call about U.S. Representative MELISSA BEAN that did not clearly identify the caller. Voters called Representative BEAN's office to complain without listening to the entire message, which eventually identified an opposing party committee as the sponsor—but only after the time that most voters had

hung up. Representative Bean had to spend campaign funds informing voters she had not made that call.

In a Maryland race, voters in a conservative area received a middle-of-the-night robocall from the nonexistent ''Gay and Lesbian Push,'' urging them to support one of the candidates. That candidate lost the election, in part because of the false, late-night call.

Quantity is an added problem. Voters frequently receive multiple robocall calls a day from the same group or candidate in the days leading up to an election.

The National Do Not Call Network—a nonprofit focused on this issue—has indicated that 40 percent of its membership says they received between 5 and 9 calls a day during the election season. Some frustrated voters reported receiving as many as 37 calls in a day.

This is just counterproductive. The goal of political speech is to inform and engage voters, not to mislead them or turn them off of the democratic process.

I am a strong supporter of the First Amendment and its protection for political speech, but these robocalls have become a problem. Something must be done.

I believe this bill presents the right solution—it imposes clear time, place, and manner restrictions, but it also allows campaigns and groups to use robocalls to inform voters of issues and their positions.

I think it is time for us to find a reasonable solution to these calls that are intruding on the privacy of the American home and misleading voters.

I want to thank Senators SNOWE and DURBIN for co-sponsoring this legislation, and I urge my colleagues to join me in supporting the Robocall Privacy Act of 2009.

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. 1077

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 ''Robocall Privacy Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Abusive political robocalls harass voters and discourage them from participating in the political process.

(2) Abusive political robocalls infringe on the privacy rights of individuals by disturbing them in their homes.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) POLITICAL ROBOCALL.—The term ''political robocall'' means any outbound telephone call—

(A) in which a person is not available to speak with the person answering the call, and the call instead plays a recorded message; and

(B) which promotes, supports, attacks, or opposes a candidate for Federal office.

(2) IDENTITY.—The term ''identity'' means, with respect to any individual making a political robocall or causing a political robocall to be made, the name of the sponsor or originator of the call.

(3) SPECIFIED PERIOD.—The term ''specified period'' means, with respect to any candidate for Federal office who is promoted, supported, attacked, or opposed in a political robocall—

(A) the 60-day period ending on the date of any general, special, or run-off election for the office sought by such candidate; and

(B) the 30-day period ending on the date of any primary or preference election, or any convention or caucus of a political party that has authority to nominate a candidate, for the office sought by such candidate.

(4) OTHER DEFINITIONS.—The terms ''candidate'' and ''Federal office'' have the respective meanings given such terms under section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

SEC. 4. REGULATION OF POLITICAL ROBOCALLS.

It shall be unlawful for any person during the specified period to make a political robocall or to cause a political robocall to be made—

(1) to any person during the period beginning at 9 p.m. and ending at 8 a.m. in the place which the call is directed;

(2) to the same telephone number more than twice on the same day;

(3) without disclosing, at the beginning of the call—

(A) that the call is a recorded message; and

(B) the identity of the person making the call or causing the call to be made; or

(4) without transmitting the telephone number and the name of the person making the political robocall or causing the political robocall to be made to the caller identification service of the recipient.

SEC. 5. ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL ELECTION COMMISSION.—

(1) IN GENERAL.—Any person aggrieved by a violation of section 4 may file a complaint with the Federal Election Commission under rules similar to the rules under section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)).

(2) CIVIL PENALTY.—

(A) IN GENERAL.—If the Federal Election Commission or any court determines that there has been a violation of section 4, there shall be imposed a civil penalty of not more than $1,000 per violation.

(B) WILLFUL VIOLATIONS.—In the case the Federal Election Commission or any court determines that there has been a knowing or willful violation of section 4, the amount of any civil penalty under subparagraph (A) for such violation may be increased to not more than 300 percent of the amount under subparagraph (A).

(b) PRIVATE RIGHT OF ACTION.—Any person may bring in an appropriate district court of the United States an action based on a violation of section 4 to enjoin such violation without regard to whether such person has filed a complaint with the Federal Election Commission.

By Mr. MCCAIN (for himself and Mr. KYL):

S. 1080. A bill to clarify the jurisdiction of the Secretary of the Interior with respect to the C.C. Cragin Dam and Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleague, Senator KYL, in introducing a bill that would clarify the jurisdiction of the Bureau of Reclamation over program activities associated with the C.C. Cragin Project in northern Arizona. A companion measure was introduced last month by Congresswoman ANN KIRKPATRICK from Arizona.

Pursuant to the Arizona Water Settlements Act of 2004, AWSA, Congress authorized the Secretary of the Interior to accept from the Salt River Project, SRP, title of the C.C. Cragin Dam and Reservoir for the express use of the Salt River Federal Reclamation Project. While it's clear that Congress intended to transfer jurisdiction of the Cragin Project to the Department of Interior, and in particular, the Bureau of Reclamation, the lands underlying the Project are technically located within the Coconino National Forest and the Tonto National Forest. This has resulted in a disagreement between the Bureau of Reclamation and the National Forest Service concerning jurisdiction over the operation and management activities of the Cragin Project.

For more than two years, SRP and Reclamation have attempted to reach an agreement with the Forest Service that recognizes Reclamation's paramount jurisdiction over the Cragin Project. Unfortunately, the Forest Service maintains that this technical ambiguity under the AWSA implies they have a regulatory role in approving Cragin Project operations and maintenance.

Speedy resolution of this jurisdictional issue is urgently needed in order to address repairs and other operational needs of the Cragin Project, including planning for the future water needs of the City of Payson and other northern Arizona communities. This clarification would simply provide Reclamation with the oversight responsibility that Congress originally intended. I urge my colleagues to support this bill.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 152—TO AMEND S. RES. 73 TO INCREASE FUNDING FOR THE SPECIAL RESERVE

Mr. SCHUMER (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 152

Resolved,

SECTION 1. SPECIAL RESERVE FUNDING.

(a) IN GENERAL.—Section 20(a) of S. Res. 73 (111th Congress) is amended by striking ''$4,375,000'' and inserting ''$4,875,000''.

(b) AGGREGATES.—The additional funds provided by the amendment made by subsection (a) shall not be considered to be subject to the 89 percent limitation on Special Reserves found on page 2 of Committee Report 111-14, accompanying S. Res. 73.

SENATE RESOLUTION 153—EXPRESSING THE SENSE OF THE SENATE ON THE RESTITUTION OF OR COMPENSATION FOR PROPERTY SEIZED DURING THE NAZI AND COMMUNIST ERAS

Mr. NELSON of Florida (for himself and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 153

Whereas many Eastern European countries were dominated for parts of the last century by Nazi or Communist regimes, without the consent of their people;

Whereas victims under the Nazi regime included individuals persecuted or targeted for persecution by the Nazi or Nazi-allied governments based on their religious, ethnic, or cultural identity, as well as their political beliefs, sexual orientation, or disability;

Whereas the Nazi regime and the authoritarian and totalitarian regimes that emerged in Eastern Europe after World War II perpetuated the wrongful and unjust confiscation of property belonging to the victims of Nazi persecution, including real property, personal property, and financial assets;

Whereas communal and religious property was an early target of the Nazi regime and, by expropriating churches, synagogues and other community-controlled property, the Nazis denied religious communities the temporal facilities that held those communities together;

Whereas after World War II, Communist regimes expanded the systematic expropriation of communal and religious property in an effort to eliminate the influence of religion;

Whereas many insurance companies that issued policies in pre-World War II Eastern Europe were nationalized or had their subsidiary assets nationalized by Communist regimes;

Whereas such nationalized companies and those with nationalized subsidiaries have generally not paid the proceeds or compensation due on pre-war policies, because control of those companies or their Eastern European subsidiaries had passed to their respective governments;

Whereas Eastern European countries involved in these nationalizations have not participated in a compensation process for Holocaust-era insurance policies for victims of Nazi persecution;

Whereas the protection of and respect for private property rights is a basic principle for all democratic governments that operate according to the rule of law;

Whereas the rule of law and democratic norms require that the activity of governments and their administrative agencies be exercised in accordance with the laws passed by their parliaments or legislatures, and such laws themselves must be consistent with international human rights standards;

Whereas in July 2001, the Paris Declaration of the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly noted that the process of restitution, compensation, and material reparation of victims of Nazi persecution has not been pursued with the same degree of comprehensiveness by all of the OSCE participating states;

Whereas the OSCE participating states have agreed to achieve or maintain full recognition and protection of all types of property, including private property and the right to prompt, just, and effective compensation for private property that is taken for public use;

Whereas the OSCE Parliamentary Assembly has called on the participating states to ensure that they implement appropriate legislation to secure the restitution of or compensation for property losses of victims of Nazi persecution, including communal organizations and institutions, irrespective of the current citizenship or place of residence of the victims, their heirs, or the relevant successors to communal property;

Whereas Congress passed resolutions in the 104th and 105th Congresses that emphasized the longstanding support of the United States for the restitution of or compensation for property wrongly confiscated during the Nazi and Communist eras;

Whereas certain post-Communist countries in Europe have taken steps toward compensating victims of Nazi persecution whose property was confiscated by the Nazis or their allies and collaborators during World War II or subsequently seized by Communist governments;

Whereas at the 1998 Washington Conference on Holocaust-Era Assets, 44 countries adopted the Principles on Nazi-Confiscated Art to guide the restitution of looted artwork and cultural property;

Whereas the Government of Lithuania has promised to adopt an effective legal framework to provide for the restitution of or compensation for wrongly confiscated communal property, but so far has not done so;

Whereas successive governments in Poland have promised to adopt an effective general property compensation law, but the current government has yet to adopt one;

Whereas the legislation providing for the restitution of or compensation for wrongly confiscated property in Europe has, in various instances, not always been implemented in an effective, transparent, and timely manner;

Whereas such legislation is of the utmost importance in returning or compensating property wrongfully seized by totalitarian or authoritarian governments to its rightful owners;

Whereas compensation and restitution programs can never bring back to Holocaust survivors what was taken from them, or in any way make up for their suffering; and

Whereas there are Holocaust survivors, now in the twilight of their lives, who are impoverished and in urgent need of assistance, lacking the resources to support basic needs, including adequate shelter, food, or medical care: Now, therefore, be it

Resolved, That the Senate—

(1) appreciates the efforts of those European countries that have enacted legislation for the restitution of or compensation for private, communal, and religious property wrongly confiscated during the Nazi or Communist eras, and urges each of those countries to ensure that the legislation is effectively and justly implemented;

(2) welcomes the efforts of many post-Communist countries to address the complex and difficult question of the status of confiscated properties, and urges those countries to ensure that their restitution or compensation programs are implemented in a timely, nondiscriminatory manner;

(3) urges the Government of Poland and the governments of other countries in Europe that have not already done so to immediately enact fair, comprehensive, non-discriminatory, and just legislation so that victims of Nazi persecution (or the heirs or successors of such persons) who had their private property looted and wrongly confiscated by the Nazis during World War II and subsequently seized by a Communist government are able to obtain either restitution of their property or, where restitution is not possible, fair compensation;

(4) urges the Government of Lithuania and the governments of other countries in Europe that have not already done so to immediately enact fair, comprehensive, non-discriminatory, and just legislation so that communities that had communal and religious property looted and wrongly confiscated by the Nazis during World War II and subsequently seized by a Communist government (or the relevant successors to such property or the relevant foundations) are able to obtain either restitution of their property or, where restitution is not possible, fair compensation;

(5) urges the countries of Europe which have not already done so to ensure that all such restitution and compensation legislation is established in accordance with principles of justice and provides a simple, transparent, and prompt process, so that it results in a tangible benefit to those surviving victims of Nazi persecution who suffered from the unjust confiscation of their property, many of whom are well into their senior years;

(6) calls on the President and the Secretary of State to engage in an open dialogue with leaders of those countries that have not already enacted such legislation to support the adoption of legislation requiring the fair, comprehensive, and nondiscriminatory restitution of or compensation for private, communal, and religious property that was seized and confiscated during the Nazi and Communist eras; and

(7) welcomes the decision by the Government of the Czech Republic to host in June 2009 an international conference for governments and non-governmental organizations to continue the work done at the 1998 Washington Conference on Holocaust-Era Assets, which will—

(A) address the issues of restitution of or compensation for real property, personal property (including art and cultural property), and financial assets wrongfully confiscated by the Nazis or their allies and collaborators and subsequently wrongfully confiscated by Communist regimes;

(B) review issues related to the opening of archives and the work of historical commissions, review progress made, and focus on the next steps required on these issues; and

(C) examine social welfare issues related to the needs of Holocaust survivors, and identify methods and resources to meet to such needs.

Mr. NELSON of Florida. Mr. President, next month, to mark the conclusion of its term in the presidency of the European Union, the Czech Republic will host what will be an historic gathering in Prague: the International Conference on Holocaust Era Assets. The Prague Conference will build on the important work done more than 10 years ago at the Conference on Holocaust Era Assets held here in Washington. The Washington Conference laid the foundation for important agreements entered into by countries and private companies that resulted in a number of restitution and compensation programs throughout Western Europe that have paid hundreds of millions of dollars to Holocaust victims and their heirs.

The Prague Conference hopefully will serve as a catalyst for the next, and probably final, phase of restitution and compensation programs for Holocaust survivors and their heirs. One of the Prague Conference's main focuses will be how to advance restitution for real

and personal property, including art and cultural property. This is especially true in Eastern Europe, where there are numerous countries that have yet to enact meaningful restitution programs, including countries in Eastern Europe.

Two resolutions introduced today will address this topic. I have introduced a resolution, which Senator CARDIN has cosponsored, calling on Eastern European countries to implement restitution or compensation programs for those Holocaust victims and their heirs whose property and financial assets were confiscated by the Nazis, and in many cases seized by the communist governments that later came to power. Senator CARDIN has introduced a second resolution, which I have co-sponsored, supporting the goals of the Prague Conference.

I first introduced my resolution calling for restitution or compensation by Eastern European countries during the 110th Congress, following a hearing I chaired in the Senate Foreign Relations Committee to examine Holocaust-era insurance compensation issues. While this hearing was the first time a Senate committee had met specifically to consider this subject, I have been involved in the issue for more than a decade. As Florida's insurance commissioner in the late 1990s, I helped lead an international effort by regulators and Jewish groups that ultimately forced many European insurers to come to the table and for the first time begin paying restitution to survivors.

Florida is a State with a large population of Holocaust survivors—one of the largest concentrations of Holocaust survivors in the world. Most are in their 80s or 90s—the very youngest are in their 70s. They are valued constituents, and while I recognize that no amount of financial compensation or property restitution can ever make up from the indescribable wrong of the Holocaust, I have been and remain committed to doing what I can to assist survivors to obtain without delay meaningful compensation for assets that they lost during the war.

The primary purpose of that hearing was to examine what remains to be done to compensate Holocaust survivors and their heirs for the insurance policies, now that the decade-long compensation process undertaken by the International Commission on Holocaust Era Insurance Claim, ICHEIC, has ceased operations and paid out some $306 million to 48,000 Holocaust victims and their heirs for Holocaust-era insurance policies that belonged to them and never were paid.

While Western European countries and insurance companies participated in and contributed to ICHEIC, there was undisputed testimony at the hearing that Eastern European countries and companies did not and should be called upon to compensate Holocaust survivors for the unpaid value of their insurance policies.

Millions of Jews lived in Eastern European countries before the war. While many of them lived in rural areas and were too poor to afford insurance, there were certainly Jews who purchased insurance policies from subsidiaries of Western European companies whose assets were taken by the communist governments that came into power, or by Eastern European companies that were nationalized. Unfortunately, the Eastern European countries neither participated in ICHEIC nor contributed to any of the insurance compensation efforts that have taken place. ICHEIC nonetheless paid claims on those Eastern European policies from out of the humanitarian funds that were contributed by the ICHEIC companies, ultimately distributing $31 million on more than 2,800 such claims.

Unfortunately, Eastern European countries have not taken nearly enough action on restitution for insurance and other private and communal property taken from Jews and other victims of Nazi persecution, and then seized by the communist governments that ruled Eastern Europe after the war. Poland, for example, is the sole member of the Organization for Security and Cooperation in Europe not to have enacted property restitution legislation. And Lithuania has yet to enact promised legislation to compensate communities that had communal and religious property seized. This is unacceptable.

The resolution I am introducing today urges countries in Eastern Europe to enact fair and comprehensive private and communal property restitution legislation addressing the unjust taking of property by Nazi, communist, and socialist regimes, and to do so as quickly as possible. Given that the youngest Holocaust survivors are in their 70s, time is of the essence.

Our resolution calls for the Secretary of State to engage in dialogue to achieve the aims of the resolution as well as for the convening of an international intergovernmental conference to focus on the remaining steps necessary to secure restitution and compensation of Holocaust-era assets.

The resolution received overwhelming support from the survivor community when it was introduced last year. Following the hearing, Holocaust survivors were notified of our intent to file this resolution and asked to provide input via e-mail. Over the space of 6 weeks, we received more than 200 messages from Holocaust survivors and their children and relatives now living in nations around the world, supporting restitution. Many e-mails addressed specific claims to property in Eastern European countries including Croatia, Czech Republic, Hungary, Latvia, Lithuania, Poland, Romania, Serbia, Slovakia, and Ukraine.

The following message of support from one Holocaust survivor exemplifies the many heart-rending and compelling e-mails I received, recounting what was lost by survivors who had lived in Eastern Europe and their inability thus far to obtain restitution or compensation:

I support your efforts to secure property restitution in Eastern Europe for Holocaust Survivors.

With my family, I was expelled from our apartment in Lodz, Poland on December 11, 1939. We were allowed to take with us only 3 rucksacks and all our material belongings had to be left behind. These included a newly built apartment block with 10 luxury flats, a textile factory employing over 100 people and magazines full of finished fabrics.

My mother and I survived the Warsaw ghetto, my father was killed by the Germans in December 1944 and we returned to Lodz after liberation by the Russians in early 1945. Our factory and our apartment belonged now to the Polish authorities. We left Poland soon afterwards.

After the collapse of the Iron Curtain and the communist regime, I tried [to] get our possessions back without success, my appeal having been dismissed by the Polish High Court. No compensation was offered.

We hope the resolution we are introducing today will spur our own government and governments in Eastern Europe into action and call attention to this important unfinished business. The Prague Conference offers what may be the last time that a foundation can be laid for significant progress. Justice and memory demand nothing less.

