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## Senate

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

### PRAYER

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

Let us pray.

God of our hopes and dreams, from whom all blessings flow, thank You for Your presence and sustaining power. Strengthen our lawmakers during the rigorous demands of their day. Lord, manifest Your presence and inspire them with Your unchanging love. Help them to remember that greater than the leverage of force is the power of love. Remind them that love can mold wills, penetrate lives, and overcome obstacles. Lord, make our Senators instruments of Your peace and love in a hurting nation and world. Enable them to say with the Psalmist: "Test me, O Lord, and try me, examine my heart and my mind, for Your love is ever before me, and I walk continually in Your truth."

We pray in Your loving Name. Amen.

### PLEDGE OF ALLEGIANCE

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

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 26, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the Foreign Intelligence Surveillance Act, FISA.

Earlier this week, we were able to work out an agreement to consider two district court judges today. The Judiciary Committee is going to meet today to consider other judges, but we now have two we are going to approve sometime today, and they are William T. Lawrence of Indiana and G. Murray Snow of Arizona. When the Senate considers the nominations, there will be an hour for debate, equally divided and controlled, prior to the votes on confirmation of the nominations. These votes will occur sometime during the day. The second vote will be 10 minutes in duration.

Mr. President, I guess we have to learn from our experiences in life, and I try to do that. I was thinking, coming to work here today, what have I had that is comparable to what we have been doing here this week? And the best I could come up with is, when I was a boy, I would go with my dad and my family to gather wood. We would go up these washes, desert washes, and in these washes grows what we call cat's claw mesquite. That is the only place it grows, in these washes, the reason being that the seeds only germinate when they are pulverized, pounded

down these washes. So we would go down there in a pickup—four-wheel drives did not exist or rarely existed at the time—and invariably we would get stuck in the sand. Those back tires would spin—one of them especially—and sometimes it would take a long time. Those tires would spin. That vehicle was going a thousand miles an hour but moving nowhere. But as the day and time progressed, we would put brush under the tires and the rocks, and we would get out eventually.

Well, that is kind of where we are today in the Senate. All week long, we have been stuck in the sand, spinning our wheels. This is Thursday, and Thursday can be a magical day in the Senate, but it is not automatic. It is not automatically a magical day. We have many things to do to, in effect, stop spinning our wheels. We have four major pieces of legislation that need to be considered before we can leave for the Fourth of July recess.

FISA. I received a call this morning from the majority leader in the House, Leader HOYER, and he—a lot of people are responsible for getting this bill to this point, but I think all would acknowledge that his work on this was instrumental—and he, of course, would like us to finish this as quickly as possible. We are currently considering the motion to proceed to FISA. That is the legislative matter now before this body. I hope and I am convinced that we will be able to work out an agreement to move action on this bill.

Housing. Yesterday, the Senate overwhelmingly voted for the Dodd-Shelby bipartisan agreement. So it is not a matter of whether but when the housing legislation will pass the Senate. I hope we can reach an agreement before the end of the day as to how this bill is going to be finished. If we don't, I will just have to look for another opportunity to file cloture and this bill will be completed. As I have indicated to a number of Senators, both Democrats and Republicans, as we proved yesterday, when we have an opportunity, we

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



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can move legislation. There was agreement made on amendments, there was compromise on those amendments, and that is what will happen as we proceed down the road. I know there is an issue dealing with whether one Senator can offer an amendment to have the extenders not paid for. That won't happen on this bill. Those who want to do that can do it on some other vehicle, but that won't happen on the housing legislation.

The supplemental. I hope we can reach agreement today to complete action on this bill that was passed by the House overwhelmingly—the House got 355 on that piece of legislation, with just a handful of votes against it. It was truly a piece of legislation that was important to be done. I am sorry, that was not the number on that, Mr. President, but it was passed overwhelmingly, the supplemental, and we need to do it here.

This bill includes the GI Bill of Rights, and it includes an unemployment insurance extension, which people are waiting for us to do today and the President to sign the bill. There are, of course, other domestic priorities, not the least of which is on the Medicaid regulations. Every Senator has received calls from their Governor about the importance of these Medicaid regulations. Passage of this bill will be a victory for the American people, and it is one of those rare instances where we have, as I have said on the floor in recent days, worked with the President, and he has worked with us, and we have a bill he is going to sign without any question.

Medicare. That is the bill that passed by a vote of 355 to 59 in the House. It is an extremely important piece of legislation. We have to complete that before we leave here. If we don't do it before July 1, everyone knows—well, when I walked out of my office, the head of the American Medical Association was there saying: Pass the bill the House passed. She is over there. She is a physician from Buffalo, NY, and she said it is one of the most important things we could do to help the health care delivery system in this country. The AARP yesterday came out for this legislation.

It is an extremely important piece of legislation. The bill is similar to the one drafted by Senators BAUCUS and GRASSLEY earlier this month that every Senate Democrat and nine Senate Republicans voted for. It represents the only chance this body has to head off cuts to doctors before they take effect at the end of this month. So we either will get an agreement today to pass the Medicare doctors fix or, when I have an opportunity, which will probably be after midnight tonight, to file cloture on that. If that is the case—and I can't do that before midnight—then that will mean a weekend cloture vote. So we have to do that. We have no alternative. Everyone wants to go everywhere because the Fourth of July break is coming, but we can't do that until

we complete that. I hope that can be worked out as soon as possible.

I am optimistic that this is going to be a productive day in the Senate, but I am also realistic that it may not be. Magic can happen, as I have indicated, when we work together here in the Senate. On Thursdays, a lot of that magic occurs, but it does not mean it is going to happen automatically. I hope it is not a continuation of being stuck in the sand and those wheels are spinning and spinning. I hope we can get something done for the American people today.

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

#### FISA

Mr. McCONNELL. Mr. President, last April the Director of National Intelligence, ADM Mike McConnell, warned Congress about a serious flaw in the laws that govern our Nation's terror-fighting capabilities. New technologies had made our old electronic surveillance program dangerously out of date, he said, causing us to miss substantial amounts of vital intelligence on foreign terror suspects overseas.

In reaction to these concerns, the Senate passed and the President signed a temporary measure, the Protect America Act. The Protect America Act lived up to its name. We are told that from the time of its passage last August until its expiration in February, it allowed us to collect significant intelligence on terrorists and has been critical in protecting the United States from harm. But the Protect America Act had a signal failure: the telecom companies that may have helped prevent terrorist attacks were not protected from potentially crippling lawsuits. This was no small thing since without these companies, America wouldn't even have an effective surveillance program. Bankrupting the telecoms would be like outlawing fire hydrants—you could have the best firetrucks and the best firemen in the world, but you would still be incapable of putting out fires.

So after several months of new negotiations, the House finally devised and approved last week a revision of the original surveillance law that addresses the DNI's major concerns, including the important telecom protection. As the DNI put it in a recent letter endorsing the House-passed bill:

This bill would provide the intelligence community with the tools it needs to collect the foreign intelligence necessary to secure our Nation while protecting the civil liberties of Americans. The bill would also provide the necessary legal protections for those companies sued because they are believed to have helped the government prevent terrorist attacks in the aftermath of September 11. Because this bill accomplishes these two goals, essential to any effort to modernize FISA, we strongly support passage and will recommend the President sign it.

That is the Director of National Intelligence.

Passage of this legislation is long overdue. When the Protect America Act expired in February, the DNI warned Democratic leaders in the House once again about the need for an updated law. Yet House Democrats were evidently more concerned about the pressure they were getting from left wing groups such as moveon.org. They brushed the DNI's warnings aside and refused to take up and pass a bipartisan Senate-passed compromise bill that would have easily cleared the House. As a result of Democratic intransigence, our intelligence community has been handicapped in its ability to acquire new terrorist targets overseas. This was grossly irresponsible, and many of us said so at the time.

Now more than a year after the DNI made his initial plea, House Democrats have finally done the right thing. They have acted on the DNI's warnings by passing an updated surveillance law that meets his original criteria and which meets the criteria Republicans laid out during last year's debate—namely, one that gives the intelligence community the tools it needs to protect us, which doesn't put the telecom companies that made this program possible out of business, and which would get a Presidential signature.

Now it is time for the Senate to take up this bill and pass it without any further delay. The bill isn't perfect. I would have preferred for the Speaker to allow a vote on the Senate-passed FISA bill. But it does meet the DNI's criteria, and therefore its passage will mark a serious achievement, though long overdue, in the interest of our national security.

This hard-fought bill represents the epitome of compromise. The senior Senator from Missouri should be singled out for his outstanding work on this most important piece of legislation. He has done a service to the Senate and to the Nation by patiently working all of this out over the course of more than a year.

He was assisted in that effort by very able staff. Louis Tucker, Jack Livingston, and Kathleen Rice were invaluable throughout the process, to every Senator who was involved in this extremely important debate. They also deserve our thanks.

I will support this bill for all the reasons I have mentioned and urge my colleagues to do the same. We must pass this before leaving town and not allow it to be held up by yet another Democratic filibuster.

#### HONORING OUR ARMED FORCES

SERGEANT TATJANA REED

Mr. McCONNELL. Mr. President, I rise to speak for a brave woman, mother and soldier who has fallen. On July 22, 2004, SGT Tatjana Reed was tragically killed when an improvised explosive device detonated near her vehicle during combat operations in Samarra, Iraq.

Born half a world away, Sergeant Reed came to call Fort Campbell, KY her home. She was 34 years old.

For her bravery in service, she received numerous medals, awards and decorations, including the Bronze Star Medal and the Purple Heart.

Born and raised in Germany, Sergeant Reed chose to make America her own, and she chose to enlist in the U.S. Army to protect it.

To hear Tatjana's younger sister, Rebecca Milliner, describe their time together as children, growing up in Germany sounds little different from growing up in America.

"She had to drag her little sister along to hang out with her friends," Rebecca recalls. But "she never complained about having to take me with her."

Tatjana graduated from high school in Germany, then later came to America as a young woman in 1991 and graduated from basic training in February of that year. The Army proved to be Tatjana's path to embracing both a new country and a new mission in life.

"She loved the Army," says Tatjana's mother, Brigitte Dykty, who also came to America from Germany around the same time as her daughter.

Brigitte remembers that before Tatjana left for Iraq, her daughter "told me not to worry for her," she says. Tatjana reassured her mother by saying, "It's my job."

Tatjana became an emergency medic and was stationed at Fort Knox, KY. The Bluegrass State became her new home. In 1993, she transferred to Fort Campbell, and also spent time in Kosovo. In August of 1998, she became an American citizen.