SENATE RESOLUTION 154—HONORING THE ENTREPRENEURIAL SPIRIT OF SMALL BUSINESS CONCERNS IN THE UNITED STATES DURING NATIONAL SMALL BUSINESS WEEK, BEGINNING MAY 17, 2009

Ms. LANDRIEU (for herself, Ms. SNOWE, Mr. CARDIN, Mr. KERRY, Mrs. SHAHEEN, Mr. WICKER, Ms. CANTWELL, and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 154

Whereas the approximately 27,200,000 small business concerns in the United States are the driving force behind the Nation's economy, creating more than 93 percent of all net new jobs and generating more than 50 percent of the Nation's non-farm gross domestic product;

Whereas small businesses play an integral role in rebuilding the Nation's economy;

Whereas Congress has emphasized the importance of small businesses by improving access to capital through the American Recovery and Reinvestment Act of 2009;

Whereas small business concerns are the Nation's innovators, serving to advance technology and productivity;

Whereas small business concerns represent 97 percent of all exporters and produce 29 percent of exported goods;

Whereas Congress established the Small Business Administration in 1953 to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free and competitive enterprise, to ensure that a fair proportion of the total purchases, contracts, and subcontracts for property and services for the Federal Government are placed with small business concerns, to make certain that a fair proportion of the total sales of Government property are made to such small business concerns, and to

maintain and strengthen the overall economy of the Nation;

Whereas the Small Business Administration has helped small business concerns with access to critical lending opportunities, protected small business concerns from excessive Federal regulatory enforcement, played a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small business concerns compete;

Whereas for over 50 years, the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business concern and has played a key role in fostering economic growth; and

Whereas the President has designated the week beginning May 17, 2009, as ''National Small Business Week'': Now, therefore, be it

Resolved, That the Senate—

(1) honors the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009;

(2) applauds the efforts and achievements of the owners of small business concerns and their employees, whose hard work and commitment to excellence have made them a key part of the Nation's economic vitality;

(3) recognizes the work of the Small Business Administration and its resource partners in providing assistance to entrepreneurs and small business concerns; and

(4) strongly urges the President to take steps to ensure that—

(A) the applicable procurement goals for small business concerns, including the goals for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, HUBZone small business concerns, and socially and economically disadvantaged small business concerns, are reached by all Federal agencies;

(B) guaranteed loans, microloans, and venture capital, for start-up and growing small business concerns, are made available to all qualified small business concerns;

(C) the management assistance programs delivered by resource partners on behalf of the Small Business Administration, such as small business development centers, women's business centers, veterans business outreach centers, and the Service Corps of Retired Executives, are provided with the Federal resources necessary to do their jobs;

(D) reforms to the disaster loan program of the Small Business Administration are implemented as quickly as possible;

(E) tax policy spurs small business growth, creates jobs, and increases competitiveness;

(F) the Federal Government reduces the regulatory compliance burden on small businesses; and

(G) broader health reforms efforts address the specific needs of small businesses and the self-employed in providing quality and affordable health insurance coverage to their employees.

SENATE CONCURRENT RESOLUTION 23—SUPPORTING THE GOALS AND OBJECTIVES OF THE PRAGUE CONFERENCE ON HOLOCAUST ERA ASSETS

Mr. CARDIN (for himself, Mr. LUGAR, and Mr. NELSON of Florida) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 23

Whereas the Government of the Czech Republic will host the Conference on Holocaust Era Assets in Prague from June 26, 2009, through June 30, 2009 (in this preamble referred to as the ''Prague Conference'');

Whereas the Prague Conference will facilitate a review of the progress made since the 1998 Washington Conference on Holocaust Era Assets, in which 44 countries, 13 non-governmental organizations, and numerous scholars and Holocaust survivors participated;

Whereas a high-level United States delegation participated in the Washington Conference, led by then-Under Secretary of State for Economic, Business and Agricultural Affairs Stuart Eizenstat, Nobel Peace Laureate Elie Wiesel, Federal Judge Abner Mikva, senior diplomats, and a bipartisan group of Members of Congress;

Whereas then-Secretary of State Madeleine Albright delivered the keynote address at the Washington Conference, articulating the commitment of the United States to Holocaust survivors and urging conference participants to ''chart a course for finishing the job of returning or providing compensation for stolen Holocaust assets to survivors and the families of Holocaust victims'';

Whereas the Prague Conference is expected to review the issues agreed on at the Washington Conference, including issues relating to financial assets, bank accounts, insurance, and other financial properties;

Whereas the Prague Conference is expected to include a special session on social programs for Holocaust survivors and other victims of Nazi atrocities;

Whereas at the Prague Conference, working groups are expected to convene to discuss Holocaust education, remembrance and research, looted art, Judaica and Jewish cultural property, and immovable property, including both private, religious, and communal property;

Whereas the participation and leadership of the United States at the highest level is critically important to ensure a successful outcome of the Prague Conference;

Whereas Congress supports further inclusion of Holocaust survivors and their advocates in the planning and proceedings of the Prague Conference;

Whereas the United States strongly supports the immediate return of, or just compensation for, property that was illegally confiscated by Nazi and Communist regimes;

Whereas many Holocaust survivors lack the means for even the most basic necessities, including proper housing and health care;

Whereas the United States and the international community have a moral obligation to uphold and defend the dignity of Holocaust survivors and to ensure their well-being;

Whereas the Prague Conference is a critical forum for effectively addressing the increasing economic, social, housing, and health care needs of Holocaust survivors in their waning years;

Whereas then-Senator Barack Obama, during his visit in July 2008 to the Yad Vashem Holocaust Memorial in Israel, stated, ''Let our children come here and know this history so they can add their voices to proclaim 'never again.' And may we remember those who perished, not only as victims but also as individuals who hoped and loved and dreamed like us and who have become symbols of the human spirit.''; and

Whereas the Prague Conference may represent the last opportunity for the international community to address outstanding Holocaust-era issues: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) supports the goals and objectives of the 2009 Prague Conference on Holocaust Era Assets;

(2) applauds the Government of the Czech Republic for hosting the Prague Conference and for its unwavering commitment to addressing outstanding Holocaust-era issues;

(3) applauds the countries participating in the Prague Conference for the decision to seek justice for Holocaust survivors and to promote Holocaust remembrance and education;

(4) expresses strong support for the decision by those countries to make the economic, social, housing, and health care needs of Holocaust survivors a major focus of the Prague Conference, especially in light of the advanced age of the survivors, whose needs must be urgently addressed;

(5) urges countries in Central and Eastern Europe that have not already done so—

(A) to return to the rightful owner any property that was wrongfully confiscated or transferred to a non-Jewish individual; or

(B) if return of such property is no longer possible, to pay equitable compensation to the rightful owner in accordance with principles of justice and through an expeditious claims-driven administrative process that is just, transparent, and fair;

(6) urges all countries to make a priority of returning to Jewish communities any religious or communal property that was stolen as a result of the Holocaust;

(7) calls on all countries to facilitate the use of the Washington Conference Principles on Nazi-Confiscated Art, agreed to December 3, 1998, in settling all claims involving publically and privately held objects;

(8) calls on the President to send a high-level official, such as the Secretary of State or an appropriate designee, to represent the United States at the Prague Conference; and

(9) urges other invited countries to participate at a similarly high level.

Mr. CARDIN. Mr. President, today I am introducing a resolution to support the goals and objectives of the Prague Conference on Holocaust Era Assets.

The Prague Conference, which will be held June 26 through June 30, will serve as a forum to review the achievements of the 1998 Washington Conference on Holocaust Era Assets. That meeting brought together 44 nations, 13 nongovernmental organizations, scholars, and Holocaust survivors, and helped channel the political will necessary to address looted art, insurance claims, communal property, and archival issues. The conference also examined the role of historical commissions and Holocaust education, remembrance, and research. While the Washington Conference was enormously useful, more can and should be done in all of these areas. Accordingly, the Prague Conference provides an important opportunity to identify specific additional steps that countries can still take.

I would like to highlight just a couple of examples that, in my view, underscore the need to get more done.

First I would like to mention the case of Martha Nierenberg's looted family artwork in Hungary. In a nutshell, Ms. Nierenberg's family had extensive property stolen by the Nazis, including some artwork. When the communists came along, they took additional Nierenberg family property, and the artwork found its way into the museums of the Hungarian communist regime.

Under the terms of a foreign claims settlement agreement between the United States and Hungary, the Nierenberg family received limited compensation for some, but not all, of the stolen property. That agreement provided that the Nierenberg family was free to seek compensation for or restitution of other stolen property.

In 1997, a Hungarian government committee affirmed that two Hungarian government museums possessed artwork belonging to the Nierenberg family. Unfortunately, to this day, it remains in these museums. As I have asked before, why would the Hungarian government insist on retaining custody of artwork stolen by the Nazis when it could return it to its rightful owner? It is entirely within the Hungarian government's capacity to make this gesture, and I still hope that they will do so—especially bearing in mind Hungary's own efforts to recover looted art from other countries.

Second, I deeply regret that the question of private property compensation in Poland is still a necessary topic of discussion. Poland is singular in that it is the only country in central Europe that has not adopted any general private property compensation or restitution law.

I know a draft private property compensation bill is currently being considered by the Polish Government. I also know that, in the 20 years since the fall of communism, Poland has tabled roughly half a dozen bills on this—all of which have failed. It would be great to see meaningful movement on this before the meeting in Prague, but this will not come about without meaningful leadership from both the government and the parliament.

Finally, when I was in the Czech Republic last year, I expressed my disappointment to Czech officials, including to Jan Kohout who was just appointed Foreign Minister on May, that the Czech framework for making a property restitution claim effectively excludes those who fled Czechoslovakia and received both refuge and citizenship in the U.S. The United Nations Human Rights Committee has repeatedly argued that this violates the nondiscrimination provision of the International Covenant on Civil and Political Rights. This could be fixed, I believe, by re-opening the deadline for filing claims, as Czech parliamentarians Jiri Karas and Pavel Tollner recommended as long ago as 1999.

The Holocaust left a scar that will not be removed by the Prague conference. But this upcoming gathering provides an opportunity for governments to make tangible and meaningful progress in addressing this painful chapter of history. I commend the Czech Republic for taking on the leadership of organizing this meeting and urge President Obama to send a high-level U.S. official to represent the U.S. at the conference.

I am honored that the senior Senator from Indiana, who is the Ranking Member of the Senate Foreign Relations Committee, is cosponsoring this resolution, as is the senior Senator from Florida.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1130. Mr. DODD proposed an amendment to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

SA 1131. Mr. INOUYE (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

SA 1132. Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. DEMINT, Mr. JOHANNS, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. HUTCHISON, Mr. BENNETT, Mr. HATCH, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1133. Mr. INOUYE (for himself, Mr. INHOFE, Mr. SHELBY, Mr. BROWNBACK, Mr. ENZI, and Mr. ROBERTS) proposed an amendment to the bill H.R. 2346, supra.

SA 1134. Mr. SHELBY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1135. Mr. SHELBY (for himself, Mr. ALEXANDER, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1136. Mr. MCCONNELL proposed an amendment to the bill H.R. 2346, supra.

SA 1137. Mr. INOUYE proposed an amendment to the bill H.R. 2346, supra.

SA 1138. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1139. Mr. CORNYN proposed an amendment to the bill H.R. 2346, supra.

SA 1140. Mr. BROWNBACK proposed an amendment to the bill H.R. 2346, supra.

SA 1141. Ms. LANDRIEU (for herself, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1142. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1143. Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1144. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1130. Mr. DODD proposed an amendment to amendment SA 1058 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill H.R. 627, to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes; as follows:

On page 3, beginning on line 17, strike ''(other than'' and all that follows through ''indexed)'' on line 21 and insert the following: ''(except in the case of an increase described in paragraph (1), (2), or (3) of section 171(b))''.

On page 6, strike lines 9 through 12 and insert the following:

(2) an increase in a variable annual percentage rate in accordance with a credit card agreement that provides for changes in the rate according to operation of an index that is not under the control of the creditor and is available to the general public;

On page 6, line 13, insert ''the completion of a workout or temporary hardship arrangement by the obligor or'' after ''due to''.

On page 6, line 15, strike ''provided that the'' and insert the following: ''provided that—

''(A) the''.

On page 6, line 20, strike ''; or'' and insert the following: ''; and

(B) the creditor has provided the obligor, prior to the commencement of such arrangement, with clear and conspicuous disclosure of the terms of the arrangement (including any increases due to such completion or failure); or

On page 7, line 7, insert ''on time'' after ''payments''.

On page 7, line 12, insert ''on time'' after ''payments''.

On page 10, line 13, strike ''or (2)'' and insert '', (2), (3), or (4)''.

On page 12, line 15, strike ''limit-fee'' and insert ''limit fee''.

On page 14, between lines 12 and 13, insert the following:

(7) RESTRICTION ON FEES CHARGED FOR AN OVER-THE-LIMIT TRANSACTION.—With respect to a credit card account under an open end consumer credit plan, an over-the-limit fee may be imposed only once during a billing cycle if the credit limit on the account is exceeded, and an over-the-limit fee, with respect to such excess credit, may be imposed only once in each of the 2 subsequent billing cycles, unless the consumer has obtained an additional extension of credit in excess of such credit limit during any such subsequent cycle or the consumer reduces the outstanding balance below the credit limit as of the end of such billing cycle.

On page 15, line 10, strike ''over the limit'' and insert ''over-the-limit''.

On page 27, strike line 3 and all that follows through page 30, line 12 and insert the following:

(c) GUIDELINES REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Board shall issue guidelines, by rule, in consultation with the Secretary of the Treasury, for the establishment and maintenance by creditors of a toll-free telephone number for purposes of providing information about accessing credit counseling and debt management services, as required under section 127(b)(11)(B)(iv) of the Truth in Lending Act, as added by this section.

(2) APPROVED AGENCIES.—Guidelines issued under this subsection shall ensure that referrals provided by the toll-free number referred to in paragraph (1) include only those nonprofit budget and credit counseling agencies approved by a United States bankruptcy trustee pursuant to section 111(a) of title 11, United States Code.

At the end of title I, add the following:

SEC. 109. CONSIDERATION OF ABILITY TO REPAY.

(a) IN GENERAL.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1666 et seq.), as amended by this title, is amended by adding at the end the following:

"SEC. 150. CONSIDERATION OF ABILITY TO REPAY.

''A card issuer may not open any credit card account for any consumer under an open end consumer credit plan, or increase any credit limit applicable to such account, unless the card issuer considers the ability of the consumer to make the required payments under the terms of such account.''.

(b) CLERICAL AMENDMENT.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended in the table of sections for the chapter, by adding at the end the following:

''150. Consideration of ability to repay.''.

At the end of title II, add the following:

SEC. 205. PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.

(a) PREVENTING DECEPTIVE MARKETING.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended by adding at the end the following:

''(g) PREVENTION OF DECEPTIVE MARKETING OF CREDIT REPORTS.—

''(1) IN GENERAL.—Subject to rulemaking pursuant to section 205(b) of the Credit CARD Act of 2009, any advertisement for a free credit report in any medium shall prominently disclose in such advertisement that free credit reports are available under Federal law at: 'AnnualCreditReport.com' (or such other source as may be authorized under Federal law).

''(2) TELEVISION AND RADIO ADVERTISEMENT.—In the case of an advertisement broadcast by television, the disclosures required under paragraph (1) shall be included in the audio and visual part of such advertisement. In the case of an advertisement broadcast by television or radio, the disclosure required under paragraph (1) shall consist only of the following: 'This is not the free credit report provided for by federal law.' ''.

(b) RULEMAKING.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall issue a final rule to carry out this section.

(2) CONTENT.—The rule required by this subsection—

(A) shall include specific wording to be used in advertisements in accordance with this section; and

(B) for advertisements on the Internet, shall include whether the disclosure required under section 612(g)(1) of the Fair Credit Reporting Act (as added by this section) shall appear on the advertisement or the website on which the free credit report is made available.

(3) INTERIM DISCLOSURES.—If an advertisement subject to section 612(g) of the Fair Credit Reporting Act, as added by this section, is made public after the 9-month deadline specified in paragraph (1), but before the rule required by paragraph (1) is finalized, such advertisement shall include the disclosure: ''Free credit reports are available under Federal law at: 'AnnualCreditReport.com'.''.

At the end of title III, add the following:

SEC. 304. PRIVACY PROTECTIONS FOR COLLEGE STUDENTS.

Section 140 of the Truth in Lending Act (15 U.S.C. 1650) is amended by adding at the end the following:

''(f) CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.—

''(1) DISCLOSURE REQUIRED.—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

''(2) INDUCEMENTS PROHIBITED.—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

''(A) on the campus of an institution of higher education;

''(B) near the campus of an institution of higher education, as determined by rule of the Board; or

''(C) at an event sponsored by or related to an institution of higher education.

''(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

''(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

''(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

''(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.''.

SEC. 305. COLLEGE CREDIT CARD AGREEMENTS.

(a) IN GENERAL.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637), as otherwise amended by this Act, is amended by adding at the end the following:

''(r) COLLEGE CARD AGREEMENTS.—

''(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) COLLEGE AFFINITY CARD.—The term 'college affinity card' means a credit card issued by a credit card issuer under an open end consumer credit plan in conjunction with an agreement between the issuer and an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, under which such cards are issued to college students who have an affinity with such institution, organization and—

''(i) the creditor has agreed to donate a portion of the proceeds of the credit card to the institution, organization, or foundation (including a lump sum or 1-time payment of money for access);

''(ii) the creditor has agreed to offer discounted terms to the consumer; or

''(iii) the credit card bears the name, emblem, mascot, or logo of such institution, organization, or foundation, or other words, pictures, or symbols readily identified with such institution, organization, or foundation.

''(B) COLLEGE STUDENT CREDIT CARD ACCOUNT.—The term 'college student credit card account' means a credit card account under an open end consumer credit plan established or maintained for or on behalf of any college student.

''(C) COLLEGE STUDENT.—The term 'college student' means an individual who is a full-time or a part-time student attending an institution of higher education.

''(D) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the same meaning as in section 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002).

''(2) REPORTS BY CREDITORS.—

''(A) IN GENERAL.—Each creditor shall submit an annual report to the Board containing the terms and conditions of all business, marketing, and promotional agreements and college affinity card agreements with an institution of higher education, or an alumni organization or foundation affiliated with or related to such institution, with respect to any college student credit card issued to a college student at such institution.

''(B) DETAILS OF REPORT.—The information required to be reported under subparagraph (A) includes—

''(i) any memorandum of understanding between or among a creditor, an institution of higher education, an alumni association, or foundation that directly or indirectly relates to any aspect of any agreement referred to in such subparagraph or controls or directs any obligations or distribution of benefits between or among any such entities;

''(ii) the amount of any payments from the creditor to the institution, organization, or foundation during the period covered by the report, and the precise terms of any agreement under which such amounts are determined; and

''(iii) the number of credit card accounts covered by any such agreement that were opened during the period covered by the report, and the total number of credit card accounts covered by the agreement that were outstanding at the end of such period.

''(C) AGGREGATION BY INSTITUTION.—The information required to be reported under subparagraph (A) shall be aggregated with respect to each institution of higher education or alumni organization or foundation affiliated with or related to such institution.

''(D) INITIAL REPORT.—The initial report required under subparagraph (A) shall be submitted to the Board before the end of the 9-month period beginning on the date of enactment of this subsection.

''(3) REPORTS BY BOARD.—The Board shall submit to the Congress, and make available to the public, an annual report that lists the information concerning credit card agreements submitted to the Board under paragraph (2) by each institution of higher education, alumni organization, or foundation.''.

(b) STUDY AND REPORT BY THE COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the United States shall, from time to time, review the reports submitted by creditors under section 127(r) of the Truth in Lending Act, as added by this section, and the marketing practices of creditors to determine the impact that college affinity card agreements and college student card agreements have on credit card debt.

(2) REPORT.—Upon completion of any study under paragraph (1), the Comptroller General shall periodically submit a report to the Congress on the findings and conclusions of the study, together with such recommendations for administrative or legislative action as the Comptroller General determines to be appropriate.

On page 40, line 6, strike ''or'' at the end.

On page 40, line 8, strike the period and insert the following: ''; or

(vi) redeemable solely for admission to events or venues at a particular location or group of affiliated locations, which may also include services or goods obtainable—

(I) at the event or venue after admission; or

(II) in conjunction with admission to such events or venues, at specific locations affiliated with and in geographic proximity to the event or venue.

On page 42, line 5, insert ''or vendor'' after ''issuer''.

On page 43, strike lines 9 through 11 and insert the following:

(B) the terms of expiration are clearly and conspicuously stated.

On page 43, line 13, strike ''shall prescribe'' and insert the following: ''shall—

''(A) prescribe''.

On page 43, line 19, strike ''of gift'' and insert ''of a gift''.

On page 43, beginning on line 21, strike ''assessed.'' and insert the following: ''assessed; and

''(B) shall determine the extent to which the individual definitions and provisions of

the Electronic Fund Transfer Act or Regulation E should apply to general-use prepaid cards, gift certificates, and store gift cards.''.

On page 46, strike line 16 and all that follows through page 48, line 6, and insert the following:

SEC. 502. BOARD REVIEW OF CONSUMER CREDIT PLANS AND REGULATIONS.

(a) REQUIRED REVIEW.—Not later than 2 years after the effective date of this Act and every 2 years thereafter, except as provided in subsection (c)(2), the Board shall conduct a review, within the limits of its existing resources available for reporting purposes, of the consumer credit card market, including—

(1) the terms of credit card agreements and the practices of credit card issuers;

(2) the effectiveness of disclosure of terms, fees, and other expenses of credit card plans;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans; and

(4) whether or not, and to what extent, the implementation of this Act and the amendments made by this Act has affected—

(A) cost and availability of credit, particularly with respect to non-prime borrowers;

(B) the safety and soundness of credit card issuers;

(C) the use of risk-based pricing; or

(D) credit card product innovation.

(b) SOLICITATION OF PUBLIC COMMENT.—In connection with conducting the review required by subsection (a), the Board shall solicit comment from consumers, credit card issuers, and other interested parties, such as through hearings or written comments.

(c) REGULATIONS.—

(1) NOTICE.—Following the review required by subsection (a), the Board shall publish a notice in the Federal Register that—

(A) summarizes the review, the comments received from the public solicitation, and other evidence gathered by the Board, such as through consumer testing or other research; and

(B) either—

(i) proposes new or revised regulations or interpretations to update or revise disclosures and protections for consumer credit cards, as appropriate; or

(ii) states the reason for the determination of the Board that new or revised regulations are not necessary.

(2) REVISION OF REVIEW PERIOD FOLLOWING MATERIAL REVISION OF REGULATIONS.—In the event that the Board materially revises regulations on consumer credit card plans, a review need not be conducted until 2 years after the effective date of the revised regulations, which thereafter shall be treated as the new date for the biennial review required by subsection (a).

(d) BOARD REPORT TO THE CONGRESS.—The Board shall report to Congress not less frequently than every 2 years, except as provided in subsection (c)(2), on the status of its most recent review, its efforts to address any issues identified from the review, and any recommendations for legislation.

(e) ADDITIONAL REPORTING.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) and the Federal Trade Commission shall provide annually to the Board, and the Board shall include in its annual report to Congress under section 10 of the Federal Reserve Act, information about the supervisory and enforcement activities of the agencies with respect to compliance by credit card issuers with applicable Federal consumer protection statutes and regulations, including—

(1) this Act, the amendments made by this Act, and regulations prescribed under this Act and such amendments; and

(2) section 5 of the Federal Trade Commission Act, and regulations prescribed under the Federal Trade Commission Act, including part 227 of title 12 of the Code of Federal Regulations, as prescribed by the Board (referred to as ''Regulation AA'').

At the end of title V, add the following:

SEC. 503. STORED VALUE.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, shall issue regulations in final form implementing the Bank Secrecy Act, regarding the sale, issuance, redemption, or international transport of stored value, including stored value cards.

(b) CONSIDERATION OF INTERNATIONAL TRANSPORT.—Regulations under this section regarding international transport of stored value may include reporting requirements pursuant to section 5316 of title 31, United States Code.

(c) EMERGING METHODS FOR TRANSMITTAL AND STORAGE IN ELECTRONIC FORM.—Regulations under this section shall take into consideration current and future needs and methodologies for transmitting and storing value in electronic form.

SEC. 504. PROCEDURE FOR TIMELY SETTLEMENT OF ESTATES OF DECEDENT OBLIGORS.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

''§ 140A Procedure for timely settlement of estates of decedent obligors

''The Board, in consultation with the Federal Trade Commission and each other agency referred to in section 108(a), shall prescribe regulations to require any creditor, with respect to any credit card account under an open end consumer credit plan, to establish procedures to ensure that any administrator of an estate of any deceased obligor with respect to such account can resolve outstanding credit balances in a timely manner.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 140 the following new item:

''140A. Procedure for timely settlement of estates of decedent obligors'.''.

SEC. 505. REPORT TO CONGRESS ON REDUCTIONS OF CONSUMER CREDIT CARD LIMITS BASED ON CERTAIN INFORMATION AS TO EXPERIENCE OR TRANSACTIONS OF THE CONSUMER.

(a) REPORT ON CREDITOR PRACTICES REQUIRED.—Before the end of the 1-year period beginning on the date of enactment of this Act, the Board, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Trade Commission, shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the extent to which, during the 3-year period ending on such date of enactment, creditors have reduced credit limits or raised interest rates applicable to credit card accounts under open end consumer credit plans based on—

(1) the geographic location where a credit transaction with the consumer took place, or the identity of the merchant involved in the transaction;

(2) the credit transactions of the consumer, including the type of credit transaction, the type of items purchased in such transaction, the price of items purchased in such transaction, any change in the type or price of items purchased in such transactions, and other data pertaining to the use of such credit card account by the consumer; and

(3) the identity of the mortgage creditor which extended or holds the mortgage loan secured by the primary residence of the consumer.

(b) OTHER INFORMATION.—The report required under subsection (a) shall also include—

(1) the number of creditors that have engaged in the practices described in subsection (a);

(2) the extent to which the practices described in subsection (a) have an adverse impact on minority or low-income consumers;

(3) any other relevant information regarding such practices; and

(4) recommendations to the Congress on any regulatory or statutory changes that may be needed to restrict or prevent such practices.

SEC. 506. BOARD REVIEW OF SMALL BUSINESS CREDIT PLANS AND RECOMMENDATIONS.

(a) REQUIRED REVIEW.—Not later than 9 months after the date of enactment of this Act, the Board shall conduct a review of the use of credit cards by businesses with not more than 50 employees (in this section referred to as ''small businesses'') and the credit card market for small businesses, including—

(1) the terms of credit card agreements for small businesses and the practices of credit card issuers relating to small businesses;

(2) the adequacy of disclosures of terms, fees, and other expenses of credit card plans for small businesses;

(3) the adequacy of protections against unfair or deceptive acts or practices relating to credit card plans for small businesses;

(4) the cost and availability of credit for small businesses, particularly with respect to non-prime borrowers;

(5) the use of risk-based pricing for small businesses;

(6) credit card product innovation relating to small businesses; and

(7) the extent to which small business owners use personal credit cards to fund their business operations.

(b) RECOMMENDATIONS.—Following the review required by subsection (a), the Board shall, not later than 12 months after the date of enactment of this Act—

(1) provide a report to Congress that summarizes the review and other evidence gathered by the Board, such as through consumer testing or other research, and

(2) make recommendations for administrative or legislative initiatives to provide protections for credit card plans for small businesses, as appropriate.

SEC. 507. SMALL BUSINESS INFORMATION SECURITY TASK FORCE.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(3) the term ''task force'' means the task force established under subsection (b).

(b) ESTABLISHMENT.—The Administrator shall, in conjunction with the Secretary of Homeland Security, establish a task force, to be known as the ''Small Business Information Security Task Force'', to address the information technology security needs of small business concerns and to help small business concerns prevent the loss of credit card data.

(c) DUTIES.—The task force shall—

(1) identify—

(A) the information technology security needs of small business concerns; and

(B) the programs and services provided by the Federal Government, State Governments, and nongovernment organizations that serve those needs;

(2) assess the extent to which the programs and services identified under paragraph (1)(B) serve the needs identified under paragraph (1)(A);

(3) make recommendations to the Administrator on how to more effectively serve the needs identified under paragraph (1)(A) through—

(A) programs and services identified under paragraph (1)(B); and

(B) new programs and services promoted by the task force;

(4) make recommendations on how the Administrator may promote—

(A) new programs and services that the task force recommends under paragraph (3)(B); and

(B) programs and services identified under paragraph (1)(B);

(5) make recommendations on how the Administrator may inform and educate with respect to—

(A) the needs identified under paragraph (1)(A);

(B) new programs and services that the task force recommends under paragraph (3)(B); and

(C) programs and services identified under paragraph (1)(B);

(6) make recommendations on how the Administrator may more effectively work with public and private interests to address the information technology security needs of small business concerns; and

(7) make recommendations on the creation of a permanent advisory board that would make recommendations to the Administrator on how to address the information technology security needs of small business concerns.

(d) INTERNET WEBSITE RECOMMENDATIONS.—The task force shall make recommendations to the Administrator relating to the establishment of an Internet website to be used by the Administration to receive and dispense information and resources with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B). As part of the recommendations, the task force shall identify the Internet sites of appropriate programs, services, and organizations, both public and private, to which the Internet website should link.

(e) EDUCATION PROGRAMS.—The task force shall make recommendations to the Administrator relating to developing additional education materials and programs with respect to the needs identified under subsection (c)(1)(A).

(f) EXISTING MATERIALS.—The task force shall organize and distribute existing materials that inform and educate with respect to the needs identified under subsection (c)(1)(A) and the programs and services identified under subsection (c)(1)(B).

(g) COORDINATION WITH PUBLIC AND PRIVATE SECTOR.—In carrying out its responsibilities under this section, the task force shall coordinate with, and may accept materials and assistance as it determines appropriate from, public and private entities, including—

(1) any subordinate officer of the Administrator;

(2) any organization authorized by the Small Business Act to provide assistance and advice to small business concerns;

(3) other Federal agencies, their officers, or employees; and

(4) any other organization, entity, or person not described in paragraph (1), (2), or (3).

(h) APPOINTMENT OF MEMBERS.—

(1) CHAIRPERSON AND VICE-CHAIRPERSON.—The task force shall have—

(A) a Chairperson, appointed by the Administrator; and

(B) a Vice-Chairperson, appointed by the Administrator, in consultation with appropriate nongovernmental organizations, entities, or persons.

(2) MEMBERS.—

(A) CHAIRPERSON AND VICE-CHAIRPERSON.—The Chairperson and the Vice-Chairperson shall serve as members of the task force.

(B) ADDITIONAL MEMBERS.—

(i) IN GENERAL.—The task force shall have additional members, each of whom shall be appointed by the Chairperson, with the approval of the Administrator.

(ii) NUMBER OF MEMBERS.—The number of additional members shall be determined by the Chairperson, in consultation with the Administrator, except that—

(I) the additional members shall include, for each of the groups specified in paragraph (3), at least 1 member appointed from within that group; and

(II) the number of additional members shall not exceed 13.

(3) GROUPS REPRESENTED.—The groups specified in this paragraph are—

(A) subject matter experts;

(B) users of information technologies within small business concerns;

(C) vendors of information technologies to small business concerns;

(D) academics with expertise in the use of information technologies to support business;

(E) small business trade associations;

(F) Federal, State, or local agencies, including the Department of Homeland Security, engaged in securing cyberspace; and

(G) information technology training providers with expertise in the use of information technologies to support business.

(4) POLITICAL AFFILIATION.—The appointments under this subsection shall be made without regard to political affiliation.

(i) MEETINGS.—

(1) FREQUENCY.—The task force shall meet at least 2 times per year, and more frequently if necessary to perform its duties.

(2) QUORUM.—A majority of the members of the task force shall constitute a quorum.

(3) LOCATION.—The Administrator shall designate, and make available to the task force, a location at a facility under the control of the Administrator for use by the task force for its meetings.

(4) MINUTES.—

(A) IN GENERAL.—Not later than 30 days after the date of each meeting, the task force shall publish the minutes of the meeting in the Federal Register and shall submit to the Administrator any findings or recommendations approved at the meeting.

(B) SUBMISSION TO CONGRESS.—Not later than 60 days after the date that the Administrator receives minutes under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives such minutes, together with any comments the Administrator considers appropriate.

(5) FINDINGS.—

(A) IN GENERAL.—Not later than the date on which the task force terminates under subsection (m), the task force shall submit to the Administrator a final report on any findings and recommendations of the task force approved at a meeting of the task force.

(B) SUBMISSION TO CONGRESS.—Not later than 90 days after the date on which the Administrator receives the report under subparagraph (A), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the full text of the report submitted under subparagraph (A), together with any comments the Administrator considers appropriate.

(j) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the task force shall serve without pay for their service on the task force.

(2) TRAVEL EXPENSES.—Each member of the task force shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(3) DETAIL OF SBA EMPLOYEES.—The Administrator may detail, without reimbursement, any of the personnel of the Administration to the task force to assist it in carrying out the duties of the task force. Such a detail shall be without interruption or loss of civil status or privilege.

(4) SBA SUPPORT OF THE TASK FORCE.—Upon the request of the task force, the Administrator shall provide to the task force the administrative support services that the Administrator and the Chairperson jointly determine to be necessary for the task force to carry out its duties.

(k) NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the task force.

(l) STARTUP DEADLINES.—The initial appointment of the members of the task force shall be completed not later than 90 days after the date of enactment of this Act, and the first meeting of the task force shall be not later than 180 days after the date of enactment of this Act.

(m) TERMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the task force shall terminate at the end of fiscal year 2013.

(2) EXCEPTION.—If, as of the termination date under paragraph (1), the task force has not complied with subsection (i)(4) with respect to 1 or more meetings, then the task force shall continue after the termination date for the sole purpose of achieving compliance with subsection (i)(4) with respect to those meetings.

(n) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000 for each of fiscal years 2010 through 2013.

SEC. 508. STUDY AND REPORT ON EMERGENCY PIN TECHNOLOGY.

(a) IN GENERAL.—The Federal Trade Commission, in consultation with the Attorney General of the United States and the United States Secret Service, shall conduct a study on the cost-effectiveness of making available at automated teller machines technology that enables a consumer that is under duress to electronically alert a local law enforcement agency that an incident is taking place at such automated teller machine, including—

(1) an emergency personal identification number that would summon a local law enforcement officer to an automated teller machine when entered into such automated teller machine; and

(2) a mechanism on the exterior of an automated teller machine that, when pressed, would summon a local law enforcement to such automated teller machine.

(b) CONTENTS OF STUDY.—The study required under subsection (a) shall include—

(1) an analysis of any technology described in subsection (a) that is currently available or under development;

(2) an estimate of the number and severity of any crimes that could be prevented by the availability of such technology;

(3) the estimated costs of implementing such technology; and

(4) a comparison of the costs and benefits of not fewer than 3 types of such technology.

(c) REPORT.—Not later than 9 months after the date of enactment of this Act, the Federal Trade Commission shall submit to Congress a report on the findings of the study required under this section that includes such recommendations for legislative action as the Commission determines appropriate.

SEC. 509. STUDY AND REPORT ON THE MARKETING OF PRODUCTS WITH CREDIT OFFERS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the terms, conditions, marketing, and value to consumers of products marketed in conjunction with credit card offers, including—

(1) debt suspension agreements;

(2) debt cancellation agreements; and

(3) credit insurance products.

(b) AREAS OF CONCERN.—The study conducted under this section shall evaluate—

(1) the suitability of the offer of products described in subsection (a) for target customers;

(2) the predatory nature of such offers; and

(3) specifically for debt cancellation or suspension agreements and credit insurance products, loss rates compared to more traditional insurance products.

(c) REPORT TO CONGRESS.—The Comptroller shall submit a report to Congress on the results of the study required by this section not later than December 31, 2010.

SEC. 510. FINANCIAL AND ECONOMIC LITERACY.

(a) REPORT ON FEDERAL FINANCIAL AND ECONOMIC LITERACY EDUCATION PROGRAMS.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy—

(A) to evaluate and compile a comprehensive summary of all existing Federal financial and economic literacy education programs, as of the time of the report; and

(B) to prepare and submit a report to Congress on the findings of the evaluations.

(2) CONTENTS.—The report required by this subsection shall address, at a minimum—

(A) the 2008 recommendations of the President's Advisory Council on Financial Literacy;

(B) existing Federal financial and economic literacy education programs for grades kindergarten through grade 12, and annual funding to support these programs;

(C) existing Federal postsecondary financial and economic literacy education programs and annual funding to support these programs;

(D) the current financial and economic literacy education needs of adults, and in particular, low- and moderate-income adults;

(E) ways to incorporate and disseminate best practices and high quality curricula in financial and economic literacy education; and

(F) specific recommendations on sources of revenue to support financial and economic literacy education activities with a specific analysis of the potential use of credit card transaction fees.

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—The Secretary of Education and the Director of the Office of Financial Education of the Department of the Treasury shall coordinate with the President's Advisory Council on Financial Literacy to develop a strategic plan to improve and expand financial and economic literacy education.

(2) CONTENTS.—The plan developed under this subsection shall—

(A) incorporate findings from the report and evaluations of existing Federal financial and economic literacy education programs under subsection (a); and

(B) include proposals to improve, expand, and support financial and economic literacy education based on the findings of the report and evaluations.

(3) PRESENTATION TO CONGRESS.—The plan developed under this subsection shall be presented to Congress not later than 6 months after the date on which the report under subsection (a) is submitted to Congress.

(c) EFFECTIVE DATE.—Notwithstanding section 3, this section shall become effective on the date of enactment of this Act.

SEC. 511. FEDERAL TRADE COMMISSION RULEMAKING ON MORTGAGE LENDING.

(a) IN GENERAL.—Section 626 of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended—

(1) in subsection (a)—

(A) by striking ''Within'' and inserting ''(1) Within'';

(B) in paragraph (1), as designated by subparagraph (A), by inserting after the first sentence the following: ''Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services.''; and

(C) by adding at the end the following:

''(2) Paragraph (1) shall not be construed to authorize the Federal Trade Commission to promulgate a rule with respect to an entity that is not subject to enforcement of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Commission.