But perhaps the greatest gift in Tatjana's life was her daughter, Genevieve, who tucked a framed photo of herself into Tatjana's bags as a gift to her mom when she went to Iraq.

By the time she was deployed to Iraq, Tatjana was assigned to the 66th Transportation Company, based out of Kaiserslautern, in her native Germany, and served as a heavy-wheeled vehicle operator. At a memorial service for Tatjana, her fellow soldiers described the joy of working with her.

"When I first came to the 66th, Sergeant Reed was the first person I met," says Private First Class Melissa Cramblett. "She took me under her wing. She was a good person, a good [non-commissioned officer,] and she cared a lot for us."

Other soldiers described a caring woman who was a mother figure to the younger troops under her care. She translated German for the soldiers communicating with the locals, and brewed a strong cup of coffee that became the soldiers' favorite.

"She was an exceptional woman," says SSG Agustin Sarmiento. "There were no other words to describe her. She was a real tender, loving, caring person. She cared for soldiers."

The compassion Tatjana showed for the people around her was not new. A

story her sister, Rebecca, shared with me illustrates that.

When I was eight or nine I was rushed to the hospital to have my appendix removed," Rebecca says. "I was scared because I never had to stay in a hospital before. I remember waking up from the surgery and opening my eyes and looking at my sister. She said, 'How are you doing?' She started joking with me, so I would forget about my pain."

"She was at the hospital with me every day. That is when she became my hero."

Tatjana always called her daughter Genevieve "her little soldier," and so at Tatjana's funeral, Genevieve did not cry. To remain her mother's little soldier, she said she would cry when she was alone.

Tatjana's passing leaves a hole in the lives of those who knew her that cannot be filled. We are thinking of her mother Brigitte Dykty; her daughter Genevieve Reed; her sister Rebecca Milliner; her brother Torsten Wissmann; her stepfather Joseph Dykty; and many other beloved family members and friends.

Rebecca still remembers the shock of hearing the tragic news. "My sister was gone just like that," she says.

"The one good thing that came out of it [is] she now is a hero to millions of people and not just to me."

Rebecca and her family can rest assured that this Senate does indeed recognize SGT Tatjana Reed as a hero. And now, her adopted country will forever adopt her, as a brave patriot who made the greatest sacrifice for her Nation.

Mr. President, in Kentucky today a family mourns the loss of a hero and patriot. SGT William G. Bowling was tragically killed on April 1, 2007, when an improvised explosive device detonated near his vehicle as he was on patrol outside Baghdad. Sergeant Bowling hailed from Beattyville, KY, and he was 24 years old.

He received several awards, medals and decorations for his valor, including the Army Commendation Medal, the National Defense Service Medal, and the Purple Heart.

"This is the job he wanted to do," says his wife, Jennifer, about her husband's service. "He wanted to serve his country. . . . He really believed in what he was doing in Iraq."

In fact, this was Will's second tour of duty in Iraq. He was serving as a military police officer assigned to Headquarters and Headquarters Company, 2nd Brigade Special Troops Battalion, 2nd Brigade Combat Team, 10th Mountain Division, based out of Fort Drum, NY. Will enlisted in the Army in 2003 and then reenlisted in 2005.

The year of his first enlistment, 2003, was an important one for another reason. That year, Will had a job at Affiliated Computer Services, where he got to meet a young woman named Jennifer.

Their first date was on Groundhog Day; they went to see a movie. As he

and Jennifer grew closer, he described for her his desire to join the Army.

"He was at a point in his life where he just felt like he needed to enlist," Jennifer recalls. "He thought about joining right after 9/11, and he thought about it some more after that. It was just something he thought he needed to do."

"I knew something could happen," she adds. "But I supported him."

Will and Jennifer fell in love, and they were married on July 23, 2003, in Richmond, KY. On the very next day, Will reported for Army training.

Will served as an infantryman when he first enlisted, training at Fort Benning, GA, then reporting to Fort Drum. He was deployed on his first tour in Iraq in 2004 and reenlisted while on tour in 2005. Upon returning home, he trained at Fort Leonard Wood, MO, in 2005 and 2006 to become an MP.

Deployed on his second Iraqi tour in August 2006, Will patrolled the streets of Baghdad, and was part of a crew that found and detonated explosives before they could harm other soldiers or civilians.

Looking ahead, Will and Jennifer saw a happy life together. He thought of joining the Kentucky State Police and building a house for his family in Beattyville.

That family included Will and Jennifer's two beautiful daughters, Hannah Kathryn and Allyson Peyton. Sadly, Will never got to lay eyes on his younger daughter Allyson, who was born the day after his funeral.

"I sent him lots of pictures of the girls," Jennifer remembers. He "was very devoted to me and our daughters. [He] couldn't wait to return . . . and was extremely excited about the birth of the new baby."

Hannah and Allyson will not get to learn firsthand how their father loved the Indianapolis Colts and that his favorite player was Peyton Manning. In fact, that is where Allyson gets her middle name.

They'll miss hearing their father talk about his love of NASCAR and his favorite drivers, Dale Earnhardt and Dale Earnhardt, Jr., Will would even say half-jokingly that he wanted to be a driver someday.

"For our second anniversary, he got to go to the Kentucky Speedway to participate in the Richard Petty Driving Experience," says Jennifer. "He was so excited and had such a great time that day. I can still see the smile on his face."

Will liked to have water gun fights with his nephews, build things out of Legos and play a few video games. He enjoyed the bands U2 and the Foo Fighters and the comedian Dane Cook. And together, he and Jennifer would walk their dogs—Oreo, a Siberian Husky, and Java, a German Shepherd.

"He was just an outstanding, respectable man," says Jennifer. He "could be quiet at times, [but] loved to smile and laugh."

Will was the kind of man who collected many friends. Hundreds of people filled the Booneville Funeral Home

to say their goodbyes, and to recognize his bravery in fighting for such an important cause. I was honored to be able to write a eulogy for Will, which was read at the service.

Our prayers go out to Will's beloved friends and family members today. We are thinking of his wife Jennifer Evans Bowling; his daughters Hannah Kathryn and Allyson Peyton Bowling; his father, Adam Miller; his mother Kathleen Bowling; his parents-in-law James and Cathy Evans; his brother-and sister-in-law Jim and Roxanne Evans; his nephews Michael and Wesley Evans; his grandparents Chester Terry and Francis Bowling; his grandmother-in-law Kathryn Holloway, and many others. Will's grandfather-in-law, Frank Holloway, has also passed away.

Will also served alongside many brave soldiers in the Army, forging friendships that lasted a lifetime and beyond. We are thinking of SGT Billy Messer, SP Travis Tysinger, SGT Brian Marshall, SSG Billy Thompson, SGT Stephen Tucker, and SGT Arthur Briggs.

The town of Beattyville has honored Will by engraving his name on a memorial wall that is erected downtown. That's an appropriate way to remember Will as a soldier and a hero.

His wife Jennifer plans her own way of remembering Will as a husband, a father, and a man.

"I've bought a farm and I'm going to build a house exactly as we had planned," she says. "I will display his die-cast cars . . . and will put his Army memorials on display."

This Senate will remember SGT William G. Bowling for his life of service, and his enormous sacrifice. We honor his heroism in defending his family and his country. And we will not forget the example he has set for all of us—not least, his two young daughters.

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

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#### UNANIMOUS-CONSENT REQUEST— H.R. 6327

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.R. 6327—this matter was received from the House earlier further, that a Baucus substitute amendment at the desk which is a 3-month FAA extension and a highway trust fund fix be agreed to; the bill, as amended, be read a third time and passed; and the motions to reconsider be laid on the table with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DEMINT. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. DEMINT. I am very supportive of the aviation bill. I do think it is inappropriate to add \$8 billion of unrelated spending without debate or amendment, so I regretfully have to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, I am wondering while my friend is on the floor, the highway trust fund, according to the States, is upside down. There is not enough money in it. With the construction season upon us for renovation and repair of streets, highways, and bridges, I say to my friend: Would any smaller amount of money be satisfactory, say, \$6 billion?

Mr. DEMINT. Mr. President, I appreciate the question from the leader. I think again it is inappropriate to make a decision on whether it is \$6 billion or whatever the figure is. Only a couple of months ago we were all here on a technical correction bill. We had the opportunity to take a lot of money that was saved from projects that were not needed. We talked at the time on this floor about the fact that the trust fund was short. But instead of taking that savings and putting it back in the trust fund, we used it to add additional earmarks and to put more money into projects that were there. So there has been no intent by this body to try to look at the problem with the trust fund. Certainly it is something we need to deal with but not as part of the aviation bill.

Mr. REID. Mr. President, I am disappointed but not nearly as disappointed as 50 Governors. This is a situation where the highways of this country are in desperate need of repair and construction.

With the economy faltering, as it is, and the housing market stumbling, this would be a tremendous help. For the \$6 billion, it would create about 300,000 jobs—300 thousand. For every billion dollars we spend, it creates about 47,500 high-paying jobs. The spin-off from those jobs is significant.

This would be vitally important to give our economy a little shot in the arm. So I am disappointed my friend has objected.

We are going to have to continue to work to try to replenish that trust fund. The trust fund is not adequately funded because of the fact that people are not traveling as much. They are not buying enough fuel at least to fill the trust fund. The price of gasoline, when President Bush took office, was \$1.46, \$1.47. Now it is an average of about \$4.12 a gallon.

We have real problems around the country. When gas was at \$1.47, the same tax came into the coffers to fill this fund. So it is an issue, and I would say to my friend, the technical corrections bill was just that, it was to take care of other things that were essentially needed at that time.

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#### FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6327.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows.

A bill (H.R. 6327) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times and passed; the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 6327) was ordered to a third reading, was read the third time, and passed.

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#### UNANIMOUS-CONSENT REQUEST— H.R. 3661

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 836, H.R. 3661, an act to extend the expiring Medicare provisions; that the bill be read a third time and passed and that the motion to reconsider be laid upon the table, with no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GREGG. Mr. President, reserving the right to object, there is obviously a great need to correct the problem of what will occur if we do not fix the doctors' reimbursement schedule.

But there are also more ways to do this than one, and the one that is being proposed is the House-passed bill by the majority leader. We would suggest that since the Senate should be heard on this matter and have the opportunity to put its ideas on the table, Senator GRASSLEY and Senator BAUCUS should have a chance to work on the Senate proposal; that we would rather proceed with an extension of the present Medicare provisions so doctors are not subject to a reduction in reimbursement for 30 days and allow this to happen.

I will be required to object to this on behalf of the leadership over here and myself. Then I would like the courtesy of the majority leader to ask unanimous consent for a 30-day extension.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, I say to my friend, this legislation passed the House by a huge bipartisan vote—359, as I recall, House Members voted for this.

Now, as far as putting the stamp of the Senate on this bill, we have already done that. We passed a bill. We had every Democrat and nine Republicans. That is basically what the House has sent back to us—that matter we took a look at earlier.

I say that the chairman of the committee, Senator BAUCUS, is 100 percent

behind this request I have, as is the AARP, the AMA, and many support groups around the country. That is now in the RECORD. We put that in the RECORD yesterday.

So this is something we have to do. I would say to my friend, on the 30-day extension, I understand the seriousness of his proposal. I have said many times on this floor, I will not repeat it in detail, I have the greatest respect for the distinguished Senator from New Hampshire. But it is my understanding that there has been an objection to my proposal, and he will go ahead and offer the 30-day extension, to which I will object.

I will be happy to seriously consider it but not too seriously.

Mr. GREGG. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of a 30-day Medicare extension that is at the desk; that it be read a third time and passed; that the motion to reconsider be laid upon the table.

I think the point is, there are serious reservations on our side of the aisle, and I think legitimately other places, on the way the House has handled elements of the Medicare system in this bill and that is to undermine the ability of many seniors to participate in what is known as Medicare Advantage.

We think there is a better way to do it. We think the Senate can do a better job of this bill, and we think 30 days to work on it makes some sense.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

#### RESERVATION OF LEADER TIME

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

#### FISA AMENDMENTS ACT OF 2008— MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 6304, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 827, H.R. 6304, an Act to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank our leaders for getting us on this very important bill.

As we have discussed before, the failure to modernize and authorize the Foreign Intelligence Surveillance Act last summer has caused serious gaps in our intelligence capability.

When the Protect America Act that was introduced by our Republican leader, Senator MCCONNELL, and me last

year finally passed, we put the intelligence community back in the business of intercepting critical intelligence communications from foreign terrorists talking to each other about possible activities in the United States, or against our troops and our allies elsewhere, and obviously any of those who were threatening the United States.

I can tell you, without going into detail, that the foreign intelligence collection from these has been about the most valuable piece of information we have with respect to terrorist intent. So I appreciate the fact that this body is ready to move forward.

I hope we will have a way forward to get it done by the time we leave for the Fourth of July recess. It is critical we get this done promptly. If we go into late July or even into August without getting it done, serious consequences will start to impact our ability to collect intelligence.

Again, I thank our minority leader, Senator MCCONNELL, for his kind words, especially about my very capable staff who have worked very hard, not only to help put this bill together, but we have briefed Members of both sides of the aisle, their staffs. We have spent a lot of time doing that.

Of course, as I outlined yesterday, we spent a very long 2½ months working with the House. As I indicated, the bill this body passed, the FISA amendments, we passed 68 to 29 in February with the good, strong support of the chairman of the committee, Senator ROCKEFELLER. We worked on a bipartisan basis. We worked with and listened to the intelligence community to do several things that were critical.

No. 1, we wished to make sure there was protection for the privacy and constitutional rights of Americans and U.S. persons here and abroad. For the first time, we included that. We also needed to protect the telephone companies or carriers who have participated in the terrorist surveillance program under the lawful orders issued by the President, under his constitutional authority in article II, an act in good faith by those carriers.

We provided that immunity, or retroactive liability protection, more accurately, that was critical to ensuring that they can continue to participate. They are loyal American citizens, and they wanted to be able to help. But when frivolous lawsuits, seeking billions of dollars in damages, are filed against them, whether they participated or not, and there is no assurance that any telephone company so sued has participated. They cannot use a defense that they did not participate. They have to have protection.

We built in that protection in a way that was acceptable to both sides in this body in the FISA amendments and also satisfied the concerns of the majority party in the House, which, as Leader MCCONNELL said, had the votes, if they had wished to pass our FISA amendments.

We believe this new bill we are considering, H.R. 6304, which passed the House with a strong majority vote of 293 to 129 last Friday, should be passed here.

As with the Senate's original FISA bill passed several months ago, the compromise that is before us required a little give-and-take from all sides. But, in essence, what we have before us today is basically the Senate bill all over again.

I am aware that some on the far left wish to paint this as some radical new legislation. But if you read the language, it is not different. The press picked up on this straight away last week and kept asking me to help them find the purported "big changes" in this bill that no one can find. I have not been much help to them because the answer is, there is not much that is significantly different, save some cosmetic fixes that were requested by the majority party in the House.

For example, I am pleased that the strong retroactive liability protections that the Senate bill offered are still in place, and our vital intelligence sources and methods will be safeguarded. I am pleased this compromise preserves the ability of the intelligence community to collect foreign intelligence quickly and in exigent circumstances without any prior court review.

I am also pleased the 2012 sunset, 3 years longer than the sunset previously offered in any House bill, will give our intelligence collectors and those parties we need to have cooperate with us the certainty they need in the tools they use to keep us safe.

I am confident the few changes we made to the Senate bill in H.R. 6304 will in no way diminish the intelligence community's ability to target terrorists overseas, and the Director of National Intelligence and the Attorney General agreed. That had to be the test. They worked with us. They made compromises. When we had a proposal for additional protections for Americans, they agreed. But we had to work out the language to make sure we provided protections without destroying the basic integrity of the bill.

I believe we did that. We did that with the Senate bill, and we did it again with the minor changes the House wanted to make.

Let me address, for the time being, the banner issue of the legislation, which is Congress's affirmation that the telecom providers that may have assisted the Government after 9/11 should have the frivolous lawsuits against them dismissed.

I am confident in the standard of review in title II of the bill on which we agreed with Congressman HOYER and Congressman BLUNT, his counterpart in the House, namely, a "substantial evidence" standard, which will ensure that those companies that assisted the Government following the September 11 terrorist attacks obtain the civil retroactive liability protection they deserve.

Unlike the amendment we defeated in the Senate that asked for the court to determine whether the providers acted in "good faith," we affirm in this legislation, as we did in the previous Senate bill, that the providers did act in good faith, and that the lawsuits shall be dismissed unless the judge finds that the Attorney General's actions were not "supported by substantial evidence."

The focus is on the Attorney General's certification to the court, not the actions of the providers. We know the providers operated in good faith, and they deserve liability protection. We are allowing, however, the court to review the Attorney General's role in that.

Another way to describe it is that we have essentially provided the district court with an appellate standard of review, just as we did in the Senate bill. Congress affirms in this legislation that the lawsuits will be dismissed, but then we give the district court an opportunity to change that outcome if the judge determines the Attorney General's certification was not supported by "substantial evidence" based on the information the Attorney General will provide to the court. So the intent of Congress is clear: the companies deserve liability protections. That principle has been approved overwhelmingly on a bipartisan basis in both the Senate when we adopted our bill in February and the House when it adopted its bill last Friday.

Also, there are clear limits on what documents the court may review and the extent to which parties may participate in legal arguments. Because of these important limitations, I am confident that neither the standard of review nor the court processes will jeopardize liability protections or our intelligence sources and methods. Thus, Congress is again positively reaffirming that these companies should have the lawsuits dismissed.

Mr. President, for the record, I thank publicly these providers—and they know who they are—who came to our Nation's defense in a time of national peril. Thank you for ensuring that our Government could keep Americans safe. Thank you for withstanding years of frivolous lawsuits that you did not deserve. But, unfortunately, that has been your penalty for your patriotism. You are a big factor in why America has not been hit with another terrorist attack since September 11, 2001. You helped keep us safe for nearly 7 years since that terrible day, and you did so without legal relief. I thank you, and those who stand with me today thank you. The least we can do in Congress is to provide you with the legal protections you so rightly deserve.

Now, some Senators would like to strip the providers' civil liability protections in the bill. Some believe the thanks these providers deserve should come in the form of billions of dollars of penalties through frivolous lawsuits that threaten their business reputa-

tion. Having reviewed the underlying authorities, the certifications, as one who has practiced a little bit of law in this area, I can tell you there is no way they could or should be held liable for any monetary damages, much less the billions of dollars irrationally requested in the lawsuits.

What these lawsuits do is seek to undermine our program by laying out who participates in it. By getting at the details of the program, we would provide those who seek to do us harm with information on how we collect the information on them that is needed to prevent their attacks. Just as important, bringing them, dragging them through the mud of trials in court would simply assure that their business reputation would be severely damaged in the United States and potentially obliterated abroad. In addition, there is a real likelihood that terrorist activities or other extremists would turn on and attack their property or even their personnel.

I believe seeking to strip liability protection is void of any mature understanding of the threats this Nation faces. That sort of shortsighted pandering to far-left political interest groups endangers our citizens and pays back patriotic service with politically motivated penalty.

I do not join with those who want to treat those who responded to our call for help with disregard and disrespect. I thank the providers for responding to the call, and I will join many others in passing this legislation who will be thanking them with their vote on this important national security legislation.

For those who want to challenge the program, note that we did not ban civil suits against the Government or against any officer of the Government. And criminal suits—if there are any criminal penalties—are not banned. They could be instituted by the appropriate jurisdictions with law enforcement responsibility.

So, Mr. President, there are lots of other points to consider, and when we get on the bill I will be happy to join in discussing any further questions that are raised.

Again, I thank my staff, I thank Senator ROCKEFELLER and his team for having passed the FISA bill. I am very grateful to Mr. HOYER, the majority leader in the House, whose efforts were essential to passing this bill and bringing it to us. We have thanks also for the ranking member of the House Intelligence Committee, PETER HOEKSTRA, who worked with us day in and day out on all of the changes that were requested. LAMAR SMITH, the ranking member of the House Judiciary Committee, he and his staff and his team worked with us throughout.

We have before us not a perfect piece of legislation—I do not think on this Earth we will ever see a perfect piece of legislation. But for the challenges we had to go through and the compromises we had to make, this is the

best possible product we can produce that has already gained an overwhelming bipartisan majority in the House. I hope it will also get the same kind of response in the Senate.

Our intelligence community deserves it. The citizens of the United States deserve not only their rights protected, but they need and deserve the protection this act will give them from further attacks like 9/11.

Mr. President, I do not see anyone seeking the floor, so 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. GRAHAM. 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. GRAHAM. Mr. President, if I could, I would like to be recognized for 15 minutes to speak on the FISA legislation.

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

Mr. GRAHAM. Mr. President, the Senate is taking up a matter that I think is very important to the American people and our national security, and that is to pass the compromise reached by the House and the administration regarding the FISA program.