''(3) Before issuing a final rule pursuant to the proceeding initiated under paragraph (1), the Federal Trade Commission shall consult with the Federal Reserve Board concerning any portion of the proposed rule applicable to acts or practices to which the provisions of the Truth in Lending Act (15 U.S.C. 1601 et seq.) may apply.

''(4) The Federal Trade Commission shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.''; and

(2) in subsection (b)—

(A) by striking so much as precedes paragraph (2) and inserting the following:

''(b)(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in a practice that violates such rule, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States or other court of competent jurisdiction—

''(A) to enjoin that practice;

''(B) to enforce compliance with the rule;

''(C) to obtain damages, restitution, or other compensation on behalf of residents of the State; or

''(D) to obtain penalties and relief provided by the Federal Trade Commission Act and such other relief as the court considers appropriate.''; and

(B) in paragraphs (2), (3), and (6), by striking ''Commission'' each place it appears and inserting ''primary Federal regulator''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on March 12, 2009.

SA 1131. Mr. INOUYE (for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, and for other purposes, namely:

TITLE I

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for ''Public Law 480 Title II Grants'', $700,000,000, to remain available until expended: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISION—THIS TITLE

SEC. 101. Notwithstanding any other provision of law, any amounts made available prior to the date of enactment of this Act to provide assistance under the emergency conservation program established under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 and 2202) that are unobligated as of the date of enactment of this Act shall be available to carry out any purpose under that program without fiscal year limitation: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(INCLUDING RESCISSION OF FUNDS)

SEC. 102. (a)(1) For an additional amount for gross obligations for the principal amount of direct farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, to be available from funds in the Agricultural Credit Insurance Fund, as follows: direct farm ownership loans, $360,000,000; and direct operating loans, $225,000,000.

(2) For an additional amount for the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: direct farm ownership loans, $22,860,000; and direct operating loans, $26,530,000.

(b) Of available unobligated discretionary balances from the Rural Development mission area carried forward from fiscal year 2008, $49,390,000 are hereby rescinded: *Provided*, That none of the amounts may be rescinded other than those from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(c) That the amount under this section is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for ''Economic Development Assistance Programs'', $40,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading shall be for the Trade Adjustment Assistance for Communities program as authorized by section 1872 of Public Law 111–5: *Provided further*, That

the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $30,000,000, to remain available until September 30, 2010: *Provided*, That funds provided in the previous proviso shall only be for carrying out Department of Justice responsibilities required by Executive Orders 13491, 13492, and 13493: *Provided further*, That the Attorney General shall submit to the Committees on Appropriations of the House and the Senate a detailed plan for expenditure of such funds no later than 30 days after enactment of this Act.

DETENTION TRUSTEE

For an additional amount for ''Detention trustee'', $60,000,000, to remain available until September 30, 2010.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for ''Salaries and expenses, general legal activities'', $1,648,000, to remain available until September 30, 2010.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for ''Salaries and expenses, United States attorneys'', $5,000,000, to remain available until September 30, 2010.

For an additional amount for ''Salaries and expenses, United States attorneys'', $10,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

UNITED STATES MARSHALS SERVICES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $10,000,000, to remain available until September 30, 2010.

NATIONAL SECURITY DIVISION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses,'' $1,389,000, to remain available until September 30, 2010.

FEDERAL BUREAU OF INVESTIGATIONS

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $35,000,000, to remain available until September 30, 2010: *Provided*, That the amount provided under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $20,000,000, to remain available until September 30, 2010.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $14,000,000, to remain available until September 30, 2010.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for ''Salaries and expenses'', $5,038,000, to remain available until September 30, 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 201. Unless otherwise specified, each amount in this title is designated as being for overseas deployment and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 202. None of the funds provided in this title shall be used to transfer, relocate, or incarcerate Guantanamo Bay detainees to or within the United States.

TITLE III

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for ''Military Personnel, Army'', $11,455,777,000.

MILITARY PERSONNEL, NAVY

For an additional amount for ''Military Personnel, Navy'', $1,565,227,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for ''Military Personnel, Marine Corps'', $1,464,353,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for ''Military Personnel, Air Force'', $1,469,173,000.

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $387,155,000.

RESERVE PERSONNEL, NAVY

For an additional amount for ''Reserve Personnel, Navy'', $39,478,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for ''Reserve Personnel, Marine Corps'', $29,179,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for ''Reserve Personnel, Air Force'', $14,943,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $1,542,333,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $46,860,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $13,933,801,000.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $2,337,360,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $1,037,842,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $5,992,125,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $5,065,783,000, of which:

(1) not to exceed $12,500,000 for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed $1,050,000,000, to remain available until expended, for payments to reimburse key cooperating nations, for logistical, military, and other support including access provided to United States military operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, notwithstanding any other provision of law: *Provided*, That such reimbursement payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph; and

(3) up to $50,000,000 shall be available, 30 days after the Secretary of Defense submits an expenditure plan to the congressional defense committees detailing the specific planned use of these funds, only to support the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base to locations outside of the United States, relocate military and support forces associated with detainee operations, and facilitate the closure of detainee facilities: *Provided*, That the Secretary of Defense shall certify in writing to the congressional defense committees, prior to transferring prisoners to foreign nations, that he has been assured by the receiving nation that the individual or individuals to be transferred will be retained in that nation's custody as long as they remain a threat to the national security interest of the United States: *Provided further*, That the funds in this paragraph available to provide assistance to foreign nations to facilitate the relocation and disposition of individuals detained at the Guantanamo Bay Naval Base are in addition to any other authority to provide assistance to foreign nations: *Provided further*, That these funds are available for transfer to any other appropriations accounts of the Department of Defense or, with the concurrence of the head of the relevant Federal department or agency, to any other Federal appropriations accounts to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for ''Operation and Maintenance, Army Reserve'', $110,017,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for ''Operation and Maintenance, Navy Reserve'', $25,569,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for ''Operation and Maintenance, Marine Corps Reserve'', $30,775,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for ''Operation and Maintenance, Air Force Reserve'', $34,599,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for ''Operation and Maintenance, Army National Guard'', $203,399,000.

AFGHANISTAN SECURITY FORCES FUND

For the ''Afghanistan Security Forces Fund'', $3,606,939,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Combined Security Transition Command—Afghanistan, or the Secretary's designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Afghanistan, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution, delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

IRAQ SECURITY FORCES FUND

For an additional amount for the ''Iraq Security Forces Fund'', $1,000,000,000, to remain available until September 30, 2011: *Provided*, That, not later than July 31, 2010, any remaining unobligated funds in this account shall be transferred to the Department of State to be available for the same purposes as provided herein.

PAKISTAN COUNTERINSURGENCY CAPABILITY FUND

(INCLUDING TRANSFER OF FUNDS)

There is hereby established in the Treasury of the United States the ''Pakistan Counterinsurgency Capability Fund''. For the ''Pakistan Counterinsurgency Capability Fund'', $400,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, notwithstanding any other provision of law, for the purpose of allowing the Commander, United States Central Command, or the Secretary's designee, to provide assistance to Pakistan's security forces; including program management and the provision of equipment, supplies, services, training, and funds; and facility and infrastructure repair, renovation, and construction to build the counterinsurgency capability of Pakistan's military and Frontier Corps, and of which up to $2,000,000 shall be available to assist the Government of Pakistan in creating a program to respond to urgent humanitarian relief and reconstruction requirements that will immediately assist Pakistani people affected by military operations: *Provided further*, That the authority to provide assistance under this provision is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such amounts as he may determine from the funds provided herein to appropriations for operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds: *Provided further*, That funds so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for ''Aircraft Procurement, Army'', $315,684,000, to remain available until September 30, 2011.

MISSILE PROCUREMENT, ARMY

For an additional amount for ''Missile Procurement, Army'', $737,041,000, to remain available until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for ''Procurement of Weapons and Tracked Combat Vehicles, Army'', $1,434,071,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for ''Procurement of Ammunition, Army'', $230,075,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, ARMY

For an additional amount for ''Other Procurement, Army'', $7,029,145,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for ''Aircraft Procurement, Navy'', $754,299,000, to remain available until September 30, 2011.

WEAPONS PROCUREMENT, NAVY

For an additional amount for ''Weapons Procurement, Navy'', $31,403,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for ''Procurement of Ammunition, Navy and Marine Corps'', $348,919,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, NAVY

For an additional amount for ''Other Procurement, Navy'', $207,181,000, to remain available until September 30, 2011.

PROCUREMENT, MARINE CORPS

For an additional amount for ''Procurement, Marine Corps'', $1,658,347,000, to remain available until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for ''Aircraft Procurement, Air Force'', $2,064,118,000, to remain available for obligation until September 30, 2011.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for ''Missile Procurement, Air Force'', $49,716,000, to remain available until September 30, 2011.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for ''Procurement of Ammunition, Air Force'', $138,284,000, to remain available until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for ''Other Procurement, Air Force'', $1,910,343,000, to remain available until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for ''Procurement, Defense-Wide'', $237,868,000, to remain available until September 30, 2011.

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $500,000,000, to remain available until September 30, 2011.

MINE RESISTANT AMBUSH PROTECTED VEHICLE FUND

(INCLUDING TRANSFER OF FUNDS)

For the ''Mine Resistant Ambush Protected Vehicle Fund'', $4,243,000,000, to remain available until September 30, 2010: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, to procure, sustain, transport, and field Mine Resistant Ambush Protected vehicles: *Provided further*, That the Secretary shall transfer such funds only to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for ''Research, Development, Test and Evaluation, Army'', $71,935,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount of ''Research, Development, Test and Evaluation, Navy'', $141,681,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount of ''Research, Development, Test and Evaluation, Air Force'', $174,159,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount of ''Research, Development, Test and Evaluation, Defense-Wide'', $498,168,000, to remain available until September 30, 2010.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for ''Defense Working Capital Funds'', $861,726,000, to remain available until expended.

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $909,297,000, of which $845,508,000 for operation and maintenance; of which $30,185,000, to remain available until September 30, 2011, for procurement; and of which $33,604,000, to remain available until September 30, 2010, for research, development, test and evaluation.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Drug Interdiction and Counter-Drug Activities, Defense'', $123,398,000, to remain available until September 30, 2010: *Provided*, That these funds may be used only for such activities related to Afghanistan, Pakistan, and Central Asia.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

For an additional amount for ''Joint Improvised Explosive Device Defeat Fund'', $1,116,746,000, to remain available until September 30, 2011.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for ''Office of the Inspector General'', $9,551,000.

GENERAL PROVISIONS—THIS TITLE

SEC. 301. Notwithstanding any other provision of law, funds made available in this title are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2009.

(INCLUDING TRANSFER OF FUNDS)

SEC. 302. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to $2,500,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2009, (Public Law 110–116) except for the fourth proviso.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 304. During fiscal year 2009 and from funds in the ''Defense Cooperation Account'', as established by 10 U.S.C. 2608, the Secretary of Defense may transfer not to exceed $6,500,000 to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided*, That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

SEC. 305. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance or ''Afghanistan Security Forces Fund'' provided in this title, and executed in direct support of the overseas contingency operations in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section, supervision and administration costs include all in-house Government costs.

SEC. 306. Funds made available in this title to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than $250,000: *Provided*, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than $500,000: *Provided further*, That the Secretary shall report to the Congress all purchases made pursuant to this authority within 30 days of using the authority.

SEC. 307. From funds made available in this title, the Secretary of Defense may purchase motor vehicles for use by military and civilian employees of the Department of Defense in Iraq and Afghanistan, up to a limit of $75,000 per vehicle, notwithstanding other limitations applicable to passenger carrying motor vehicles.

SEC. 308. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts: *Provided*, That none of the amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to a Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended:

''Procurement, Marine Corps, 2007/2009'', $54,400,000;

''Other Procurement, Army, 2008/2010'', $29,300,000;

''Procurement, Marine Corps, 2008/2010'', $10,300,000;

''Research, Development, Test and Evaluation, Navy, 2008/2009'', $5,000,000;

''Research, Development, Test and Evaluation, Air Force, 2008/2009'', $36,107,000;

''Research, Development, Test and Evaluation, Defense-Wide, 2008/2009'', $200,000,000;

''Operation and Maintenance, Army, 2009/2009'', $352,359,000;

''Operation and Maintenance, Navy, 2009/2009'', $881,481,000;

''Operation and Maintenance, Marine Corps, 2009/2009'', $54,466,000;

''Operation and Maintenance, Air Force, 2009/2009'', $925,203,000;

''Operation and Maintenance, Defense-Wide, 2009/2009'', $267,635,000;

''Operation and Maintenance, Army Reserve, 2009/2009'', $23,338,000;

''Operation and Maintenance, Navy Reserve, 2009/2009'', $62,910,000;

''Operation and Maintenance, Marine Corps Reserve, 2009/2009'', $1,250,000;

''Operation and Maintenance, Air Force Reserve, 2009/2009'', $163,786,000;

''Operation and Maintenance, Army National Guard, 2009/2009'', $57,819,000;

''Operation and Maintenance, Air National Guard, 2009/2009'', $250,645,000;

''Aircraft Procurement, Army, 2009/2011'', $11,500,000;

''Procurement of Ammunition, Army, 2009/2011'', $107,100,000;

''Other Procurement, Army, 2009/2011'', $195,000,000;

''Procurement, Marine Corps, 2009/2011'', $10,300,000;

''Procurement, Defense-Wide, 2009/2011'', $6,400,000;

''Research, Development, Test and Evaluation, Army, 2009/2010'', $202,710,000;

''Research, Development, Test and Evaluation, Navy, 2009/2010'', $270,260,000; and

''Research, Development, Test and Evaluation, Air Force, 2009/2010'', $392,567,000.

SEC. 309. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

SEC. 310. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2008 or 2009 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

SEC. 311. None of the funds appropriated or otherwise made available by this or any other Act shall be obligated or expended by the United States Government for the purpose of establishing any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

SEC. 312. (a) REPEAL OF SECRETARY OF DEFENSE REPORTS ON TRANSITION READINESS OF IRAQ AND AFGHAN SECURITY FORCES.—Subsection (a) of section 9205 of Public Law 110–252 (122 Stat. 2412) is repealed.

(b) MODIFICATION OF REPORTS ON USE OF CERTAIN SECURITY FORCES FUNDS.—

(1) PREPARATION IN CONSULTATION WITH COMMANDER OF CENTCOM.—Subsection (b)(1) of such section is amended by inserting ''the Commander of the United States Central Command;'' after ''the Secretary of Defense;''.

(2) PERIOD OF REPORTS.—Such subsection is further amended by striking ''not later than 120 days after the date of the enactment of this Act and every 90 days thereafter'' and inserting ''not later than 45 days after the end of each fiscal year quarter''.

(3) FUNDS COVERED BY REPORTS.—Such subsection is further amended by striking ''and 'Afghanistan Security Forces Fund''' and inserting '', 'Afghanistan Security Forces Fund', and 'Pakistan Counterinsurgency Capability Fund'''.

(c) NOTICE NEW PROJECTS AND TRANSFERS OF FUNDS.—Subsection (c) of such section is amended by striking ''the headings'' and all that follows and inserting ''the headings as follows:

''(1) 'Iraq Security Forces Fund'.

''(2) 'Afghanistan Security Forces Fund'.

''(3) 'Pakistan Counterinsurgency Capability Fund'.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 313. (a) Section 1174(h)(1) of title 10, United States Code, is amended to read as follows:

''(1) A member who has received separation pay under this section, or separation pay, severance pay, or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid.''.

(b) Section 1175(e)(3)(A) of title 10, United States Code, is amended to read as follows:

''(3)(A) A member who has received the voluntary separation incentive and who later qualifies for retired or retainer pay under this title shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary of Defense shall specify, taking into account the financial ability of the member to pay and avoiding the imposition of undue financial hardship on the member and member's dependents, until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay so paid. If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced as the Secretary of Defense shall specify.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any repayments of separation pay, severance pay, readjustment pay, special separation benefit, or voluntary separation incentive, that occur on or after the date of enactment, including any ongoing repayment actions that were initiated prior to this amendment.

SEC. 314. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE

For an additional amount for ''Operation and Maintenance'' to dredge navigation channels and repair damage to Corps projects nationwide related to natural disasters, $38,375,000, to remain available until expended: *Provided*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for ''Flood Control and Coastal Emergencies'', as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses relating to the consequences of natural disasters as authorized by law, $804,290,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use $315,290,000 of the funds appropriated under this heading to support emergency operations, repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided further*, That the Secretary of the Army is directed to use $489,000,000 of the amount provided under this heading for barrier island restoration and ecosystem restoration to restore historic levels of storm damage reduction to the Mississippi Gulf Coast: *Provided further*, That this work shall be carried out at full Federal expense: *Provided further*, That the Assistant Secretary of the Army for Civil Works shall provide a monthly report to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

STRATEGIC PETROLEUM RESERVE

(TRANSFER OF FUNDS)

For an additional amount for the ''Strategic Petroleum Reserve'' account, $21,585,723, to remain available until expended, to be derived by transfer from the ''SPR Petroleum Account'' for site maintenance activities: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount for ''Weapons Activities'', $34,500,000, to remain available until expended, to be divided among the three national security laboratories of Livermore, Sandia and Los Alamos to fund a sustainable capability to analyze nuclear and biological weapons intelligence: *Provided*, That the Director of National Intelligence shall provide a written report to the Senate Appropriations Committee, the Senate Armed Services Committee and the Senate Select Committee on Intelligence within 90 days of enactment on how the National Nuclear Security Administration will invest these resources in technical and core analytical capabilities: *Provided further*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for ''Defense Nuclear Nonproliferation'' in the National Nuclear Security Administration, $55,000,000, to remain available until expended, for the International Nuclear Materials Protection and Cooperation Program to counter emerging threats at nuclear facilities in Russia and other countries of concern through detecting and deterring insider threats through security upgrades: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

LIMITED TRANSFER AUTHORITY

SEC. 401. Section 403 of title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking all of the text and inserting the following:

''SEC. 403. LIMITED TRANSFER AUTHORITY.

''The Secretary of Energy may transfer up to 0.5 percent from each amount appropriated to the Department of Energy in this title to any other appropriate account within the Department of Energy, to be used for management and oversight activities: *Provided*, That the Secretary shall provide a report to the Committees on Appropriations of the House of Representatives and the Senate 15 days prior to any transfer: *Provided further*, That any funds so transferred under this section shall remain available for obligation until September 30, 2012.''.

WAIVER OF FEDERAL EMPLOYMENT REQUIREMENTS

SEC. 402. Section 4601(c)(1) of the Atomic Energy Defense Act (50 U.S.C. 2701(c)(1)) is amended by striking ''September 30, 2008'' and inserting ''September 30, 2009''.