I want to briefly lay out my view of how the law works in this area. The initial approach by the Bush administration that there was no requirement to comply with the FISA statute, the Foreign Intelligence Surveillance Act, because of inherent authority of the Executive in a time of war I didn't agree with, quite frankly. The idea that an American would be travelled by an agency of our Government if that American citizen was suspected of being involved with the enemy—a fifth column movement, for lack of a better term—and there would be no court review was unacceptable to me.

If an American citizen is suspected of collaborating with the enemy, I think there is a requirement for the Government to have its homework checked, have a judge authorize further surveillance in a kind of balanced approach. Once there is a reasonable belief that an American citizen may be involved with enemy forces, that becomes a crime of treason, potentially.

I do think it is appropriate for Congress to pass a statute that would say when an American citizen is suspected of being involved with an enemy force, taking up arms against the United States—uniformed or not—the FISA statute applies. The inherent authority of the Executive to conduct surveillance in a time of war is limited, or can be limited by the other branches of Government.

Having said that, this idea that at a time of war you need a warrant to surveil the enemy, when no American citizen is involved, is crazy. We have

never in any other war gone to a judge and said: We are listening to enemy forces—for instance, two suspected members of al-Qaida, non-American citizens—and we need a warrant. You don't need that. That is inherent in the ability to conduct military operations, to monitor the enemy.

Those who want to basically criminalize the war, I disagree in equal measure. We are at war, and there is an effort by our intelligence agencies out there to monitor phone calls and other electronic communications of a very vicious enemy that is intent on attacking us again. That program has been shut down because of this dispute.

We have finally found a compromise which would allow the program to move forward, protecting American citizens who may be suspected of being involved with enemy forces, and also allowing the Commander in Chief and our military intelligence community to aggressively monitor networks out there that wish us harm. In this global world in which we live, the technology that is available to the enemy is different than it was in 1978. So we have modernized FISA and made it possible for our intelligence community to be able to keep up with the different technologies that enemy forces may be using to communicate.

I can assure the American people that this program has been of enormous benefit, the terrorist surveillance program. It has allowed us to stay ahead of enemy activity, and with terrorism you do not deter them by threatening them with death. That is something they welcome. Other enemies in the past have been deterred from attacking America because they know an overwhelming response will come their way. In the Cold War, it was called mutually assured destruction. With terrorist organizations that would gladly forfeit the lives of mentally handicapped young people, and others, you have no idea what they are up to, and you just try to isolate them the best you can. Finding out what they are up to and following their movements is essential because you have to preempt them before they are able to attack.

We have a compromise that has come from the House to the Senate that I can live with. The sticking point was the role our telecommunications companies played in the terrorist surveillance program. It is my understanding that the Attorney General—the chief law enforcement officer of the land—and the Department of Justice gave a letter to the telecom companies involved, saying: Your cooperation with our intelligence communities and military surveillance program is legal and appropriate, and we need your help because a phone call made in Afghanistan, because of the global economy in which we live, may be routed through an American system here, and the two people talking are not citizens, but there may be a telecommunications involvement in terms of routing of the

phone call, and we need assistance from the telecom companies to be able to track the technology that exists today that is being used by the enemies of the country.

The idea that somebody would want to sue them because they broke the law, after they have been told by the Department of Justice and the Attorney General their help was needed and it was lawful for them to help, misses the point.

What are we trying to do as a country? Are we trying to avoid the fact that we are at war by talking about lawsuits that undermine the ability of our country to protect itself? I am very much for civil liberties. I don't want any American, as I said before, to be followed by an agency of our Government, suspecting they are cooperating with al-Qaida or another terrorist group, and not have the Government's work looked at by a judge. I would not want that to happen to anybody. If you think anybody who is an American citizen is helping the enemy, you ought to be able to go to a judge and get a warrant. But this idea of having the American telecommunications companies, which were cooperating with the Government in a fashion to help our forces and our intelligence community stay ahead of an enemy, be subject to a civil lawsuit is ridiculous. That is not the appropriate remedy.

If we allow these companies who have been asked by their Government, through the chief law enforcement officer of the land, to participate in the program—if we ask them to participate and then sue them, who is going to help us in the future? This is pretty basic stuff for me. If we do not protect these companies from lawsuits that are existing out there, when they were willing to help the Government—if we don't give them protection, nobody in the future is going to come and help us. We need all the help we can get. We need help from banks, telecommunications companies, and we need help from all kinds of different corners of the private sector to beat this enemy. We are all in it together.

The terrorists use banks to funnel money. Well, the banks can help us if we suspect that an account exists that is being used by a terrorist organization. We should be able to track that down. We are all in this together.

The private sector plays a role in the war on terrorism. Every citizen can play a role in the war on terrorism by being vigilant. We finally reached a deal that would allow the program to be reauthorized, protecting civil liberty and telling the telecommunications companies that helped us: You are not going to get sued.

To my dear friend, Senator SPECTER—his solution is to let the lawsuits come forward but shield the companies by having the Government take legal responsibility and be subject to being sued. That is not the right answer either. Our Government wasn't doing a bad thing. Our Government was doing a

good thing. Our Government was trying to find out what enemies of this Nation were up to before it was too late.

We have had a lot of warnings in the past that were ignored. How many times do we have to deal with this terrorist problem through the law enforcement model to only wake up and find out that we were wrong? The law enforcement model will not work. The law enforcement model punishes people after they commit the crime. We are at war. Our goal is to keep them from attacking us. The military model is the one we should pursue. In every other war, the private sector itself has helped the Government defeat the enemies of this country.

When Senator OBAMA says he would like this provision taken out of the bill—protection for telecommunications companies from lawsuits—that he would like that taken out of the bill, what he is telling the Senate, the House, and the country is that this deal will fall apart. If we took this provision out, there would be no deal. People like me would not allow this process to go forward—and we had to give some. There was a give on the part of the administration and people like myself. There are some programs that I think are inherent to fighting the war that now have to be reviewed by the court. But that was a compromise.

So for Senator OBAMA to come and say that he would take this provision out is saying that he does not believe in a bipartisan deal on the subject matter in question. The left has gone nuts over there—the hard left. They think this is totally unacceptable. So, apparently, he is going to tell them: I don't support this. I am sure that is what they want to hear. But I say to my colleague, deals require giving and taking. It requires sometimes telling your friends what they don't want to hear. This is an example, in my opinion, of trying to tell your friends what they want to hear and positioning yourself in a way to look good with the public in general.

That is not leadership. Leadership requires the common good to trump special interests. It requires political leaders to turn to their allies at times and say: No, your suggestion cannot win the day because if I give you what you are insisting on having, there will be no movement forward.

Senator OBAMA is willing to give the left what they want. The consequence of that would be that the deal would fall apart because many people like me believe if you allow these companies to be sued for helping their country, then nobody will come forward in the future to help their country from the private sector.

In this war, we are going to need support from the private sector, not only in telecommunications but in banking and other areas. So I hope the amendment to strike the retroactive immunity for telecommunications companies will be defeated because, if it is



passed, the deal fails, the movement forward stops, and America is harmed. I am here to support the deal.

Understand that I didn't get all I wanted, but America will be safer if we can get this program reauthorized. Our civil liberties will be better protected, and the ability to understand what our enemies are up to will be greatly enhanced. Every day that we move forward as a nation with this program being compromised is a day that the enemy has an advantage over us. We know what happens if this enemy is not dealt with firmly and quickly. They are lethal, they are committed, and they will do anything to harm our way of life.

We have an opportunity to come together as Republicans and Democrats and move forward on a surveillance program that is vital to our national security, and those who want to undo this deal because of special interest pressure are not exercising the leadership the American people need in a time of war.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes and that the time be counted against the bill.

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

#### REFUELING TANKERS

Mrs. MURRAY. Mr. President, 4 months ago when the Air Force announced that Airbus, not Boeing, would supply the next generation of aerial refueling tankers, Air Force acquisition officials declared that the contest had been fair, open, and transparent. They said they made no mistakes, and they boasted that the decision could withstand any level of scrutiny.

The Government Accountability Office called all of that into question in a 67-page decision that shows the Air Force competition was unfairly skewed toward Airbus from the very beginning.

The decision, responding to Boeing's protest of the Air Force competition, was damning. The GAO described the contest as "unreasonable," "improper," and "misleading." It found that the Air Force significantly overestimated the cost of the Boeing tanker, that it misled Boeing while helping Airbus, and that the Air Force selected Airbus even though the company failed to meet key requirements of the contract. It concluded that:

But for these errors, we believe that Boeing would have had a substantial chance of being selected for the award.

It is unclear at this point whether those errors were due to incompetence or to impropriety. But one thing is definite: This contest was anything but fair or transparent.

I want to know how the Air Force got this so wrong. I have already asked for a meeting with Defense Secretary

Gates so he can tell me how the Pentagon plans to respond. I will make it clear that the Air Force cannot go forward with this contract and that I expect it to follow the GAO's recommendations. The Air Force must return to the original request for the proposal, rebid the contract, and get this right.

The difference between what the Air Force said about the acquisition process and the GAO's findings are startling.

On February 29, Sue Payton, who is the Air Force's Assistant Secretary for Acquisition, said at a DOD news briefing:

We have been extremely open and transparent. We have had a very thorough review of what we're doing. We've got it nailed.

A week later, she told the House Appropriations Subcommittee on Defense:

The Air Force followed a carefully structured source selection process, designed to provide transparency, maintain integrity, and ensure a fair competition.

And throughout the last 4 months, Air Force officials have insisted that they selected the cheapest plane that best met their criteria and that they made no mistakes.

The GAO's decision paints a very different picture of the contest and, as I said, it raises serious questions about how the Air Force conducted this competition. The GAO found the Air Force made a number of errors that unfairly helped Airbus and hurt Boeing. The GAO found that the Air Force changed direction midstream about which criteria were more important. It did not give Boeing credit for providing a more capable plane according to the Air Force description of what it wanted. Yet it gave Airbus extra credit for offering amenities for which it did not even ask.

The GAO found that the Air Force "treated the firms unequally" by helping Airbus at Boeing's expense. The GAO found that the Air Force misled Boeing about whether it had fully met the requirements in the RFP, all the while keeping up conversations with Airbus and giving it the correct information.

The GAO said the Air Force deliberately and unreasonably increased Boeing's estimated costs. When the mistake was corrected, it was discovered that the Airbus A330 actually cost tens of millions of dollars more than the Boeing 767. The GAO said the Air Force accepted Airbus's proposals, even though Airbus could not meet two key contract requirements. First, Airbus refused to provide long-term maintenance, as was specified in the RFP, even after the Air Force asked for it repeatedly. Second, the Air Force could not provide that Airbus could refuel all of the military's aircraft according to procedure.

Let me say that again. The Air Force selected the Airbus A330 even though Airbus refused to agree to a key term in the contract and even though the Air Force failed to show that the A330

was even capable of refueling our military's aircraft by the books.

These are serious findings. No matter how one looks at it, this competition was anything but transparent. Even though the Air Force declared its contest was fair, it appears it had its thumb on the scales for Airbus all along.

But the last findings could be the most damaging of all of them. If Airbus cannot actually prove its tanker can do the job or that it will fulfill its obligations, how can it possibly be awarded that contract?

Today the Air Force is contemplating what to do next. As I said, I think the answer is clear. This contract should be rebid. I agree with those who have said we need to get these planes into the hands of our air men and women as fast as possible. I represent Fairchild Air Force Base in Washington State. Those air men and women fly those refueling tankers. I know how important this decision is to them.

This was not an acceptable acquisition process, and it would be unconscionable to go forward with this selection without first addressing the questions that were raised by the GAO's decision. In order to do that, we must have a competition that is not overshadowed by questions of ethics or competence, and we have to get the right plane.

These tankers we are talking about refuel planes and aircraft from every single branch of our military. They are the backbone of our global military strength. We need a competition where the criteria are clear, where the participants can earn credit that is spelled out in the contract and there is no extra credit that is awarded unfairly, and we need a fair evaluation of all the costs.

We need to go back and start with a clean slate, hold a truly transparent competition that does our air men and women justice. That is what our American taxpayers expect, and our American servicemembers deserve nothing less.

I yield the floor. 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. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I am going to talk a little about the FISA amendment and the protection of civil liberties of Americans. Some people who are concerned about this bill don't recognize that there have been enormous changes made that specifically speak to civil liberties, and so I would like to talk about that. I wish to take the time to explain how the negotiators of the FISA bill have taken great care in protecting the constitutional right of privacy of American



citizens in crafting this agreement, which was a heavily discussed and worked over matter.

The FISA Amendments Act of 2008 includes strong protections of civil liberties of Americans while still allowing the Government to collect the foreign intelligence it needs to protect the country, literally. Maintaining this balance between civil liberties for Americans and protecting our Nation against foreign attack was obviously my utmost priority, as well as Senator BOND's, during the lengthy negotiation process that produced what I think is historic legislation in modernizing FISA for the first time in 30 years.

The FISA bill protects Americans in a lot of ways by ensuring FISA Court involvement in any aspect of the new procedure for targeting foreigners outside the United States that could involve U.S. persons. It does so in four significant ways:

First, the bill requires the FISA Court to approve procedures used to determine whether the foreign target of the surveillance is outside of the United States. The court's assessment of the adequacy of these procedures will ensure that the new authorities cannot be used for domestic surveillance.

Second, the bill requires the court to approve the procedures used to address any incidental acquisition, retention, or dissemination of U.S. person information. These procedures protect the privacy of any Americans who might be in contact with a foreign target.

Third, by explicitly asking the court to assess whether the procedures comply with the fourth amendment, the bill requires the court to determine whether the privacy interests of U.S. persons are, in fact, adequately protected.

Finally, the bill requires the court to approve targeting and minimization before collection begins, in most instances. The court would be required to review and approve the procedures at least annually. This is called prior approval, and it was something that was not welcomed by some, but through the negotiation process, the prior approval process was incorporated in the bill, and it means that the court has to approve targeting and minimization before collection. The Director of National Intelligence and the Attorney General would only be able to proceed prior to a court order if emergency circumstances exist but for a period of time no greater than 7 days before being required to seek the approval of the court and no more than 30 days while the court is considering the request. Sometimes, but very rarely, emergencies do take place.

The FISA bill also provides unprecedented new privacy protections for Americans abroad. This may be the most important part. For the first time, Americans traveling or working abroad are entitled to the same protection from surveillance and search that they would have if they were in the

United States. There are 4 million Americans at any given moment who are outside of the United States, which is equal to the total population of our Nation when it was founded. The requirement is that the Government obtain a court order prior to targeting them for any foreign intelligence collection. So they get the same type of protection as does anybody in the United States. That is a first. Before, the Attorney General could pretty much just say: We want to target these people overseas, and there was no court involved, there was no approval process involved legally. Now that cannot happen. So they are protected, indeed, the same as anybody in the United States.

The bill requires the court to make an individual determination of probable cause before a U.S. person overseas may be targeted for any electronic surveillance or other foreign intelligence collection. Each court order is valid for no longer than 90 days. This is an important new protection that has never before been in place.

Apart from the court review I have detailed, the FISA bill also protects the privacy interests of Americans through other provisions.

The bill prohibits the new procedure for targeting foreigners outside the United States from being used to target anyone inside the United States or from being used to acquire entirely domestic communication. The way it is now—and it is called reverse targeting—within the United States, you take out of the air some communication of somebody overseas who may be contacting somebody in the United States, and that potentially puts the U.S. person at risk. That is reverse targeting. So there is a prohibition now which explicitly includes reverse targeting, where the purpose of targeting somebody outside the United States is to target somebody in the United States. I know it is complicated, but it is important.

Because of the importance of the prohibitions in the bill, the bill requires the Attorney General to adopt guidelines that ensure that the Government obtains individual court orders when required and does not engage in any prohibited conduct, such as reverse targeting, which, in effect, disappears from the lexicon of telecommunication collection. The bill also requires the Attorney General and the Director of National Intelligence to certify to the FISA Court, under oath, that the acquisition complies with the prohibitions in the bill and that the procedures and guidelines are consistent with the requirements of the fourth amendment.

To ensure there are no unintended consequences relating to when a warrant must be obtained under FISA or how information obtained using FISA can be used, the bill does not change the definition of "electronic surveillance" in FISA. It is left exactly as it is. People say: Well, why is that? Everything has changed. Well, there can

be legislative authorizations to make changes, but only if those legislative authorizations are made can there be changes in electronic surveillance. So the definition remains the same—a good, solid base.

The bill requires extensive reporting to Congress about the implementation of the new provisions, compliance with the prohibitions in the bill—that is important; we have not had that—and the impact of the new provisions on U.S. persons.

The bill sunsets on December 31, 2012, a date which ensures that the reauthorization of the FISA bill will be addressed, in fact, by the next administration.

In addition to protecting the civil liberties of Americans in the new procedures, the bill seeks to prevent any future circumvention of FISA and to ensure that Congress has a complete set of facts about the President's surveillance program.

Well, one might question: How does that happen? In title III of the FISA bill that is before us, we direct the inspectors general of relevant agencies—and that is a whole bunch of intelligence agencies—to complete a comprehensive review of the President's warrantless surveillance program. Then, within a year, the inspectors general must submit an unclassified report to Congress, with a classified annex, if necessary. This IG review provides an important vehicle for ensuring that a comprehensive set of facts about the President's program is available to Congress and, to the extent the classification permits, to the American public itself.

A comprehensive review of the President's program is particularly important given the possibility the courts will dismiss ongoing litigation due to title II. It also ensures that accountability for the program will be directed at the Government, where it belongs.

To ensure that the Government never again relies on an inapplicable statute to argue that warrantless wiretapping is permissible, the bill strengthens the requirements that FISA and specific chapters of title XVIII are the exclusive means by which electronic surveillance and criminal law interceptions may be conducted. The act provides that in addition to the specifically listed statutes, only an express statutory authorization passed by the Congress for surveillance or interception may constitute an additional exclusive means for that surveillance or for that interception. It is a very strong protection against abuse.

Finally, the bill clarifies that criminal and civil penalties can be imposed for any electronic surveillance that is not conducted in accordance with FISA or the specifically listed criminal intercept laws.

In summary, the FISA bill has a multitude of statutory provisions that provide the judicial and congressional oversight that is essential to protecting the civil liberties of all Americans, both here and abroad. They were

not protected abroad. They are now. The House did not pass this bill because they believed there was an insufficiency of civil liberty protections—and they may have been right. So we hammered these out in long meetings in which the White House, all the intelligence agencies, and the leadership—Republican and Democratic—of the House and the Senate were there.

It is a much stronger bill. People will argue that people like me talk about a balance between being able to collect—which is the only way you are going to know if you are going to be attacked—or civil liberties. So people tend to go all the way this way or all the way that way, not recognizing or not being willing to accept that there can be a balance. We have created that balance in our bill. I am proud of that. It is one of the many reasons I am for the bill.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Alaska is recognized.

HONORING ELLADEAN HAYS BITTNER

Mr. STEVENS. Mr. President, I never thought I would have this occasion, but I want to speak today to honor the life of a great woman, my mother-in-law, Elladean Hays Bittner.

Ellie was born February 1, 1919, in Phoenix during the great flu pandemic. She often remarked on why she had no birth certificate—the hospital did not expect her to survive.

Ellie grew up and worked on her family's ranch in Arizona. She studied home economics at the University of Arizona, graduating in 1939. During college, she rode with the U.S. Army cavalry and was chosen to be a member of the Mortar Board, a national honor society.

Ellie married William-Bill-Edward Bittner in 1944 in Arizona. They honeymooned to Alaska, traveling by Alaska steamship and train to Anchorage to meet her in-laws. In 1950, Ellie moved to Alaska with Bill and their children, Catherine—my wife, William, and Judith. Ellie worked for the Anchorage school district, teaching home ec. She started a boys' cooking class and an early childhood education program.

Governor Hickel appointed Ellie to a position with the Alaska Department of Education. She traveled extensively, interviewing women in remote villages and towns and published a study that was a pioneer effort to identify economic opportunities for women.

Ellie and Bill were very active in Alaska, entertaining frequently at their downtown log house in Anchorage and flying all over the territory in their Cessna 180 with their children.

The family began splitting their time between Alaska and Arizona in the 1970s and Ellie returned to ranching. She established the "Quien Sabe" outfit, which she was featured with in 2002 at the Cowgirl Museum and Hall of Fame, and is included in "Hard Twist", a book on western ranching women. Ellie remained active in ranching until her death.

She was a great lady. She passed away on June 10 in our hometown of Anchorage, AK, surrounded by her family. I had the honor to be with her for part of that time. I speak for all of us and many more when I say this. There is a hole in our lives that will never quite be filled. Ellie left us with wonderful memories. Through these, she will live on.

Every time I hear Willie Nelson I am going to remember Ellie. She loved Willie Nelson. I think the only difference she had with Willie is she hoped her children, her babies, would grow up to be cowboys.