CORPS OF ENGINEERS TECHNICAL FIX

SEC. 403. (a) IN GENERAL.—Section 3181 of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1158) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (4) through (11) as paragraphs (5), (6), (8), (9), (10), (11), (12), and (13), respectively;

(B) by inserting after paragraph (3) the following:

''(4) NORTHEAST HARBOR, MAINE.—The project for navigation, Northeast Harbor, Maine, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 12).''; and

(C) by inserting after paragraph (6) (as redesignated by subparagraph (A)) the following:

''(7) TENANTS HARBOR, MAINE.—The project for navigation, Tenants Harbor, Maine, authorized by the first section of the Act of March 2, 1919 (40 Stat. 1275).''; and

(2) in subsection (h)—

(A) by striking paragraphs (15) and (16); and

(B) by redesignating paragraphs (17) through (29) as paragraphs (15) through (27), respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1041)

CORPS OF ENGINEERS REPROGRAMMING AUTHORITY

SEC. 404. Unlimited reprogramming authority is granted to the Secretary of the Army for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil''.

BUREAU OF RECLAMATION REPROGRAMMING AUTHORITY

SEC. 405. Unlimited reprogramming authority is granted to the Secretary of the Interior for funds provided in title IV—Energy and Water Development of Public Law 111–5 under the heading ''Bureau of Reclamation, Water and Related Resources''.

COST ANALYSIS OF TRITIUM PROGRAM CHANGES

SEC. 406. No funds in this Act, or other previous Acts, shall be provided to fund activities related to the mission relocation of either the design authority for the gas transfer systems or tritium research and development facilities during the current fiscal year and until the Department can provide the Senate Appropriations Committee an independent technical mission review and cost analysis by the JASON's as proposed in the Complex Transformation Site-Wide Programmatic Environmental Impact Statement.

CORPS OF ENGINEERS PROJECT COST CEILING INCREASE

SEC. 407. The project for ecosystem restoration, Upper Newport Bay, California, authorized by section 101(b)(9) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to authorize the Secretary to construct the project at a total cost of $50,659,000, with an estimated Federal cost of $32,928,000 and a non-Federal cost of $17,731,000.

SEC. 408. None of the funds provided in the matter under the heading entitled ''Department of Defense—Civil'' in this Act, or provided by previous appropriations Acts under the heading entitled ''Department of Defense—Civil'' may be used to deconstruct any work (including any partially completed work) completed under the Mississippi River and Tributaries Project authorized by the Act of May 15, 1928 (45 2 Stat. 534; 100 Stat. 4183), during fiscal year 2009, 2010, and 2011.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

SEC. 409. The matter under the heading ''Title 17 Innovative Technology Loan Guarantee Program''of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 619) is amended in the ninth proviso—

(1) by striking ''or (d)'' and inserting ''(d)''; and

(2) by striking ''the guarantee'' and inserting ''the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section

1501(a)(5) of title 31, United States Code, on or before May 1, 2009''.

TITLE V

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Departmental Offices, Salaries and Expenses'', $4,000,000, to remain available until December 31, 2010: *Provided*, That, not later than 10 days following enactment of this Act, the Secretary of the Treasury shall transfer funds provided under this heading to an account to be designated for the necessary expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,936,000, of which $800,000 shall remain available until expended and $2,136,000 shall remain available until September 30, 2010: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

PANDEMIC PREPAREDNESS AND RESPONSE

(INCLUDING TRANSFERS OF FUNDS)

For an amount to be deposited into an account for ''Pandemic Preparedness and Response'' to be established within the Executive Office of the President for expenses to prepare for and respond to a potential pandemic disease outbreak and to assist international efforts to control the spread of such an outbreak, including for the 2009–H1N1 influenza outbreak, $1,500,000,000, to remain available until September 30, 2010, and to be transferred by the Director of the Office of Management and Budget as follows: $900,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Health and Human Services, Public Health and Social Services Emergency Fund'' for allocation by the Secretary; $190,000,000 shall be transferred to and merged with funds made available for the United States Department of Homeland Security under the heading ''Departmental Management and Operations, Office of the Secretary and Executive Management'' for allocation by the Secretary; $100,000,000 shall be transferred to and merged with funds made available for the United States Department of Agriculture under the heading ''Agricultural Programs, Production, Processing and Marketing, Office of the Secretary'' for allocation by the Secretary; $50,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Health and Human Services, Food and Drug Administration, Salaries and Expenses''; $110,000,000 shall be transferred to and merged with funds made available under the heading ''Department of Veterans Affairs, Veterans Health Administration, Medical Services''; and $150,000,000 shall be transferred to and merged with funds made available under the heading ''Bilateral Economic Assistance, Funds Appropriated to the President, Global Health and Child Survival'', to support programs of the United States Agency for International Development: *Provided*, That such transfers shall be made not more than 10 days after the date of enactment of this Act: *Provided further*, That none of the funds provided under this heading shall be available for obligation until 15 days following the submittal of a detailed spending plan by each Department receiving funds to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority available in this or any other Act: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Salaries and Expenses'', $10,000,000, to remain available until September 30, 2010: *Provided*, That notwithstanding section 302 of division D of Public Law 111–8, funding shall be available for transfer between Judiciary accounts to meet increased workload requirements resulting from immigration and other law enforcement initiatives on the Southwest border: *Provided further*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

INDEPENDENT AGENCIES

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for necessary expenses for the Securities and Exchange Commission, $10,000,000, to remain available until September 30, 2010, for investigation of securities fraud: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 501. (a) IN GENERAL.—Section 3(c)(2)(A) of Public Law 110–428 is amended—

(1) in the matter before clause (i), by striking ''4-year'' and inserting ''5-year''; and

(2) in clause (i), by striking ''1-year'' and inserting ''2-year''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of Public Law 110–428.

SEC. 502. The fourth proviso under the heading ''District of Columbia Funds'' of title IV of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 655) is amended by striking ''and such title'' and inserting '', as amended by laws enacted pursuant to section 442(c) of the Home Rule Act of the District of Columbia Home Rule Act of 1973, approved December 24, 1973 (87 Stat. 798), and such title, as amended,''.

SEC. 503. Title V of division D of the Omnibus Appropriations Act, 2009 (Public Law 111–8) is amended under the heading ''Federal Communications Commission'' by striking the first proviso and inserting the following: ''*Provided*, That of the funds provided, not less than $3,000,000 shall be available for developing a national broadband plan pursuant to title VI of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and for carrying out any other responsibility pursuant to that title:''.

TITLE VI

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $46,200,000, to remain available until September 30, 2010, of which $6,200,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which $40,000,000 shall be for response to border security issues on the Southwest border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for ''Salaries and Expenses'', $5,000,000, to remain available until September 30, 2010, for response to border security issues on the Southwest border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $66,800,000, to remain available until September 30, 2010, of which $11,800,000 shall be for the care, treatment, and transportation of unaccompanied alien children; and of which $55,000,000 shall be for response to border security issues on the Southwest border of the United States.

COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $139,503,000; of which $129,503,000 shall be for Coast Guard operations in support of Operation Iraqi Freedom and Operation Enduring Freedom; and of which $10,000,000 shall be available until September 30, 2010, for High Endurance Cutter maintenance, major repairs, and improvements.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

For an additional amount for ''State and Local Programs'', $30,000,000 shall be for Operation Stonegarden.

GENERAL PROVISIONS—THIS TITLE

(INCLUDING RESCISSION)

SEC. 601. (a) RESCISSION.—Of amounts previously made available from ''Federal Emergency Management Agency, Disaster Relief'' to the State of Mississippi pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for Hurricane Katrina, an additional $100,000,000 are rescinded.

(b) APPROPRIATION.—For ''Federal Emergency Management Agency, State and Local Programs'', there is appropriated an additional $100,000,000, to remain available until expended, for a grant to the State of Mississippi for an interoperable communications system required in the aftermath of Hurricane Katrina: *Provided*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 602. The Department of Homeland Security Appropriations Act, 2009 (Public Law 110–329) is amended under the heading ''Federal Emergency Management Agency, Management and Administration'' after ''the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.),'' by adding ''Cerro Grande Fire Assistance Act of 2000 (division C, title I, 114 Stat. 583),''.

SEC. 603. Notwithstanding any provision under (a)(1)(A) of 15 U.S.C. 2229a specifying that grants must be used to increase the number of fire fighters in fire departments, the Secretary of Homeland Security may, in making grants described under 15 U.S.C. 2229a for fiscal year 2009 or 2010, grant waivers from the requirements of subsection (a)(1)(B), subsection (c)(1), subsection (c)(2), and subsection (c)(4)(A), and may award grants for the hiring, rehiring, or retention of firefighters.

SEC. 604. The Administrator of the Federal Emergency Management Agency shall extend through March 2010 reimbursement of case management activities conducted by the State of Mississippi under the Disaster Housing Assistance Program to individuals in the program on April 30, 2009.

SEC. 605. Section 552 of division E of the Consolidated Appropriations Act, 2008 (Public Law 110–161) is amended by striking ''local educational agencies'' and inserting ''primary or secondary school sites'' and by inserting ''and section 406(c)(2)'' after ''section 406(c)(1)''.

SEC. 606. (a) IN GENERAL.—Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under section 601 of this title.

TITLE VII

DEPARTMENT OF THE INTERIOR

DEPARTMENT-WIDE PROGRAMS

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Department of the Interior, $50,000,000, to remain available until expended: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of the Interior notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: *Provided further*, That the Secretary of the Interior may transfer any of these funds to the Secretary of Agriculture if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to cover necessary expenses for wildfire suppression and emergency rehabilitation activities of the Forest Service, $200,000,000, to remain available until expended: *Provided*, That such funds shall only become available if funds provided previously for wildland fire suppression will be exhausted imminently and after the Secretary of Agriculture notifies the Committees on Appropriations of the House of Representatives and the Senate in writing of the need for these additional funds: *Provided further*, That the Secretary of Agriculture may transfer not more than $50,000,000 of these funds to the Secretary of the Interior if the transfer enhances the efficiency or effectiveness of Federal wildland fire suppression activities: *Provided further*, That the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

SEC. 701. Public Law 111–8, division E, title III, Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, Toxic Substances and Environmental Public Health is amended by inserting ''per eligible employee'' after ''$1,000''.

SEC. 702. (a) Section 1606 of division A, title XVI of Public Law 111–5 shall not be applied to projects carried out by youth conservation organizations under agreement with the Department of the Interior or the Forest Service for which funds were provided in title VII.

(b) For purposes of this provision, the term ''youth conservation organizations'' means not-for-profit organizations that provide conservation service learning opportunities for youth 16 to 25 years of age.

TITLE VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

REFUGEE AND ENTRANT ASSISTANCE

For an additional amount for ''Refugee and Entrant Assistance'' for necessary expenses for unaccompanied alien children as authorized by section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, $82,000,000, to remain available through September 30, 2011: *Provided*, That the amount under this heading is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISIONS—THIS TITLE

(TRANSFER OF FUNDS)

SEC. 801. Section 801(a) of division A of Public Law 111–5 is amended by inserting '', and may be transferred by the Department of Labor to any other account within the Department for such purposes'' before the end period.

(INCLUDING TRANSFER OF FUNDS)

SEC. 802. (a) Notwithstanding any other provision of law, during the period from September 1 through September 30, 2009, the Secretary of Education shall transfer to the Career, Technical, and Adult Education account an amount not to exceed $17,678,270 from amounts that would otherwise lapse at the end of fiscal year 2009 and that were originally made available under the Department of Education Appropriations Act, 2009 or any Department of Education Appropriations Act for a previous fiscal year.

(b) Funds transferred under this section to the Career, Technical, and Adult Education account shall be obligated by September 30, 2009.

(c) Any amounts transferred pursuant to this section shall be for carrying out Adult Education State Grants, and shall be allocated, notwithstanding any other provision of law, only to those States that received funds under that program for fiscal year 2009 that were at least 9.9 percent less than those States received under that program for fiscal year 2008.

(d) The Secretary shall use these additional funds to increase those States' allocations under that program up to the amount they received under that program for fiscal year 2008.

(e) The Secretary shall notify the Committees on Appropriations of both Houses of Congress of any transfer pursuant to this section.

TITLE IX

LEGISLATIVE BRANCH

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for ''Capitol Police, General Expenses'', $71,606,000, to purchase and install a new radio system for the U.S. Capitol Police, to remain available until September 30, 2012: *Provided*, That the Chief of the Capitol Police may not obligate any of the funds appropriated under this heading without approval of an obligation plan by the Committees on Appropriations of the Senate and the House of Representatives.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $2,000,000, to remain available until September 30, 2010.

GENERAL PROVISION—THIS TITLE

SEC. 901. The amount available to the Committee on the Judiciary for expenses, including salaries, under section 13(b) of Senate Resolution 73, agreed to March 10, 2009, is increased by $500,000.

TITLE X

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For an additional amount for ''Military Construction, Army'', $1,229,731,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

For an additional amount for ''Military Construction, Army'', $49,000,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That the preceding amount in this paragraph is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010: *Provided further*, That of the funds appropriated for ''Military Construction, Army'' under Public Law 110–252, $49,000,000 are hereby rescinded.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for ''Military Construction, Navy and Marine Corps'', $243,083,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for ''Military Construction, Air Force'', $265,470,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and

expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That none of the funds provided under this heading for military construction projects in Afghanistan shall be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that a prefinancing statement for each project has been submitted to the North Atlantic Treaty Organization (NATO) for consideration of funding by the NATO Security Investment Program.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for ''Military Construction, Defense-Wide'', $181,500,000, to remain available until September 30, 2013: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That $1,781,500,000 is hereby authorized for fiscal years 2009 through 2013 for the purposes of this appropriation.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for ''North Atlantic Treaty Organization Security Investment Program'', $100,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such funds are authorized for the North Atlantic Treaty Security Investment Program for purposes of section 2806 of title 10, United States Code, and section 2502 of the Military Construction Authorization Act for Fiscal Year 2009 (division B of Public Law 110–417).

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), $230,900,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out operation and maintenance, planning and design and military construction projects not otherwise authorized by law.

GENERAL PROVISIONS—THIS TITLE

SEC. 1001. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center, and the Joint Pathology Center is demonstrably performing the minimum requirements set forth in section 722 of the National Defense Authorization Act for Fiscal Year 2008.

SEC. 1002. (a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to any amount under the heading ''Military Construction, Defense-Wide''.

TITLE XI

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Diplomatic and Consular Programs'', $645,444,000, to remain available until September 30, 2010, of which $117,983,000 is for World Wide Security Protection and shall remain available until expended: *Provided*, That the Secretary of State may transfer up to $135,629,000 of the total funds made available under this heading to any other appropriation of any department or agency of the United States, upon the concurrence of the head of such department or agency, to support operations in and assistance for Afghanistan and to carry out the provisions of the Foreign Assistance Act of 1961: *Provided further*, That of the funds appropriated under this heading, not more than $10,000,000 for public diplomacy activities may be transferred to, and merged with, funds made available under the heading ''International Broadcasting Operations'' for broadcasting activities to the Pakistan-Afghanistan border region: *Provided further*, That of the funds appropriated under this heading, $57,000,000 shall be made available for aircraft acquisition, maintenance, operations and leases in Afghanistan for the Department of State and the United States Agency for International Development (USAID), and the uses and oversight of such aircraft shall be the responsibility of the United States Chief of Mission in Afghanistan: *Provided further*, That of the funds made available pursuant to the previous proviso, $40,000,000 shall be transferred to, and merged with, funds made available under the heading ''United States Agency for International Development, Funds Appropriated to the President, Operating Expenses'' for the purpose of USAID's air services: *Provided further*, That such aircraft utilized by USAID may be used to transport Federal and non-Federal personnel supporting USAID programs and activities: *Provided further*, That official travel of other agencies for other purposes may be supported on a reimbursable basis, or without reimbursement when traveling on a space available basis.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Office of Inspector General'', $22,200,000, to remain available until September 30, 2010, of which $7,000,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and $7,200,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight: *Provided*, That the Special Inspector General for Afghanistan Reconstruction may exercise the authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of such section) for funds made available for fiscal years 2009 and 2010.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $820,500,000, to remain available until expended, for worldwide security upgrades, acquisition, and construction as authorized, and shall be made available for secure diplomatic facilities and housing for United States mission staff in Afghanistan and Pakistan, and for mobile mail screening units.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $721,000,000, to remain available until September 30, 2010.

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

FUNDS APPROPRIATED TO THE PRESIDENT

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $112,600,000, to remain available until September 30, 2010.

CAPITAL INVESTMENT FUND

For an additional amount for ''Capital Investment Fund'', $48,500,000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Office of Inspector General'', $3,500,000, to remain available until September 30, 2010, for oversight of programs in Afghanistan and Pakistan.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for ''Global Health and Child Survival'', $50,000,000, to remain available until September 30, 2010, notwithstanding any other provision of law, except for the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25), for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria.

DEVELOPMENT ASSISTANCE

For an additional amount for ''Development Assistance'', $38,000,000, to remain available until September 30, 2010, for assistance for Kenya.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for ''International Disaster Assistance'', $245,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $2,828,000,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, not less than $866,000,000 may be made available for assistance for Afghanistan, of which not less than $100,000,000 shall be made available to support programs that directly address the needs of Afghan women and girls, including for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and for women-led nongovernmental organizations: *Provided further*, That of the funds appropriated under this heading, not less than $115,000,000 shall be made available for the Afghan Reconstruction Trust Fund, of which not less than $70,000,000 shall be made available for the National Solidarity Program: *Provided further*, That of the funds appropriated under this heading, not less than $11,000,000 shall be made available for the Afghan Civilian Assistance Program: *Provided further*, That of the funds appropriated under this heading, not less than $439,000,000 shall be made available for assistance for Pakistan, of which not more than $215,000,000 shall be made available for economic growth programs, including basic education to counter the influence of madrassas; not less than $50,000,000 shall be made available for assistance for internally displaced persons; and not less than $10,000,000 shall be made available for democracy programs, including to strengthen democratic political parties: *Provided further*, That of the funds appropriated under this heading that are available for assistance for Afghanistan and Pakistan, not less than $20,000,000 shall be made available for a cross border development program to be administered by the Special Representative for Afghanistan and Pakistan at the Department of State: *Provided further*, That of the funds appropriated under this heading, not less than $439,000,000 shall be made available for assistance for Iraq, of which not less than $50,000,000 shall be for the Community Action Program and not less than $10,000,000 shall be for the Marla Ruzicka Iraqi War Victims Fund: *Provided further*, That of the funds appropriated under this heading, not less than $150,000,000 shall be made available

for assistance for Jordan to mitigate the impact of the global economic crisis, including for health, education, water and sanitation, and other assistance for Iraqi and other refugees in Jordan: *Provided further*, That of the funds appropriated under this heading, not less than $15,000,000 shall be made available for assistance for Yemen; not less than $10,000,000 shall be made available for assistance for Somalia; and not less than $10,000,000 shall be made available for programs and activities to assist victims of gender-based violence in the Democratic Republic of the Congo: *Provided further*, That funds made available pursuant to the previous proviso shall be administered by the United States Agency for International Development: *Provided further*, That none of the funds appropriated in this title for democracy and civil society programs may be made available for the construction of facilities in the United States.