LEAVE OF ABSENCE

Mr. President, I ask unanimous consent I be excused from attendance of the Senate following today's session, until the first vote in July.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

HONORING WILLIAM SHEFFIELD

Mr. STEVENS. Mr. President, I rise today to pay tribute, on his 80th birthday, to a great American and a great Alaskan, Governor Bill Sheffield. My friend Bill Sheffield was the Democratic Governor of Alaska from 1982-86, which was just a short episode in a lifetime of service to Alaska both in government and in the private sector.

Governor Sheffield came to Alaska in 1953, the same year I moved to our great State, to handle television sales for Sears and Roebuck. His exceptional intellect and work ethic were easily recognized. Quickly, he took leadership positions in the Chamber of Commerce and other business groups in Alaska, eventually becoming president of the Alaska State Chamber of Commerce and, in 2006, being awarded the Lifetime Achievement Award in Business by the Alaska Business Monthly. By 1960, he had entered the hotel industry by purchasing his first hotel in Anchorage. The day before the Good Friday Earthquake in 1964, Bill Sheffield had just opened a new hotel, but it would take more than that earthquake to stop Bill. His hotel business continued to grow until he owned 16 hotels throughout Alaska and the Yukon Territory.

As Governor, Bill Sheffield was focused on "Bringing the State Together," the theme of his campaign. His reputation as a problem-solver and his pledge to unite Alaskans resulted in a landslide victory. Governor Sheffield's experience as a businessman served him and Alaskans well during his time in the Governor's Office. His efforts reduced excessive spending in State government and helped save Alaska's natural resources for the use of all Alaskans for generations yet to come.

After leaving government, Governor Sheffield continued his service to Alaskans, taking seats on several private and nonprofit boards of directors. Currently, he is the director of the Port of Anchorage, where he has developed a master plan for expansion of the port

through 2014. Governor Sheffield's vision for this expansion of the State of Alaska's largest port will not only serve Anchorage, but nearly the entire geographic area and population of our State. Mr. President, over 90 percent of the goods that come into my State come through the Port of Anchorage. Furthermore, this expansion will serve the national defense needs of the United States by providing vital transportation support and access to four major military installations in Alaska, including the Stryker Brigade at Fort Wainwright. I am proud to have supported the port expansion project and I am proud of Governor Sheffield and the work he is doing for Alaska and all of the United States.

Governor Sheffield's continuing service does not end with the Port of Anchorage. Additionally, he is a trustee of Alaska Pacific University, a member of the advisory board of ENSTAR Natural Gas, a charter member of Commonwealth North, past chairman of the Federal Salary Council and a member of the board of directors of the Alaska Railroad and formerly the railroad's president & CEO. As Governor, Bill Sheffield was instrumental in saving the Alaska Railroad, purchasing it from the Federal Government and then providing the necessary investment in Alaska's infrastructure to assist in our development. In recognition of his service to the railroad and to the State of Alaska, the Alaska Railroad Depot at the Anchorage International Airport was named after Governor Sheffield in 1999.

Most importantly to Alaskans, Bill is also a skilled fisherman and avid outdoorsman. A love of bush Alaska runs through every aspect of this man. I know firsthand of his love for the bush areas of our home State. He and I have enjoyed many days together out on the water whether fishing for salmon on the Kenai River or elsewhere in Alaska.

In this Chamber today, we see a lot of partisan fighting. One of the greatest qualities of my friend Bill Sheffield is the ability to get past the labels of Democrat and Republican. Bill Sheffield is a lifelong Democrat. While he was the Governor of Alaska and I was here in Washington as Senator, we always found a way to work together. As Governor, Bill Sheffield was able to identify what needed to be done for the greater good of Alaska. More importantly, he pushed aside the partisanship, went ahead and did what needed to be done for Alaskans. In both business and government, Governor Sheffield is a leader and a doer. He is a fine example for all of us. I am honored to count Bill Sheffield a friend and I hope the entire Senate will join me in wishing him a happy 80th birthday. Happy birthday, Billy.

Ms. MURKOWSKI. Mr. President, it is with great honor and respect that today I acknowledge the 80th birthday of a great friend and leader in Alaska. Governor William "Bill" Sheffield has

been a leader in business and government for most of the 55 years he has lived in Alaska. He served as Governor from 1982 to 1986, following a business career in which he built a company that became one of the largest private employers in Alaska and the Yukon Territory.

Governor Sheffield came to Alaska in 1953 as a regional sales representative for Sears Roebuck in charge of television sales and service. He became one of the top salesmen in the nation during the 1950s and began his leadership in business groups such as the Jaycees and the Chamber of Commerce. In 1960, he purchased an Anchorage hotel, and founded Sheffield Enterprises. In 1964, literally the day before the great Alaska earthquake of March 27, 1964, he opened a new hotel in Anchorage. This began an expansion that eventually saw his company grow to 16 hotels with 750 employees. He sold the company in 1987 to Holland America Line-westours, one of the major players in Alaska's growing tourism market. While in business, Sheffield served as president of the Alaska State Chamber of Commerce and the Alaska Visitors Association.

As a candidate for Governor in 1982, Bill Sheffield's theme was "bringing the state together", a reference to a pair of divisive ballot initiatives that same year. His message of inclusion and cooperation helped him win the governorship in a landslide. Governor Sheffield then turned his attention to curbing the runaway growth in State government, promoting efficient business-style management of public works projects and saving more of Alaska's energy revenues for future generations.

Currently, Governor Sheffield serves as port director of the Port of Anchorage, where he oversees a critical and all-encompassing port expansion. The port is a military strategic port and serves 80 percent of Alaskans with 90 percent of their goods. He is also a trustee of Alaska Pacific University, a member of the advisory board of ENSTAR Natural Gas, and a charter member of Commonwealth North, one of Alaska's leading public affairs forum. He is the past chairman of the Federal Salary Council; recently he received the Lifetime Achievement Award in Business from the Alaska Business Monthly; the former president and CEO of the Alaska Railroad Corporation and now serves on its board of directors. In recognition of his service to the railroad and to the State of Alaska, the Alaska Railroad Depot at the Ted Stevens International Airport was named in his honor in 1999.

Governor Sheffield has always believed that wisdom comes with the experience of making your own payroll. He credits his success in business and government from having the experience of workers depending on him alone for their paycheck.

Lastly, Bill Sheffield, a lifelong Democrat, is one of the best examples of someone who puts partisanship aside,

rolls up their sleeves and works with anyone who is also dedicated to achieving important goals for the greater good. Whether in business, politics, education or many other endeavors that have benefited so many people, he is a leader and example for all of us.

I would also be remiss if I didn't mention that Bill is an excellent duck hunter, fisherman and avid outdoorsman. Mr. President, I am proud to call Bill Sheffield a friend and I hope the entire Congress will join me in wishing him well on the 80th anniversary of his birth. Happy Birthday, Bill.

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

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

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

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

#### STUDENT AID

Mr. BROWN. Mr. President, as I travel my State, I have held close to 100 roundtables of 15, 20 people gathered together as a cross section of the community in some 65 or 70 Ohio counties.

I hear more and more people talking about how difficult it is for middle-class kids, for kids from working families, especially for first-generation and potential first-generation students being able to go to college.

We have made some progress in the Senate in the 15, 16, 17 months since the Presiding Officer and I and others have been in this body. One was the College Cost Reduction Act, an investment in America's students. It was a promise that I and my other freshman colleagues campaigned on 2 years ago. We have delivered.

The increases in student aid that are beginning to go into effect next week are a downpayment of America's future prosperity, on its future competitiveness. This investment could not have come at a better time. With college costs at an alltime high, neither student aid nor family incomes have been able to keep up.

In my home State of Ohio, between 2001 and 2006, the cost of attending college increased 53 percent at 4-year public colleges and universities, and almost 30 percent at 4-year private colleges, 53 percent at public universities, close to 30 percent at 4-year private schools.

During this same period, the median household income in Ohio increased only 3 percent. In the 2004-2005 school year, 66 percent of students graduating from 4-year institutions in my State graduated with student loan debt. The average debt was \$20,000.

This bill will help students manage the debt they are incurring and give

them more options after they leave school. One of the most important provisions of the bill is a new income-based repayment program that will allow students to pay their debt as a percentage of their income. This initiative, along with the Public Service Loan Forgiveness Program, will help students manage their debt and allow them to pursue careers in public service without fear of student loan payments they simply cannot afford.

In April, I held a Health, Education, Labor, & Pensions Committee public hearing at Ohio State University to discuss student debt issues. One of the witnesses we heard from was a young woman from Cincinnati whose distraught mother wrote me about the crippling debt her daughter had accrued trying to pay for college.

She testified she never believed an education could cost so much and how she worried about how she was going to help her family and advance her career now that she was saddled with so much student loan debt.

As I said, as I travel the State, I hear stories such as these from students and parents who tell me it is becoming harder and harder to afford a college education for those Ohioans, for millions of others across this country. This bill will finally provide some much-needed relief. I would add that as Governor Strickland, the new Governor of the State who has been in office some 17 months or so, has frozen tuition at public universities, which has made a big difference, obviously, in the affordability of college. And coupled with what the State is trying to do now in Ohio, after the State did very little to rein in college costs, coupled with what we are doing here, it will make a big difference, particularly for first-generation students, but for all people who want to go to college whose parents do not make quite enough for them to be able to afford it. This is a major step, a positive step, in changing the direction of our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

#### MEDICARE ADVANTAGE

Mr. DURBIN. Mr. President, pending before the Senate is an important measure about compensating medical providers who treat Medicare patients. Medicare patients, of course, are the elderly and the disabled. This program that was started over 40 years ago reaches 40 million Americans. It is an important lifesaver. It is a lifeline for many people who have reached a point where they can no longer afford to pay for their own major medical bills. Many of these people are on fixed incomes. Many of these folks have no health insurance, other than Medicare. They are desperate to find the kind of care they need.

Medicare, a program that was once criticized as being too much government and socialism, has turned out to be one of the most valuable programs the Federal Government offers. For 40 million Americans, it means they have the peace of mind that when they are sick, there is a place to go and someone to pay for it, that they will not sacrifice their savings and everything they have because of a medical catastrophe. There is a suggestion of cutting the compensation to Medicare providers by 10 percent. The fear is, if we cut that pay to these Medicare providers, fewer doctors will take Medicare patients; they will decide that the economic benefits are with other patients who might be paying more through private health insurance or even out of their own pockets.

We have a deadline. On July 1, this 10-percent cut goes into place. We have been trying, week after week, month after month, to pass in the Senate a provision that will protect these Medicare providers from this proposed cut of 10 percent. Imagine, if you will, that seniors who have doctors' appointments in the first or second week of July call to find that the appointments have been canceled because their doctor no longer takes Medicare patients. I don't want that to happen in Illinois. I don't think it should happen anywhere across this country.

A bill comes through the House of Representatives which proposes that we stop this 10-percent cut and make sure Medicare does not suffer this change and that the Medicare beneficiaries are not disadvantaged. The vote was called earlier this week in the House of Representatives. The final vote was 355 to 59. By a margin of 5, or 6 to 1, a bipartisan vote in the House of Representatives, they voted to take care of this problem and do it now before the July 1 deadline kicks in. The bill that passed in the House is supported by physicians, consumer groups, pharmacists, hospitals, and many others. Who opposes this bill? Two groups. I should say two entities—the health insurance industry and the White House. Why? Because the bill provides for savings from private fee-for-service Medicare plans. In other words, the additional 10 percent that is going to be paid to these Medicare providers, part of it at least is offset by saying that private health insurance companies are going to receive less in reimbursement for treating Medicare patients.

Why should they receive less, you ask? Because the so-called Medicare Advantage plans, private health insurance plans providing benefits that look a lot like Medicare, charge more than the Medicare plan, 12 to 13 percent more. Those aren't figures dreamed up by Congress. They come to us from the executive branch of Government. We suggested some savings in the amount of money paid to private health insurance companies and the resistance comes, obviously, from those companies, the White House, and this morn-

ing from the Republican side of the aisle. They refuse to let us cut any reimbursement to the private health insurance companies that charge more for the same services that Medicare is providing.

So we have reached an impasse. It is an impasse that has to be broken to the benefit of Medicare beneficiaries. I think we should be guided in breaking it by what happened in the House of Representatives by a vote of 355 to 59. Private fee-for-service plans are paid more than what it costs to treat the same Medicare patient in the traditional Medicare Program. We are paying these private insurance companies more than the ordinary Medicare reimbursement.

For some on the other side of the aisle, this is all well and good. They want to privatize Medicare. They want to end this so-called Government health insurance plan. I am not one of those. After more than 40 years of success in Medicare, I don't want to see this program go away. This program has been a lifeline when all else has failed. Medicare Advantage plans, those private health insurance company plans I talked about, cost taxpayers, on average, 13 percent more than Medicare for the same benefits. Private fee-for-service Medicare Advantage costs even more, 19 percent. This payment disparity gives private fee-for-service plans a competitive advantage over traditional Medicare. In other words, they can offer a little bit more, some bells and whistles, and they charge dramatically more when it comes to billing taxpayers and the Government for their services. We are trying to trim that back a bit.

The howls and screams from the other side of the aisle come because they want to protect these private health insurance companies. These unjustified higher payments are fueling large increases in enrollment in these types of plans that charge more because they offer a little bit more here and there. Even CMS has been concerned about the marketing practices of these private fee-for-service plans. Understand, these private health insurance companies, trying to enroll Medicare beneficiaries into their private health insurance alternative to Medicare, are going door to door, using telephone, mail, soliciting many seniors. Some of them are misled. Some of them are confused by the solicitations. There is outright fraud taking place. There have been numerous reports of sales agents using strong-arm tactics to enroll Medicare beneficiaries in these plans without the beneficiaries understanding how the plans differ from traditional Medicare.

Yesterday, the Government Accountability Office released a report that shows that private Medicare Advantage plans spent less on medical care than they report to the CMS which, in turn, earned them \$1.14 billion in additional profits over what was expected. This is money going directly into the pockets

of the insurance industry, not for the health benefits of Medicare patients. This report confirms the deal that was offered to Medicare beneficiaries and American taxpayers by these private plans is even worse than we thought. Yet today, on the Republican side of the aisle, they are objecting to this fix in Medicare to protect these private health insurance plans that have been found over and over again to charge too much, to be abusive in their marketing and, frankly, to provide less medical care than they promised.

In this report, for the first time in the history of the Medicare Advantage Program, GAO compared the private plans' projected spending on medical care and profit margins with their actual profit margins and spending on medical care. They found that in 2005, the Medicare Advantage plans projected spending 90.2 percent of total costs on medical services but actually spent 85.7 percent. By spending less on helping Medicare patients, these plans increased their profits. That is what it is all about—giving the Medicare patients as little as possible.

These private health insurance plans are big winners when it comes to making money but at the expense of medical care for the Medicare patients. These are the same companies Republicans are trying to protect by objecting to our fixing this Medicare reimbursement problem.

It is a shame we are putting the health of America's seniors on the line for the profit of a handful of private insurance companies. The Bush administration is disguising the truth. They claim the Medicare Advantage plans are helping, when they aren't doing a good job. This GAO report is more evidence of waste and abuse in this program, evidence which those who object to our moving forward refuse to even read or acknowledge. The changes in this bill are modest. They are nowhere close to payment cuts the House approved earlier this year. What Republicans and the White House are objecting to is taking away another special advantage that private fee-for-service plans have been given, the ability to deem a doctor or hospital as part of its necessary work. This bill merely requires private fee-for-service to enter into contracts with health care providers, as all other private Medicare plans already do. This reform is good for patients, good for health care providers, and good for taxpayers.

The overwhelming vote in the House for this bill shows Congress will no longer allow the Bush administration, as it is packing to leave town over the next 6 months, to protect the health insurance industry at the expense of Americans, our families, and Medicare beneficiaries.

I urge my colleagues, support the Medicare Program, make sure Medicare providers are adequately funded. Don't stand in defense of private health insurance at the expense of this valuable program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

UNANIMOUS CONSENT REQUEST—H.R. 2264

Mr. KOHL. Mr. President, I rise today to ask unanimous consent that the Senate take up the No Oil Producing and Exporting Cartel Act, NOPEC. This legislation will authorize our Government, for the first time, to take action against the illegal conduct of the OPEC oil cartel. It is time for the U.S. Government to fight back on the price of oil and hold OPEC accountable when it acts illegally. Our amendment will hold OPEC member nations to account under U.S. antitrust law when they agree to limit supply or fix price in violation of the most basic principles of free competition.

NOPEC will allow the Attorney General to file suit against nations or other entities that participate in a conspiracy to limit the supply, or fix the price, of oil. In addition, it will specify that the doctrines of sovereign immunity and act of state do not exempt nations that participate in oil cartels from basic antitrust law. This legislation will not create any private right of action nor require any action by the Attorney General, it will simply give the administration the option to bring an antitrust action against OPEC member nations. Passage of this legislation will mean that OPEC member nations will face the possibility of real and substantial antitrust sanctions should they persist in their illegal conduct.

I have introduced this legislation in each Congress since 2000. This legislation passed the full Senate by a vote of 70 to 23 last June as an amendment to the energy bill before being stripped from that bill in the conference committee. The identical House version of NOPEC passed the other body as stand alone legislation in May 2007 by an overwhelming 345 to 72 vote. It is now time for us to at last pass this legislation into law and give our Nation a long needed tool to counteract this pernicious and anticonsumer conspiracy.

As we consider the causes of rising gas prices—now exceeding the once unthinkable \$4 per gallon level, up 74 percent since the beginning of last year—one fact has remained consistent—any move downwards in price ends as soon as OPEC decides to cut production. And while the OPEC nations enjoy their riches, the average American consumer suffers every time he or she visits the gas pump or pays a home heating bill. The Federal Trade Commission has estimated that 85 percent of the variability in the cost of gasoline is the result of changes in the cost of crude oil.

The most fundamental principle of a free market is that competitors cannot be permitted to conspire to limit supply or fix price. There can be no free market without this foundation. And we should not permit any nation to flout this fundamental principle.

Mr. President, the suffering of consumers across the Nation in the last

few years has made me more certain than ever that this legislation is necessary. When I first introduced this legislation in June 2000, the worldwide price of crude oil was \$29 per barrel. It has now more than quadrupled. How much longer must consumers wait for us to take action? I believe we need to take action now.

I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 169, H.R. 2264, at a time to be determined by the majority leader, following consultation with the Republican leader, and that the bill be considered under the following limitations: that no amendments be in order to the bill; that there be 2 hours of debate, with time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of the time, the Senate proceed to vote on passage of the bill without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

CLEAN ENERGY

Mr. ENSIGN. Mr. President, in the last few days, we have been talking about the housing bill. Last night I got to speak as I had the day before about an amendment I have been trying to get onto the housing bill. I would like to speak about the importance of that amendment, once again.

This country is facing high energy costs right now, with gasoline over \$4 a gallon. Home heating oil is being affected by the price of energy. Natural gas prices have gone up by over 70 percent. It is affecting literally every single family and business in the United States. We need to have a broad-based approach to finding all the sources of American energy we can possibly find to help make us less dependent on Middle Eastern oil and other energy supplies coming from outside the United States. It is important for our national security, and it is also important for our economic security.

The amendment I wanted to offer to the housing bill deals with alternative renewable energies. These are energies such as solar, wind, geothermal, and many others. This amendment is identical to a bill Senator MARIA CANTWELL, a Democrat, and myself worked on together. In total, 45 Members have cosponsored this bill. We actually offered this legislation as an amendment to housing bill the last time that bill was on the Senate floor in April.

At that time, our amendment passed with 88 yeas and only 8 nays. Rarely does something around this body pass 88 to 8 in such a bipartisan fashion in these partisan days. We should take advantage of that bipartisanship and do something right for the American people.

Not only do we want more American energy, but whenever we can, we

should certainly try to incentivize bringing more green energy to the United States. That is the reason we introduced this bill, and it is the reason there was such a strong vote on it.

There have been a couple of objections as to why we should not include this amendment on the housing bill. It has been said that this amendment has nothing to do with housing. I would beg to differ. First of all, the stronger the economy, the more people will be able to afford to buy and retain homes. This renewable energy tax bill literally will produce probably 100,000 to 200,000 jobs in the United States and billions of dollars worth of investment in the United States. When people have jobs, there is a better chance they can afford homes.

Second, there are many provisions in our renewable energy tax bill that directly relate to housing. My amendment provides incentives to expand energy efficiency in new homes, existing homes, and appliances used in homes. For example, if you want to invest in solar energy in your home, if you want to help the country out by taking some of your electricity demand off of the power grid and actually produce your own electricity with solar energy in your home, we have tax credits to encourage this activity. If somebody is building a more energy-efficient home, we have tax credits in there to do that. In addition, we encourage the production of more energy-efficient appliances for your home. So this amendment is directly related to housing.