ASSISTANCE FOR EUROPE, EURASIA, AND CENTRAL ASIA

For an additional amount for ''Assistance for Europe, Eurasia and Central Asia'', $230,000,000, to remain available until September 30, 2010, of which $200,000,000 may be made available for assistance for Georgia and other Eurasian countries: *Provided*, That of the funds appropriated under this heading, $30,000,000 may be made available for assistance for the Kyrgyz Republic to provide a long-range air traffic control and safety system to support air operations in the Kyrgyz Republic, including at Manas International Airport, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for ''International Narcotics Control and Law Enforcement'', $393,500,000, to remain available until September 30, 2010: *Provided*, That of the funds appropriated under this heading, not more than $109,000,000 may be made available for assistance for the West Bank and not more than $66,000,000 may be made available for assistance for Mexico.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $102,000,000, to remain available until September 30, 2010: *Provided*, That of this amount, not more than $77,000,000, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, of which not more than $50,000,000 may be made available to enhance security along the Gaza border: *Provided further*, That the Secretary of State shall work assiduously to facilitate the regular flow of people and licit goods in and out of Gaza at established border crossings and shall submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and every 45 days thereafter until September 30, 2010, detailing progress in this effort.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $345,000,000, to remain available until expended.

INTERNATIONAL SECURITY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

PEACEKEEPING OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Peacekeeping Operations'', $172,900,000, to remain available until September 30, 2010, of which $155,900,000 may be made available to support the African Union Mission to Somalia and which may be transferred to, and merged with, funds appropriated under the heading ''Contributions for International Peacekeeping Activities'' for peacekeeping in Somalia: *Provided*, That of the funds appropriated under this heading, $15,000,000 shall be made available for assistance for the Democratic Republic of the Congo and $2,000,000 shall be made available for the Multinational Force and Observer mission in the Sinai.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For an additional amount for ''International Military Education and Training'', $2,000,000, to remain available until September 30, 2010, for assistance for Iraq.

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $98,000,000, to remain available until September 30, 2009, for assistance for Lebanon.

GENERAL PROVISIONS—THIS TITLE

AFGHANISTAN

SEC. 1101. (a) IN GENERAL.—Funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, in a manner that utilizes Afghan entities and emphasizes the participation of Afghan women and directly improves the security, economic and social well-being, and political status, of Afghan women and girls.

(b) LIMITATION ON CONTRACTS AND GRANTS.—Funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan shall not be used to initiate or make an amendment to any contract, grant or cooperative agreement in an amount exceeding $10,000,000.

(c) ASSISTANCE FOR WOMEN AND GIRLS.—

(1) Of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for Afghanistan, not less than $10,000,000 shall be made available to train and support Afghan women investigators, police officers, prosecutors and judges with responsibility for investigating, prosecuting, and punishing crimes of violence against women and girls.

(2) Of the funds appropriated under the heading ''Economic Support Fund'' that are available for assistance for Afghanistan, not less than $5,000,000 shall be made available for capacity building for Afghan women-led nongovernmental organizations, and not less than $25,000,000 shall be made available to support programs and activities of such organizations, including to provide legal assistance and training for Afghan women and girls about their rights, and to promote women's health (including mental health), education, and leadership.

(d) ANTICORRUPTION.—Ten percent of the funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' that are available for assistance for the Government of Afghanistan shall be withheld from obligation until the Secretary of State reports to the Committees on Appropriations that the Government of Afghanistan is implementing a policy to promptly remove from office any government official who is credibly alleged to have engaged in narcotics trafficking, gross violations of human rights, or other major crimes.

(e) ACQUISITION OF PROPERTY.—Not more than $10,000,000 of the funds appropriated in this title may be made available to pay for the acquisition of property for diplomatic facilities in Afghanistan.

(f) UNITED NATIONS DEVELOPMENT PROGRAM.—None of the funds appropriated in this title may be made available for programs and activities of the United Nations Development Program (UNDP) in Afghanistan unless the Secretary of State reports to the Committees on Appropriations that UNDP is fully cooperating with efforts of the United States Agency for International Development (USAID) to investigate expenditures by UNDP of USAID funds associated with the Quick Impact Program in Afghanistan, and has agreed to reimburse USAID, if appropriate.

ALLOCATIONS

SEC. 1102. (a) Funds appropriated in this title for the following accounts shall be made available for programs and countries in the amounts contained in the respective tables included in the report accompanying this Act:

(1) ''Diplomatic and Consular Programs''.

(2) ''Embassy Security, Construction, and Maintenance''.

(3) ''Economic Support Fund''.

(4) ''International Narcotics Control and Law Enforcement''.

(b) For the purposes of implementing this section, and only with respect to the tables included in the report accompanying this Act, the Secretary of State and the Administrator of the United States Agency for International Development, as appropriate, may propose deviations to the amounts referenced in subsection (a), subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

BURMA

SEC. 1103. (a) Funds appropriated under the heading ''Economic Support Fund'' for humanitarian assistance for Burma may be made available notwithstanding any other provision of law.

(b) Not later than 30 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report that details the findings and recommendations of the Department of State's review of United States policy toward Burma.

EXTENSION OF AUTHORITIES

SEC. 1104. Funds appropriated in this title may be obligated and expended notwithstanding section 10 of Public Law 91–672, section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

GLOBAL FINANCIAL CRISIS

SEC. 1105. (a) IN GENERAL.—Of the funds appropriated under the heading ''Economic Support Fund'', not more than $285,000,000 may be made available for assistance for vulnerable populations in developing countries severely affected by the global financial crisis: *Provided*, That funds made available pursuant to this section may be obligated only after the Administrator of the United States Agency for International Development (USAID) submits a report to the Committees on Appropriations detailing a spending plan for each such country including criteria for eligibility, proposed amounts and purposes of assistance, and mechanisms for monitoring the uses of such assistance, and indicating that USAID has reviewed its existing programs in such country to determine reprogramming opportunities to increase assistance for vulnerable populations: *Provided further*, That funds made available pursuant to this section shall be transferred to, and merged with, the following accounts:

(1) Not less than $12,000,000 for the ''Development Credit Authority'', for the cost of direct loans and loan guarantees notwithstanding the dollar limitations in such account on transfers to the account and the

principal amount of loans made or guaranteed with respect to any single country or borrower: *Provided*, That such transferred funds may be made available to subsidize total loan principal, any portion of which is to be guaranteed, of up to $3,300,000,000: *Provided further*, That the authority provided in this subsection is in addition to authority provided under the heading ''Development Credit Authority'' in Public Law 111–8: *Provided further*, That and up to $1,500,000 may be made available for administrative expenses to carry out credit programs administered by the United States Agency for International Development; and

(2) Not more than $20,000,000 for the ''Overseas Private Investment Corporation Program Account'', notwithstanding section 708(b) of Public Law 111–8: *Provided*, That such funds shall not be available for administrative expenses of the Overseas Private Investment Corporation.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law and in addition to funds otherwise available for such purposes, funds appropriated under the heading ''Millennium Challenge Corporation'' (MCC) in prior Acts making appropriations for the Department of State, foreign operations, export financing, and related programs may be transferred to, and merged with, funds appropriated under the heading ''Economic Support Fund'' that are made available pursuant to this section.

(1) The authority contained in subsection (b) may only be exercised for a country that has signed a compact with the MCC or has been designated by the MCC as a threshold country, and such a reprogramming of funds should be made, if practicable, prior to making available additional assistance for such purposes.

(2) The MCC shall consult with the Committees on Appropriations prior to exercising the authority of this subsection.

IRAQ

SEC. 1106. (a) IN GENERAL.—Funds appropriated in this title that are available for assistance for Iraq shall be made available, to the maximum extent practicable, in a manner that utilizes Iraqi entities.

(b) MATCHING REQUIREMENT.—Funds appropriated in this title for assistance for Iraq shall be made available in accordance with the Department of State's April 9, 2009, ''Guidelines for Government of Iraq Financial Participation in United States Government-Funded Civilian Foreign Assistance Programs and Projects''.

(c) OTHER ASSISTANCE.—Of the funds appropriated in this title under the heading ''Economic Support Fund'', not less than $20,000,000 shall be made available for targeted development programs and activities in areas of conflict in Iraq, and the responsibility for policy decisions and justifications for the use of such funds shall be the responsibility of the United States Chief of Mission in Iraq.

PROHIBITION ON ASSISTANCE FOR HAMAS

SEC. 1107. (a) None of the funds appropriated in this title may be made available for assistance to Hamas, or any entity effectively controlled by Hamas or any power-sharing government of which Hamas is a member.

(b) Notwithstanding the limitation of subsection (a), assistance may be provided to a power-sharing government only if the President certifies and reports to the Committees on Appropriations that such government, including all of its ministers or such equivalent, has publicly accepted and is complying with the principles contained in section 620K(b)(1)(A) and (B) of the Foreign Assistance Act of 1961, as amended.

(c) The President may exercise the authority in section 620K(e) of the Foreign Assistance Act as added by the Palestinian Anti-Terrorism Act of 2006 (Public Law 109–446) with respect to this subsection.

(d) Whenever the certification pursuant to subsection (b) is exercised, the Secretary of State shall submit a report to the Committees on Appropriations within 120 days of the certification and every quarter thereafter on whether such government, including all of its ministers or such equivalent, are continuing to comply with the principles contained in section 620K(b)(1)(A) and (B). The report shall also detail the amount, purposes and delivery mechanisms for any assistance provided pursuant to the abovementioned certification and a full accounting of any direct support of such government.

MEXICO

SEC. 1108. (a) Not later than 60 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing actions taken by the Government of Mexico since June 30, 2008, to investigate and prosecute violations of internationally recognized human rights by members of the Mexican Federal police and military forces, and to support a thorough, independent, and credible investigation of the murder of American citizen Bradley Roland Will.

(b) None of the funds appropriated in this title may be made available for the cost of fuel for helicopters provided to Mexico, or for logistical support, including operations and maintenance, of aircraft purchased by the Government of Mexico.

(c) In order to enhance border security and cooperation in law enforcement efforts between Mexico and the United States, funds appropriated in this title that are available for assistance for Mexico may be made available for the procurement of law enforcement communications equipment only if such equipment utilizes open standards and is compatible with, and capable of operating with, radio communications systems and related equipment utilized by Federal law enforcement agencies in the United States to enhance border security and cooperation in law enforcement efforts between Mexico and the United States.

MULTILATERAL DEVELOPMENT BANK REPLENISHMENTS

SEC. 1109. (a) INTERNATIONAL DEVELOPMENT ASSOCIATION.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following:

''SEC. 24. FIFTEENTH REPLENISHMENT.

''(a) The United States Governor of the International Development Association is authorized to contribute on behalf of the United States $3,705,000,000 to the fifteenth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,705,000,000 for payment by the Secretary of the Treasury.

''SEC. 25. MULTILATERAL DEBT RELIEF.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $356,000,000 to the International Development Association for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the fifteenth replenishment of resources of the International Development Association, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $356,000,000 for payment by the Secretary of the Treasury.

''(c) In this section, the term 'Multilateral Debt Relief Initiative' means the proposal set out in the G8 Finance Ministers' Communique entitled 'Conclusions on Development,' done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.''.

(b) AFRICAN DEVELOPMENT FUND.—The African Development Fund Act (22 U.S.C. 290 et seq.) is amended by adding at the end thereof the following:

''SEC. 219. ELEVENTH REPLENISHMENT.

''(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $468,165,000 for payment by the Secretary of the Treasury.

''SEC. 220. MULTILATERAL DEBT RELIEF INITIATIVE.

''(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than $26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

''(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than $26,000,000 for payment by the Secretary of the Treasury.''.

PROMOTION OF POLICY GOALS AT THE WORLD BANK GROUP

SEC. 1110. Title XVI of the International Financial Institutions Act (22 U.S.C. 262p et seq.) is amended by adding at the end thereof the following:

''SEC. 1626. REFORM OF THE 'DOING BUSINESS' REPORT OF THE WORLD BANK.

''(a) The Secretary of the Treasury shall instruct the United States Executive Directors at the International Bank for Reconstruction and Development, the International Development Association, and the International Finance Corporation of the following United States policy goals, and to use the voice and vote of the United States to actively promote and work to achieve these goals:

''(1) Suspension of the use of the 'Employing Workers' Indicator for the purpose of ranking or scoring country performance in the annual Doing Business Report of the World Bank until a set of indicators can be devised that fairly represent the value of internationally recognized workers' rights, including core labor standards, in creating a stable and favorable environment for attracting private investment. The indicators shall bring to bear the experiences of the member governments in dealing with the economic, social and political complexity of labor market issues. The indicators should be developed through collaborative discussions with and between the World Bank, the International Finance Corporation, the International Labor Organization, private companies, and labor unions.

''(2) Elimination of the 'Labor Tax and Social Contributions' Subindicator from the annual Doing Business Report of the World Bank.

''(3) Removal of the 'Employing Workers' Indicator as a 'guidepost' for calculating the annual Country Policy and Institutional Assessment score for each recipient country.

''(b) Within 60 days after the date of the enactment of this section, the Secretary of the Treasury shall provide an instruction to the United States Executive Directors referred to in subsection (a) to take appropriate actions with respect to implementing the policy goals of the United States set forth in subsection (a), and such instruction shall be posted on the website of the Department of the Treasury.

''SEC. 1627. ENHANCING THE TRANSPARENCY AND EFFECTIVENESS OF THE INSPECTION PANEL PROCESS OF THE WORLD BANK.

''(a) ENHANCING TRANSPARENCY IN IMPLEMENTATION OF MANAGEMENT ACTION PLANS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to seek to ensure that World Bank Procedure 17.55, which establishes the operating procedures of Management with regard to the Inspection Panel, provides that Management prepare and make available to the public semiannual progress reports describing implementation of Action Plans considered by the Board; allow and receive comments from Requesters and other Affected Parties for two months after the date of disclosure of the progress reports; post these comments on World Bank and Inspection Panel websites (after receiving permission from the requestors to post with or without attribution); submit the reports to the Board with any comments received; and make public the substance of any actions taken by the Board after Board consideration of the reports.

''(b) SAFEGUARDING THE INDEPENDENCE AND EFFECTIVENESS OF THE INSPECTION PANEL.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to continue to promote the independence and effectiveness of the Inspection Panel, including by seeking to ensure the availability of, and access by claimants to, the Inspection Panel for projects supported by World Bank resources.

''(c) EVALUATION OF COUNTRY SYSTEMS.—The Secretary of the Treasury shall direct the United States Executive Directors at the World Bank to request an evaluation by the Independent Evaluation Group on the use of country environmental and social safeguard systems to determine the degree to which, in practice, the use of such systems provides the same level of protection at the project level as do the policies and procedures of the World Bank.

''(d) WORLD BANK DEFINED.—In this section, the term 'World Bank' means the International Bank for Reconstruction and Development and the International Development Association.''.

CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING

SEC. 1111. Title XIII of the International Financial Institutions Act (22 U.S.C. 262m et seq.) is amended by adding at the end thereof the following:

''SEC. 1308. CLIMATE CHANGE MITIGATION AND GREENHOUSE GAS ACCOUNTING.

''(a) USE OF GREENHOUSE GAS ACCOUNTING.—The Secretary of the Treasury shall seek to ensure that multilateral development banks (as defined in section 1701(c)(4) of this Act) adopt and implement greenhouse gas accounting in analyzing the benefits and costs of individual projects (excluding those with de minimus greenhouse gas emissions) for which funding is sought from the bank.

''(b) EXPANSION OF CLIMATE CHANGE MITIGATION ACTIVITIES.—The Secretary of the Treasury shall work to ensure that the multilateral development banks (as defined in section 1701(c)(4)) expand their activities supporting climate change mitigation by—

''(1) significantly expanding support for investments in energy efficiency and renewable energy, including zero carbon technologies;

''(2) reviewing all proposed infrastructure investments to ensure that all opportunities for integrating energy efficiency measures have been considered;

''(3) increasing the dialogue with the governments of developing countries regarding—

''(A) analysis and policy measures needed for low carbon emission economic development; and

''(B) reforms needed to promote private sector investments in energy efficiency and renewable energy, including zero carbon technologies; and

''(4) integrate low carbon emission economic development objectives into multilateral development bank country strategies.

''(c) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this section, and annually thereafter, the Secretary of the Treasury shall submit a report on the status of efforts to implement this section to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.''.

MULTILATERAL DEVELOPMENT BANK REFORM

SEC. 1112. (a) BUDGET DISCLOSURE.—The Secretary of the Treasury shall seek to ensure that the multilateral development banks make timely, public disclosure of their operating budgets including expenses for staff, consultants, travel and facilities.

(b) EVALUATION.—The Secretary of the Treasury shall seek to ensure that multilateral development banks rigorously evaluate the development impact of selected bank projects, programs, and financing operations, and emphasize use of random assignment in conducting such evaluations, where appropriate and to the extent feasible.

(c) EXTRACTIVE INDUSTRIES.—The Secretary of the Treasury shall direct the United States Executive Directors at the multilateral development banks to promote the endorsement of the Extractive Industry Transparency Initiative (EITI) by these institutions and the integration of the principles of the EITI into extractive industry-related projects that are funded by the multilateral development banks.

(d) REPORT.—Not later than September 30, 2009, the Secretary of the Treasury shall submit a report to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations and the Committee on Foreign Affairs of the House, detailing actions taken by the multilateral development banks to achieve the objectives of this section.

(e) COORDINATION OF DEVELOPMENT POLICY.—The Secretary of the Treasury shall coordinate the formulation and implementation of United States policy relating to the development activities of the World Bank Group with the Secretary of State, the Administrator of the United States Agency for International Development, and other Federal agencies, as appropriate.

OVERSEAS COMPARABILITY PAY ADJUSTMENT

SEC. 1113. (a) Subject to such regulations prescribed by the Secretary of State, including with respect to phase-in schedule and treatment as basic pay, and notwithstanding any other provision of law, funds appropriated for this fiscal year in this or any other Act may be used to pay an eligible member of the Foreign Service as defined in subsection (b) of this section a locality-based comparability payment (stated as a percentage) up to the amount of the locality-based comparability payment (stated as a percentage) that would be payable to such member under section 5304 of title 5, United States Code if such member's official duty station were in the District of Columbia.

(b) A member of the Service shall be eligible for a payment under this section only if the member is designated class 1 or below for purposes of section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) and the member's official duty station is not in the continental United States or in a non-foreign area, as defined in section 591.205 of title 5, Code of Federal Regulations.

(c) The amount of any locality-based comparability payment that is paid to a member of the Foreign Service under this section shall be subject to any limitations on pay applicable to locality-based comparability payments under section 5304 of title 5, United States Code.

ASSESSMENT ON AFGHANISTAN AND PAKISTAN

SEC. 1114. (a) FINDING.—The Congress supports economic and security assistance for Afghanistan and Pakistan, but long-term stability and security in those countries is tied more to the capacity and conduct of the Afghan and Pakistani governments and the resolve of both societies for peace and stability, to include combating extremist networks, than it is to the policies of the United States.

(b) REPORT.—The President shall submit a report to the appropriate congressional committees, not later than 90 days after the date of enactment of this Act and every 6 months thereafter until September 30, 2010, in classified form if necessary, assessing the extent to which the Afghan and Pakistani governments are demonstrating the necessary commitment, capability, conduct and unity of purpose to warrant the continuation of the President's policy announced on March 27, 2009, to include:

(1) The level of political consensus and unity of purpose across ethnic, tribal, religious and political party affiliations to confront the political and security challenges facing the region;

(2) The level of official corruption that undermines such political consensus and unity of purpose, and actions taken to eliminate it;

(3) The actions taken by the respective security forces and appropriate government entities in developing a counterinsurgency capability, conducting counterinsurgency operations, and establishing security and governance on the ground;

(4) The actions taken by the respective intelligence agencies in cooperating with the United States on counterinsurgency and counterterrorism operations and in terminating policies and programs, and removing personnel, that provide material support to extremist networks that target United States troops or undermine United States objectives in the region;

(5) The ability of the Afghan and Pakistani governments to effectively control and govern the territory within their respective borders; and

(6) The ways in which United States Government assistance contributed, or failed to contribute, to achieving the goals outlined above.

(c) POLICY ASSESSMENT.—The President, on the basis of information gathered and coordinated by the National Security Council, shall advise the Congress on how such assessment requires, or does not require, changes to such policy.

(d) DEFINITION.—For purposes of this section, ''appropriate congressional committees'' means the Committees on Appropriations, Foreign Relations and Armed Services of the Senate, and the Committees on Appropriations, Foreign Affairs and Armed Services of the House of Representatives.

ASSISTANCE FOR PAKISTAN

SEC. 1115. (a) FINDINGS.—

(1) The United States and the international community have welcomed and supported Pakistan's return to civilian rule since the democratic elections of February 18, 2008;

(2) Since 2001, the United States has provided more than $12,000,000,000 in economic and security assistance to Pakistan;

(3) Afghanistan and Pakistan are facing grave threats to their internal security from a growing insurgency fueled by al Qaeda, the Taliban and other violent extremist groups operating in areas along the Afghanistan-Pakistan border; and

(4) The United States is committed to supporting vigorous efforts by the Government of Pakistan to secure Pakistan's western border and counter violent extremism, expand government services, support economic development, combat corruption and uphold the rule of law in such areas.

(b) REPORT.—Not later than 90 days after enactment of this Act, the Secretary of State shall submit a report, in classified form if necessary, to the Committees on Appropriations detailing—

(1) a spending plan for the proposed uses of funds appropriated in this title under the headings ''Economic Support Fund'' and ''International Narcotics Control and Law Enforcement'' that are available for assistance for Pakistan including amounts, the purposes for which funds are to be made available, and intended results;

(2) the actions to be taken by the United States and the Government of Pakistan relating to such assistance;

(3) the metrics for measuring progress in achieving such results; and

(4) the mechanisms for monitoring such funds.

SPECIAL AUTHORITY

SEC. 1116. (a) Notwithstanding any other provision of law, funds appropriated under the headings ''Global HIV/AIDS Initiative'' or ''Global Health and Child Survival'' in prior Acts making appropriations for the Department of State, foreign operations, export financing and related programs for assistance for Kenya to carry out the President's Emergency Plan for AIDS Relief may be transferred to, and merged with, funds made available under the heading ''Economic Support Fund'' to respond to instability in Kenya arising from conflict or civil strife.

(b) The Secretary of State shall consult with the Committees on Appropriations prior to exercising the authority of this section.

SPENDING PLAN AND NOTIFICATION PROCEDURES

SEC. 1117. (a) SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated in this title, except for funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance''.

(b) NOTIFICATION.—Funds appropriated in this title, with the exception of funds appropriated under the headings ''International Disaster Assistance'' and ''Migration and Refugee Assistance'', shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TECHNICAL PROVISIONS

SEC. 1118. (a) MODIFICATIONS.—The funding limitation in section 7046(a) of Public Law 111–8 shall not apply to funds made available for assistance for Colombia through the United States Agency for International Development's Office of Transition Initiatives: *Provided*, That title III of division H of Public Law 111–8 is amended under the heading ''Economic Support Fund'' in the second proviso by striking ''up to $20,000,000'' and inserting ''not less than $20,000,000''.

(b) NOTIFICATION REQUIREMENT.—Funds appropriated by this Act that are transferred to the Department of State or the United States Agency for International Development shall be subject to the regular notification procedures of the Committees on Appropriations, notwithstanding any other provision of law.

(c) AUTHORITY.—Funds appropriated in this title, and subsequent and prior acts appropriating funds for Department of State, Foreign Operations, and Related Programs and under the heading ''Public Law 480 Title II Grants'' in this, subsequent, and prior Acts appropriating funds for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, shall be made available notwithstanding the requirements of and amendments made by section 3511 of Public Law 110–417.

(d) REEMPLOYMENT OF ANNUITANTS.—

(1) Section 824 of the Foreign Service Act of 1980 (22 U.S.C. 4064) is amended in subsection (g)(1)(B) by inserting '', Pakistan,'' after ''Iraq'' each place it appears; by inserting ''to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (g)(2) by striking ''2009'' and inserting instead ''2012''.

(2) Section 61 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733) is amended in subsection (a)(1) by adding '', Pakistan,'' after ''Iraq'' each place it appears; by inserting '', to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (a)(2) by striking ''2008'' and inserting instead ''2012''.

(3) Section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385) is amended in subsection (j)(1)(A) by adding '', Pakistan,'' after ''Iraq'' each place it appears; by inserting '', to positions in the Response Readiness Corps,'' before ''or to posts vacated''; and, in subsection (J)(1)(B) by striking ''2008'' and inserting instead ''2012''.

(e) INCENTIVES FOR CRITICAL POSTS.—Notwithstanding sections 5753(a)(2)(A) and 5754(a)(2)(A) of title 5, United States Code, appropriations made available by this or any other Act may be used to pay recruitment, relocation, and retention bonuses under chapter 57 of title 5, United States Code to members of the Foreign Service, other than chiefs of mission and ambassadors at large, who are on official duty in Iraq, Afghanistan, or Pakistan. This authority shall terminate on October 1, 2012.

(f) Of the funds appropriated under the heading ''Foreign Military Financing Program'' in Public Law 110–161 that are available for assistance for Colombia, $500,000 may be transferred to, and merged with, funds appropriated under the heading ''International Narcotics Control and Law Enforcement'' to provide medical and rehabilitation assistance for members of Colombian security forces who have suffered severe injuries.

TERMS AND CONDITIONS

SEC. 1119. Unless otherwise provided for in this Act, funds appropriated or otherwise made available in this title shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H of Public Law 111–8), except that sections 7042(a) and (c) and 7070(e)(2) of such Act shall not apply to such funds.

OVERSEAS DEPLOYMENTS

SEC. 1120. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

TITLE XII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

In addition to funds made available under Public Law 111–8 and funds authorized under subsection 41742(a)(1) of title 49, United States Code, to carry out the essential air service program, to be derived from the Airport and Airway Trust Fund, $13,200,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

Of the amounts authorized under sections 48103 and 48112 of title 49, United States Code, $13,200,000 are permanently rescinded from amounts authorized for the fiscal year ending September 30, 2008.

GENERAL PROVISIONS—THIS TITLE

SEC. 1201. Section 1937 of Public Law 109–59 (119 Stat. 1144, 1510) is amended—

(1) in paragraph (1) by striking ''expenditures'' each place that it appears and inserting ''allocations''; and

(2) in paragraph (2) by striking ''expenditure'' and inserting ''allocation''.

SEC. 1202. A recipient and subrecipient of funds appropriated in Public Law 111–5 and apportioned pursuant to section 5311 and section 5336 (other than subsection (i)(1) and (j)) of title 49, United States Code, may use up to 10 percent of the amount apportioned for the operating costs of equipment and facilities for use in public transportation: *Provided*, That a grant obligating such funds prior to the date of the enactment of this Act may be amended to allow a recipient and subrecipient to use the funds made available for operating assistance: *Provided further*, That such funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1203. Public Law 110–329, under the heading ''Project-Based Rental Assistance'', is amended by striking ''project-based vouchers'' and all that follows up to the period and inserting ''activities and assistance for the provision of tenant-based rental assistance, including related administrative expenses, as authorized under the United States Housing Act of 1937, as amended (42 U.S.C. 1437 et seq.), $80,000,000, to remain available until expended: *Provided*, That such funds shall be made available within 60 days of the enactment of this Act: *Provided further*, That in carrying out the activities authorized under this heading, the Secretary shall waive section (o)(13)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)(B))'': *Provided*, That such additional funds are designated as an emergency requirement pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 1204. Public Law 111–5 is amended by striking the second proviso under the heading ''HOME Investment Partnerships Program'' and inserting ''*Provided further*, That the housing credit agencies in each State shall distribute these funds competitively

under this heading and pursuant to their qualified allocation plan (as defined in section 42(m) of the Internal Revenue Code of 1986) to owners of projects who have received or receive simultaneously an award of low-income housing tax credits under sections 42(h) and 1400N of the Internal Revenue Code of 1986:''.

TITLE XIII

OTHER MATTERS

INTERNATIONAL ASSISTANCE PROGRAMS

INTERNATIONAL MONETARY PROGRAMS

UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,973,100,000 Special Drawing Rights, to remain available until expended: *Provided*, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): *Provided further*, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: *Provided further*, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

LOANS TO INTERNATIONAL MONETARY FUND

For loans to the International Monetary Fund under section 17(a)(ii) and (b)(ii) of the Bretton Woods Agreements Act (Public Law 87–490, 22 U.S.C. 286e–2), as amended by this Act pursuant to the New Arrangements to Borrow, the dollar equivalent of up to 75,000,000,000 Special Drawing Rights, to remain available until expended, in addition to any amounts previously appropriated under section 17 of such Act: *Provided*, That if the United States agrees to an expansion of its credit arrangement in an amount less than the dollar equivalent of 75,000,000,000 Special Drawing Rights, any amount over the United States' agreement shall not be available until further appropriated: *Provided further*, That the cost of the amounts provided herein shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.): *Provided further*, That for purposes of section 502(5) of the Federal Credit Reform Act of 1990, the discount rate in section 502(5)(E) shall be adjusted for market risks: *Provided further*, That section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply.

GENERAL PROVISIONS—INTERNATIONAL ASSISTANCE PROGRAMS

SEC. 1301. Section 17 of the Bretton Woods Agreements Act (22 U.S.C. 286e–2) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before ''In order to''; and

(B) by adding at the end the following:

''(2) In order to carry out the purposes of a decision of the Executive Directors of the International Monetary Fund to expand the resources of and make other amendments to the New Arrangements to Borrow, which was established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments, notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress as to whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund. Any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.''; and

(2) in subsection (b)—

(A) by inserting ''(1)'' before ''For the purpose of'';

(B) by inserting ''subsection (a)(1) of'' ''after pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation, the Secretary of the Treasury shall report to Congress as to whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the International Monetary Fund. Any payments made to the United States by the International Monetary Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the International Monetary Fund.''.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

''(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment of the Fund's Articles of Agreement in April 1978, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market. In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the U.S. Governor is authorized to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries, only after the Secretary of the Treasury has consulted with the chairman and ranking minority member of the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and the appropriate subcommittees thereof, at least 60 days prior to any authorization by the United States Executive Director of distribution of gold sale proceeds.

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997.''.

SEC. 1303. (a) Not later than 30 days after enactment of this Act, the Secretary of the Treasury, in consultation with the Executive Director of the World Bank and the Executive Board of the International Monetary Fund (IMF), shall submit a report to the appropriate congressional committees detailing the steps taken to coordinate the activities of the World Bank and the IMF to avoid duplication of missions and programs, and steps taken by the Department of the Treasury and the IMF to increase the oversight and accountability of IMF activities.

(b) For the purposes of this section, the ''appropriate congressional committees'' means the Committees on Appropriations, Banking, Housing, and Urban Affairs, and Foreign Relations of the Senate, and the Committees on Appropriations, Foreign Affairs, and Ways and Means of the House of Representatives.

(c) In the next report to Congress on international economic and exchange rate policies, the Secretary of the Treasury shall: (1) report on ways in which the IMF's surveillance function under Article IV could be enhanced and made more effective in terms of avoiding currency manipulation; (2) report on the feasibility and usefulness of publishing the IMF's internal calculations of indicative exchange rates; and (3) provide recommendations on the steps that the IMF can take to promote global financial stability and conduct effective multilateral surveillance.

SEC. 1304. Each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

GENERAL PROVISION—THIS ACT

AVAILABILITY OF FUNDS

SEC. 1305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the ''Supplemental Appropriations Act, 2009''.

SA 1132. Mr. INHOFE (for himself, Mr. BARRASSO, Mr. BROWNBACK, Mr. DEMINT, Mr. JOHANNS, Mr. ROBERTS, Mr. THUNE, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. HUTCHISON, Mr. BENNETT, Mr. HATCH, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated or otherwise made available to any department or agency of the United States Government by this Act or any other Act may be obligated or expended for any of the following purposes:

(1) To transfer any detainee of the United States housed at Naval Station, Guantanamo Bay, Cuba, to any facility in the United States or its territories.

(2) To construct, improve, modify, or otherwise enhance any facility in the United States or its territories for the purpose of housing any detainee described in paragraph (1).

(3) To house or otherwise incarcerate any detainee described in paragraph (1) in the United States or its territories.

SA 1133. Mr. INOUYE (for himself, Mr. INHOFE, Mr. SHELBY, Mr. BROWNBACK, Mr. ENZI, and Mr. ROBERTS) proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

Strike section 202 and insert the following:

SEC. 202. (a)(1) None of the funds appropriated or otherwise made available by this Act or any prior Act may be used to transfer, release, or incarcerate any individual who was detained as of May 19, 2009, at Naval Station, Guantanamo Bay, Cuba, to or within the United States.

(2) In this subsection, the term ''United States'' means the several States and the District of Columbia.

(b) The amount appropriated or otherwise made available by title II for the Department of Justice for general administration under the heading ''SALARIES AND EXPENSES'' is hereby reduced by $30,000,000.

(c) The amount appropriated or otherwise made available by title III under the heading ''OPERATION AND MAINTENANCE, DEFENSE-WIDE'' under paragraph (3) is hereby reduced by $50,000,000.

SA 1134. Mr. SHELBY (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed by him to the bill H.R. 246, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25 after the ''.'' insert the following: ''SEC. 203 None of the funds appropriated in this or any other Act shall be used to carry out any of the Department of Justice responsibilities required by Executive Orders 13491, 13492 and 13493.''

SA 1135. Mr. SHELBY (for himself, Mr. ALEXANDER, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 4 strike all from line 19 through the ''.'' on page 5, line 5.

SA 1136. Mr. MCCONNELL proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Guantanamo Bay.

(d) FORM.—The report required under subsection (a), or parts thereof, may be submitted in classified form.

(e) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

SA 1137. Mr. INOUYE proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 30, line 24, strike all after ''Sec. 314.'' through page 31, line 3, and insert in lieu thereof:

(a) IN GENERAL.—Unless otherwise designated, each amount in this title is designated as being for overseas deployments and other activities pursuant to sections 401(c)(4) and 423(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(b) EXCEPTION.—Subsection (a) shall not apply to the amount rescinded in section 308 for ''Operation and Maintenance, Air Force''.

SA 1138. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 100, strike line 12 and all that follows through page 107, line 21.

SA 1139. Mr. CORNYN proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. SENSE OF THE SENATE.

(a) FINDINGS.—Congress finds the following:

(1) In the aftermath of the September 11, 2001 attacks, there was bipartisan consensus that preventing further terrorist attacks on the United States was the most urgent responsibility of the United States Government.

(2) A bipartisan joint investigation by the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives concluded that the September 11, 2001 attacks demonstrated that the intelligence community had not shown ''sufficient initiative in coming to grips with the new transnational threats''.

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

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

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

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

(7) The Office of Legal Counsel is the proper authority within the executive branch for addressing difficult and novel legal questions, and providing legal advice to the executive branch in carrying out official duties.

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

(9) The legal questions posed by the Central Intelligence Agency and other executive

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

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

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

(12) The majority and minority leaders in both Houses of Congress, the Speaker of the House of Representatives, and the chairmen and vice chairmen of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives received classified briefings on the legal analysis by the Office of Legal Counsel and the proposed interrogation program of the Central Intelligence Agency as early as September 4, 2002.

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

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

(15) Using all lawful means to secure actionable intelligence based on the legal guidance of the Office of Legal Counsel provides national leaders a means to detect, deter, and defeat further terrorist acts against the United States.

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

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

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

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

SA 1140. Mr. BROWNBACK proposed an amendment to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title III, add the following:

SEC. 315. (a) FINDINGS.—The Senate makes the following findings:

(1) In response to written questions from the April 30, 2009, hearing of the Committee on Appropriations of the Senate, the Secretary of Defense stated that—

(A) in order to implement the Executive Order of the President to close the detention facility at Naval Station Guantanamo Bay, Cuba, ''it is likely that we will need a facility or facilities in the United States in which to house'' detainees; and

(B) ''[p]ending the final decision on the disposition of those detainees, the Department has not contacted state and local officials about the possibility of transferring detainees to their locations''.

(2) The Senate specifically recognized the concerns of local communities in a 2007 resolution, adopted by the Senate on a 94–3 vote, stating that ''detainees housed at Guantanamo should not be released into American society, nor should they be transferred stateside into facilities in American communities and neighborhoods''.

(3) To date, members of the congressional delegations of sixteen States have sponsored legislation seeking to prohibit the transfer to their respective States and congressional districts, or other locations in the United States, of detainees at Naval Station Guantanamo Bay

(4) Legislatures and local governments in several States have adopted measures announcing their opposition to housing detainees at Naval Station Guantanamo Bay in their respective States and localities.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

SA 1141. Ms. LANDRIEU (for herself, Mrs. HUTCHISON, and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. REDEVELOPMENT OF HOMES.

Section 2301(c)(3) of the Housing and Economic Recovery Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subparagraph (C), by adding a semicolon at the end;

(2) in subparagraph (D), by striking ''and'' at the end;

(3) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(F) redevelop properties damaged or destroyed during the period beginning on January 1, 2004, and ending on December 31, 2008, by a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).''.

SA 1142. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

RELIEF FOR RURAL VETERANS IN CRISIS PROGRAM

For an additional amount for making grants under section 1820(g)(6) of the Social Security Act (42 U.S.C. 1395i–4(g)(6)), $20,000,000 to remain available until expended: *Provided*, That the amount of $1,500,000,000 under the heading ''Pandemic Preparedness and Response'' under the heading ''National Security Council'' under the heading ''EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT'' under title V shall be reduced by $20,000,000 and each of the amounts to be transferred under such heading ''Pandemic Preparedness and Response'' shall be reduced by its proportional share of the amount of such reduction.

SA 1143. Mr. RISCH (for himself, Mr. CORNYN, and Mr. BOND) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate in title III, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chief of the National Guard Bureau and an appropriate official for each of other reserve components of the Armed Forces each shall, not later than 30 days after the date of the enactment of this Act, submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the modernization priority assessment for the National Guard and for the other reserve components of the Armed Forces, respectively: *Provided further*, That the amount under this heading is designated as an emergency requirement and as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(RESCISSIONS)

(a) IN GENERAL.—Of the discretionary amounts (other than the amounts described in subsection (b)) made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law 111–5) that are unobligated as the the date of enactment of this Act, $2,000,000,000 is hereby rescinded.

(b) EXCEPTION.—The rescission in subsection (a) shall not apply to amounts made available by division A of the American Recovery and Reinvestment Act of 2009 as follows:

(1) Under title III, relating to the Department of Defense.

(2) Under title VI, relating to the Department of Homeland Security.

(3) Under title X, relating to Military Construction and Veterans and Related Agencies.

(c) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the rescission specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the

amount of each reduction made pursuant to the rescission in subsection (a).

SA 1144. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike the period at the end and insert ''and, in order for the Department of Justice to carry out the responsibilities required by Executive Orders 13491, 13492, and 13493, it is necessary to enact the amendments made by section 203.

SEC. 203. IMMIGRATION LIMITATIONS FOR GUANTANAMO BAY NAVAL BASE DETAINEES.

(a) SHORT TITLE.—This section may be cited as the ''Protecting America's Communities Act''.

(b) INELIGIBILITY FOR ADMISSION OR PAROLE.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(3), by adding at the end the following:

''(G) GUANTANAMO BAY DETAINEES.—An alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, is inadmissible.''; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting ''or (5)(B)''; and

(B) in paragraph (5)(B), by adding at the end the following: ''The Attorney General may not parole any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(c) DETENTION AUTHORITY.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(8) GUANTANAMO BAY DETAINEES.—

''(A) CERTIFICATION REQUIREMENT.—An alien ordered removed who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, shall be detained for an additional 6 months beyond the removal period (including any extension under paragraph (1)(C)) if the Secretary of Homeland Security certifies that—

''(i) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien; and

''(ii) the Secretary is making reasonable efforts to find alternative means for removing the alien.

''(B) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (A) without limitation after providing the alien with an opportunity to—

''(I) request reconsideration of the certification; and

''(II) submit documents or other evidence in support of the reconsideration request.

''(ii) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification under this paragraph to an official below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(C) INELIGIBILITY FOR BOND OR PAROLE.—No immigration judge or official of United States Immigration and Customs Enforcement may release from detention on bond or parole any alien described in subparagraph (A).''.

(d) ASYLUM INELIGIBILITY.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

''(E) GUANTANAMO BAY DETAINEES.—Paragraph (1) shall not apply to any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(e) MANDATORY DETENTION OF ALIENS FROM GUANTANAMO BAY NAVAL BASE.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

(1) in each of subparagraphs (A) and (B), by striking the comma at the end and inserting a semicolon;

(2) in subparagraph (C), by striking '', or'' and inserting a semicolon;

(3) in subparagraph (D), by striking the comma at the end and inserting ''; or''; and

(4) by inserting after subparagraph (D) the following:

''(A) as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(f) STATEMENT OF AUTHORITY.—

(1) IN GENERAL.—Congress reaffirms that—

(A) the United States is in an armed conflict with al Qaeda, the Taliban, and associated forces; and

(B) the entities referred to in subparagraph (A) continue to pose a threat to the United States and its citizens, both domestically and abroad.

(2) AUTHORITY.—Congress reaffirms that the President is authorized to detain enemy combatants in connection with the continuing armed conflict with al Qaeda, the Taliban, and associated forces until the termination of such conflict, regardless of the place at which they are captured.

(3) RULE OF CONSTRUCTION.—The authority described in this subsection may not be construed to alter or limit the authority of the President under the Constitution of the United States to detain enemy combatants in the continuing armed conflict with al Qaeda, the Taliban, and associated forces, or in any other armed conflict.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 9:30 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 11 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Tuesday, May 19, 2009, at 2:15 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. LANDRIEU. 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 Tuesday, May 19, 2009, at 10 a.m. in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 2 p.m., to hold a hearing entitled ''Pathways to a 'Green' Global Economic Recovery.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Tuesday, May 19, 2009 at 2:30 p.m. in room 430 of the Dirksen Senate office building.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Ms. LANDRIEU. 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 ''The Discount Pricing Consumer Protection Act: Do We Need to Restore the Ban on Vertical Price Fixing?'' on Tuesday, May 19, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate office building.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Leveling the Playing Field and Protecting Americans: Holding Foreign Manufacturers Accountable'' on Tuesday, May 19, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate office building.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Ms. LANDRIEU. 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 Tuesday, May 19, 2009, at 2:30 p.m., to conduct a hearing entitled, ''Public Health Challenges in Our Nation's Capital.''

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, May 19, 2009, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. COCHRAN, Mr. President, I ask unanimous consent that Lauren Frese and Tom Osterhoudt, who are detailees assigned to the Committee on Appropriations, be granted floor privileges during consideration of the fiscal year 2009 supplemental appropriations bill.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 94, 95, 98, and 152; that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, no further motions be in order and that any statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF ENERGY

Kristina M. Johnson, of Maryland, to be Under Secretary of Energy.

Steven Elliot Koonin, of California, to be Under Secretary for Science, Department of Energy.

Scott Blake Harris, of Virginia, to be General Counsel of the Department of Energy.

DEPARTMENT OF THE INTERIOR

Larry J. Echo Hawk, of Utah, to be an Assistant Secretary of the Interior.

Mr. REID. Are we now in a period of morning business?

The PRESIDING OFFICER. The majority leader is correct.

RONALD REAGAN CENTENNIAL COMMISSION ACT

Mr. REID. I ask unanimous consent that the Senate proceed to H.R. 131.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 131) to establish the Ronald Reagan Centennial Commission.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (H.R. 131) was ordered to be read a third time, was read the third time, and passed.

EXPRESSING THE IMPORTANCE OF PUBLIC DIPLOMACY

Mr. REID. I ask unanimous consent that we now proceed to Calendar No. 56, S. Res. 49.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 49) to express the sense of the Senate regarding the importance of public diplomacy.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and that any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 49

Whereas public diplomacy is the conduct of foreign relations directly with the average citizen of a country, rather than with officials of a country's foreign ministry;

Whereas public diplomacy is commonly conducted through people-to-people exchanges in which experts, authors, artists, educators, and students interact with their peers in other countries;

Whereas effective public diplomacy promotes free and unfiltered access to information about the United States through books, newspapers, periodicals, and the Internet;

Whereas public diplomacy requires a willingness to discuss all aspects of society, search for common values, foster a long-term bilateral relationship based on mutual respect, and recognize that certain areas of disagreement may remain unresolved on a short term basis;

Whereas a BBC World Service poll published in February 2009 that involved 13,000 respondents in 21 countries found that while 40 percent of the respondents had a positive view of the United States, 43 percent had a negative view of the United States;

Whereas Freedom House's 2008 Global Press Freedom report notes that 123 countries (66 percent of the world's countries and 80 percent of the world's population) have a press that is classified as ''Not Free'' or ''Partly Free'';

Whereas the Government of the United Kingdom, of France, and of Germany run stand-alone public diplomacy facilities throughout the world, which are known as the British Council, the Alliance Francaise, and the Goethe Institute, respectively;

Whereas these government-run facilities teach the national languages of their respective countries, offer libraries, newspapers, and periodicals, sponsor public lecture and film series that engage local audiences in dialogues that foster better understandings between these countries and create an environment promoting greater trust and openness;

Whereas the United States has historically operated similar facilities, known as American Centers, which—

(1) offered classes in English, extensive libraries housing collections of American literature, history, economics, business, and social studies, and reading rooms offering the latest American newspapers, periodicals, and academic journals;

(2) hosted visiting American speakers and scholars on these topics; and

(3) ran United States film series on topics related to American values;

Whereas in societies in which freedom of speech, freedom of the press, or local investment in education were minimal, American Centers provided vital outposts of information for citizens throughout the world, giving many of them their only exposure to uncensored information about the United States;

Whereas this need for uncensored information about the United States has accelerated as more foreign governments have restricted Internet access or blocked Web sites viewed as hostile to their political regimes;

Whereas following the end of the Cold War and the attacks on United States embassies in Kenya and Tanzania, budgetary and security pressures resulted in the drastic downsizing or closure of most of the American Centers;

Whereas beginning in 1999, American Centers began to be renamed Information Resource Centers and relocated primarily inside United States embassy compounds;

Whereas of the 177 Information Resource Centers operating in February 2009, 87, or 49 percent, operate on a ''By Appointment Only'' basis and 18, or 11 percent, do not permit any public access;

Whereas Information Resource Centers located outside United States embassy compounds receive significantly more visitors than those inside such compounds, including twice the number of visitors in Africa, 6 times more visitors in the Middle East, and 22 times more visitors in Asia; and

Whereas Iran has increased the number of similar Iranian facilities, known as Iranian Cultural Centers, to about 60 throughout the world: Now, therefore, be it

Resolved, That—

(1) the Secretary of State should initiate a reexamination of the public diplomacy platform strategy of the United States with a goal of reestablishing publicly accessible American Centers;

(2) after taking into account relevant security considerations, the Secretary of State should consider placing United States public diplomacy facilities at locations conducive to maximizing their use, consistent with the authority given to the Secretary under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act.

70TH ANNIVERSARY OF THE TRAGEDY OF THE M.S. ST. LOUIS

Mr. REID. I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. Res. 111 and the Senate proceed to its consideration

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 111) recognizing June 6, 2009, as the 70th anniversary of the tragic date when the M.S. St. Louis, a ship carrying Jewish refugees from Nazi Germany, returned to Europe after its passengers were refused admittance to the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. KOHL. Mr. President, today the Senate remembers a moment in history when the United States failed to provide refuge to slightly more than 900 individuals fleeing religious and racial persecution in Nazi Germany. S. Res. 111 acknowledges the 70th anniversary of the date, June 6, 1939, when the M.S. *St. Louis,* a German ocean liner, started its return voyage to Europe with nearly all of its original passengers. Later, over 250 of those individuals would perish in the Holocaust.

The story starts on May 13, 1939, when the M.S. *St. Louis* sailed from Hamburg, Germany, to Havana, Cuba with 937 passengers, mostly Jewish refugees, searching for freedom and safety. State-supported antiSemitism including violent pogroms, expulsion from public schools and services, and arrest and imprisonment solely because of Jewish heritage forced those passengers to leave their homes.

When the M.S. *St. Louis* arrived in Havana, the Cuban Government allowed only 28 passengers to disembark. Corruption and political maneuvering within the Cuban Government invalidated the transit visas of the other passengers. Before returning to Europe, the ship sailed toward Miami hoping for a solution. The ship sailed so close to Florida that the passengers could see the lights of Miami. One survivor remembers his father commenting that ''Florida's golden shores, so near, might as well be 4,000 miles away for all the good it did them.''

The U.S. Immigration and Nationality Act of 1924 strictly limited the number of immigrants admitted to the United States each year and in 1939 the waiting list for German-Austrian immigration was several years long. While the press and citizens were largely sympathetic to the passengers' plight, no extraordinary measures were taken to permit the refugees to enter the United States. The passengers were told that they must ''await their turns on the waiting list and qualify for and obtain immigration visas.''

On June 6, 1939, the M.S. *St. Louis* sailed back to Europe with nearly all of its original passengers. The passengers obtained refuge in Great Britain, the Netherlands, Belgium, and France. World War II started 3 months later and those countries, with the exception of Great Britain, fell to Nazi occupation. Two hundred and fifty-four of those passengers died during the Holocaust and many others suffered under Nazi persecution and in concentration camps.

S. Res. 111 acknowledges the 70th anniversary of the return voyage of the M.S. *St. Louis* and honors the memory of those passengers including the 254 who died during the Holocaust. The *St. Louis* is only one tragedy out of millions from that time, but seventy years later, it still haunts us as a nation and deserves recognition.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 111) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 111

Whereas on May 13, 1939, the ocean liner M.S. St. Louis departed from Hamburg, Germany for Havana, Cuba with 937 passengers, most of whom were Jewish refugees fleeing Nazi persecution;

Whereas the Nazi regime in Germany in the 1930s implemented a program of violent persecution of Jews;

Whereas the Kristallnacht, or Night of Broken Glass, pogrom of November 9 through 10, 1938, signaled an increase in violent anti-Semitism;

Whereas after the Cuban Government, on May 27, 1939, refused entry to all except 28 passengers on board the M.S. St. Louis, the M.S. St. Louis proceeded to the coast of south Florida in hopes that the United States would accept the refugees;

Whereas the United States refused to allow the M.S. St. Louis to dock and thereby provide a haven for the Jewish refugees;

Whereas the Immigration Act of 1924 placed strict limits on immigration;

Whereas a United States Coast Guard cutter patrolled near the M.S. St. Louis to prevent any passengers from jumping to freedom;

Whereas following denial of admittance of the passengers to Cuba, the United States, and Canada, the M.S. St. Louis set sail on June 6, 1939, for return to Antwerp, Belgium with the refugees; and

Whereas 254 former passengers of the M.S. St. Louis died under Nazi rule: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that June 6, 2009, marks the 70th anniversary of the tragic date when the M.S. St. Louis returned to Europe after its passengers were refused admittance to the United States and other countries in the Western Hemisphere;

(2) honors the memory of the 937 refugees aboard the M.S. St. Louis, most of whom were Jews fleeing Nazi oppression, and 254 of whom subsequently died during the Holocaust;

(3) acknowledges the suffering of those refugees caused by the refusal of the United States, Cuban, and Canadian governments to provide them political asylum; and

(4) recognizes the 70th anniversary of the M.S. St. Louis tragedy as an opportunity for public officials and educators to raise awareness about an important historical event, the lessons of which are relevant to current and future generations.

HONORING THE ENTREPRENEURIAL SPIRIT OF SMALL BUSINESS

Mr. REID. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of S. Res. 154.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 154) honoring the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, there be no intervening action or debate, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 154) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 154

Whereas the approximately 27,200,000 small business concerns in the United States are the driving force behind the Nation's economy, creating more than 93 percent of all net new jobs and generating more than 50 percent of the Nation's non-farm gross domestic product;

Whereas small businesses play an integral role in rebuilding the Nation's economy;

Whereas Congress has emphasized the importance of small businesses by improving access to capital through the American Recovery and Reinvestment Act of 2009;

Whereas small business concerns are the Nation's innovators, serving to advance technology and productivity;

Whereas small business concerns represent 97 percent of all exporters and produce 29 percent of exported goods;

Whereas Congress established the Small Business Administration in 1953 to aid, counsel, assist, and protect the interests of small business concerns in order to preserve free and competitive enterprise, to ensure that a fair proportion of the total purchases, contracts, and subcontracts for property and services for the Federal Government are placed with small business concerns, to make certain that a fair proportion of the total sales of Government property are made to such small business concerns, and to maintain and strengthen the overall economy of the Nation;

Whereas the Small Business Administration has helped small business concerns with access to critical lending opportunities, protected small business concerns from excessive Federal regulatory enforcement, played

a key role in ensuring full and open competition for Government contracts, and improved the economic environment in which small business concerns compete;

Whereas for over 50 years, the Small Business Administration has helped millions of entrepreneurs achieve the American dream of owning a small business concern and has played a key role in fostering economic growth; and

Whereas the President has designated the week beginning May 17, 2009, as ''National Small Business Week'': Now, therefore, be it

Resolved, That the Senate—

(1) honors the entrepreneurial spirit of small business concerns in the United States during National Small Business Week, beginning May 17, 2009;

(2) applauds the efforts and achievements of the owners of small business concerns and their employees, whose hard work and commitment to excellence have made them a key part of the Nation's economic vitality;

(3) recognizes the work of the Small Business Administration and its resource partners in providing assistance to entrepreneurs and small business concerns; and

(4) strongly urges the President to take steps to ensure that—

(A) the applicable procurement goals for small business concerns, including the goals for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, HUBZone small business concerns, and socially and economically disadvantaged small business concerns, are reached by all Federal agencies;

(B) guaranteed loans, microloans, and venture capital, for start-up and growing small business concerns, are made available to all qualified small business concerns;

(C) the management assistance programs delivered by resource partners on behalf of the Small Business Administration, such as small business development centers, women's business centers, veterans business outreach centers, and the Service Corps of Retired Executives, are provided with the Federal resources necessary to do their jobs;

(D) reforms to the disaster loan program of the Small Business Administration are implemented as quickly as possible;

(E) tax policy spurs small business growth, creates jobs, and increases competitiveness;

(F) the Federal Government reduces the regulatory compliance burden on small businesses; and

(G) broader health reforms efforts address the specific needs of small businesses and the self-employed in providing quality and affordable health insurance coverage to their employees.

ORDERS FOR WEDNESDAY, MAY 20, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, May 20; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2346, the supplemental appropriations bill, as provided for under the previous order.

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

PROGRAM

Mr. REID. Mr. President, under the previous order, there will be up to 2 hours for debate in relation to the Inouye amendment regarding funding with respect to detainees at the Naval Station in Guantanamo Bay, Cuba, prior to a vote in relation to the amendment. Senators should expect the first vote of the day to begin around 11:30 a.m. tomorrow. Under rule XXII, the filing deadline for first-degree amendments to H.R. 2346 is 1 p.m. tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. 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 7:33 p.m., adjourned until Wednesday, May 20, 2009, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate:

DEPARTMENT OF STATE

PHILIP L. VERVEER, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY IN THE BUREAU OF ECONOMIC, ENERGY, AND BUSINESS AFFAIRS AND U.S. COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY.

CONFIRMATIONS

Executive nominations confirmed by the Senate, Tuesday, May 19, 2009:

COMMODITY FUTURES TRADING COMMISSION

GARY GENSLER, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2012.

GARY GENSLER, OF MARYLAND, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

DEPARTMENT OF ENERGY

KRISTINA M. JOHNSON, OF MARYLAND, TO BE UNDER SECRETARY OF ENERGY.

STEVEN ELLIOT KOONIN, OF CALIFORNIA, TO BE UNDER SECRETARY FOR SCIENCE, DEPARTMENT OF ENERGY.

SCOTT BLAKE HARRIS, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY.

DEPARTMENT OF THE INTERIOR

LARRY J. ECHO HAWK, OF UTAH, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.