One of the other provisions the managers of this bill—and especially the Democratic leadership—do not want this amendment attached to the housing bill is that it is “not paid for.” Well, there are already \$2.4 billion in tax-related items that are not paid contained in this housing bill. I will not go into the details because they are fairly complicated, but know there is almost \$2.4 billion in unpaid-for tax incentives in this bill.

The Democratic manager of this bill said the Democrats in the House of Representatives would not go for our particular renewable tax credit legislation because it was not paid for, that there were too many Democrats in the House of Representatives who would object to it. Well, how do they expect \$2.4 billion in other tax incentives that are not paid for to be accepted over there and then argue that ours would not be accepted as well? So I think we should do absolutely everything we can at this time—with high energy prices on gasoline, home heating oil, and natural gas going up in the United States—we should do everything we can to get Senator CANTWELL’s and my amendment on renewable energy tax credits put onto this housing bill.

Another reason it is important to have this amendment on this bill, instead of waiting for another bill in the future, is that a lot of the contracts and the financing of renewable energy projects—whether they are solar, geothermal, wind, or any of the other

clean energy we have in the United States—it is critical for the financing of these projects that we have predictability and we get the Clean Energy Tax Stimulus amendment done as soon as possible. For each quarter that passes—and the Senator from Washington has spoken eloquently about this—that is more projects that do not get financed. Projects will not always be financed in the future if they have lost their financing now. Investors lose confidence.

So we need to have predictability, and we need to enact my amendment soon as possible. The housing bill, everybody around here knows, is going to be one of the few bills that will be signed into law this year. So we need to have the renewable energy tax credits on a bill that is going to be signed into law. If we actually care about advancing use of renewable energy in this country, if we care about jobs in the renewable energy sector of our economy, then we need to have this amendment passed into law.

The Democratic leader has already said he is going to pull the bill and we are going to come back to the housing legislation after the Fourth of July break. I encourage all Americans to contact their Senators and Representatives in the House, and let their voices be heard that this is an important issue to them. Write in, e-mail—do all the types of things that are necessary to participate in our democratic process, to say yes to renewable energy, to say yes to jobs in America.

Let's put this amendment on the housing bill when we get back after the Fourth of July recess. Let's do it as quickly as possible. Let's get the House of Representatives to cooperate with us on something that is good for America. I happen to be a Republican Senator but this is a bipartisan issue. In fact, this should be nonpartisan. This should be something that is done forgetting about whether you are a Republican or Democrat. Let's do something that is good for America. Let's do more of that around this place, and I think we will all be better off for it.

I conclude by imploring my colleagues: Think about this during the break. Think about what is at stake with the tens and tens of thousands of jobs, the billions of dollars in investment in renewables, and the chance that we can do something good for America and bring more green energy, more clean energy to the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

PAUL LAURENCE DUNBAR

Mr. BROWN. Mr. President, I rise today to honor the birth of Paul Lawrence Dunbar.

It was the African-American poet Maya Angelou who made the verse "I know why the caged bird sings" widely famous, but it was Paul Laurence Dunbar from Dayton, OH, who penned that powerful poem more than a century ago. That seems to be the true story of Paul Lawrence Dunbar, as a trailblazer who paved the way for later generations of African-American poets and writers.

While academics continue to debate Dunbar's stature in the pantheon of American poets, there is wide agreement that he is a seminal figure in African-American literature, the first to achieve national—and some would argue international—recognition among African Americans.

Paul Lawrence Dunbar was born into meager circumstances in Dayton, OH. His birthday we honor tomorrow on June 27, 1872. He was the son of former slaves who escaped to freedom. He was raised by his mother Matilda, who had little to give him in terms of material wealth. Her job as a washer woman provided little more than food and clothing for Paul and his four brothers and sisters. Instead, she instilled in him something much greater. Paul's mother taught him the arts of song and storytelling and instilled in her son a lasting love of poetry and literature. Because of his mother, the poet fell in love with the power of words at a very early age, some accounts having him reciting and writing poetry as early as age 6. This love for literature grew over the years as his mother encouraged him to read and reinforced the importance of school.

By the time young Paul reached high school, he was the only African American in his class at Dayton Central High. While he faced so many difficulties because of his race, he achieved so much during this time in his life. In the face of prejudice, he became a member of the debating society, editor of the school paper, and president of the school's literary society. Working with his classmates and his friends in Dayton, Orville and Wilbur Wright, Paul Laurence Dunbar published an African-American newsletter. All the while, he helped support himself by working as an elevator operator in Dayton's Callahan Building.

Dunbar's birthday, June 27, came to be a very important day for the poet, as it was on that day when his abilities to write were first showcased in his hometown and then many years later again on his birthday when he received national recognition—it was June 27, 1892, when giving the opening welcome before the Western Writers Conference at the Dayton Opera House.

As the story goes, Paul was asked by his teacher Helen Truesdell only days before to give the opening remarks. He

was nervous not only about writing the remarks but also about enough time away from his job as an elevator operator to give them.

As Jean Gould describes in her book, "That Dunbar Boy":

Speaking to the Western Writers Conference afforded Paul his first opportunity to be heard by writers beyond the Dayton region, a special birthday gift that began the launching and the cementing of his writing career. His welcoming address received a burst of eager applause as he bowed and made a dash for the backstage exit of the Opera House—he was due back at the Callahan Building as the elevator operator in just 10 minutes!

This experience for Paul underscored his love of writing and his desire to make it his career. Soon after, he published his first book of poems, "Oak and Ivy."

It was on June 27, 1896, that William Dean Howells, a prominent literary critic of the times, published a column in Harper's Weekly enthusiastically praising Dunbar's second book, "Majors and Minors."

Howell stated:

There has come to me from the hand of a friend, very unofficially, a little book of verses, dateless, placeless, without a publisher, which has greatly interested me.

So that established Dunbar as a national literary figure. From there, he went on to write four collected volumes of short stories, four novels, three published plays, lyrics for 12 songs, 15 books of poetry, 400 published poems, 200 unpublished poems, uncounted essays on social and racial topics in periodicals and newspapers in a career of less than 13 years.

Literary critics to this day continue to debate Paul Lawrence Dunbar. It has been argued that the author should be considered one of the earliest crusaders for equal rights and that his work belongs in the long tradition of protest writing. Other critics argue against this sort of designation—a controversy that speaks to the complexity and richness of his writing.

There is no debate that Paul Lawrence Dunbar and his works have enriched the history and character of his hometown, Dayton; his State—my State—Ohio; and our great country. Paul Lawrence Dunbar is known throughout the world for his literary genius. He is recognized as a man of humanity and integrity and determination, thus becoming the first African American to be accepted by the discipline of American literature.

Tomorrow, actually, is the date of his birth, but I stand today to honor this Ohioan and his work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to the FISA bill.

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



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

#### ZIMBABWE ELECTIONS

Mr. KERRY. Mr. President, we are known happily as the world's greatest deliberative body and the world's greatest democracy. There are times when I have been here when we have indeed lived up to that reputation, and it has been exciting and rewarding. We also are blessed to serve in an institution where very frequently we extol the virtues of our commitment to spreading freedom around the globe. We take that seriously. I don't think there is a Senator here who doesn't believe in our responsibility to do that and who isn't proud of America's role in being able to do that in many parts of the world where we have made a difference.

However, in recent days here in Washington, the news earlier this week that Morgan Tsvangirai, the leader of Zimbabwe's main opposition party, was forced to withdraw from a runoff election that was scheduled for tomorrow, that news was regrettably met by an absence of the kind of outrage that it demands and, frankly, by an absence of action of any kind in the global community.

It is important for the Senate, in my judgment, to forcefully condemn a shockingly brutal campaign, an overt, visible for everybody to see, disdainful, arrogant campaign of violence and intimidation that has been launched by President Robert Mugabe and his henchmen which rendered free and fair elections in Zimbabwe impossible.

Morgan Tsvangirai's courageous decision not to put his supporters at further risk in an election that Mugabe explicitly said he would not respect if he did not win ought to be a wake-up call for the world and especially to the African leaders who have the most influence over Zimbabwe.

Action is long overdue. For months now, Mugabe's thugs have savaged opposition politicians, civil society activists, and anyone else who dared to dream of a peaceful end to his reign of terror. Villagers have literally been handed bullets by soldiers and told to choose between democracy or their lives.

Since the initial balloting in March, the MDC—the Movement for Democracy—believes that at least 86 of its supporters have been killed, over 10,000 have been injured, 2,000 unlawfully detained, and 200,000 have fled their homes. In fact, the details of this campaign of violence and intimidation are even more horrifying than the statistics convey. Women have been burned to death. Young men have been tortured and dismembered, and the elderly have been savagely beaten.

In fact, it is hard to imagine a campaign of political murder as brazen and visible to everybody as the one that has been unleashed on unarmed innocents, with a sense of complete inability to be touched by any civil forces outside. Mugabe very matter of factly stated last week:

We are not going to give up our country because of a mere X on a ballot. How can a ballot pen fight with a gun?

I believe someone with that kind of attitude—willing to strip away democracy that all of the African nations, European nations, civilized nations of the world, and United Nations have agreed is the right of the people of Zimbabwe—that kind of attitude deserves the outrage and action that it asks for.

We know that even if Tsvangirai had not withdrawn, there was a unanimous consensus that Mugabe would have stolen the election by simply rigging the ballots. Once again, this unapologetic dictator telegraphed his intentions, saying that only God, not the voters of Zimbabwe, could remove him from office.

Democracy in Zimbabwe is not the only casualty of the news this week. Every bit as damaged, frankly, is the moral authority of the international community. Make no mistake, Mugabe is thumbing his nose at the international community. Daring them, with a sense of complete impunity, he is inviolable in whatever thuggery he wants to engage in. That is because he has heard the world say “never again” again and again. Then he has watched the world engage in collective hand-wringing as mass atrocities unfold and nothing happens, just like the last time.

Well, this can't be allowed to continue. Until recently, there was little hope of vigorous international response. But Tsvangirai's selfless act of courage hopefully now can act as a catalyst for change.

On Monday, the United Nations Security Council, including China and Russia, issued its first condemnation of violence, acknowledging it would be impossible for a free and fair election to take place. A day later, some of Africa's influential leaders called Mugabe out for the savagery of his intentions in this free election process. That has now made it, thankfully, more difficult for him to try to disguise the violence as a struggle against postcolonial bullying. Yesterday, that international community demanded that he postpone the runoff elections and negotiate with Tsvangirai.

Just yesterday, on his 90th birthday, Nelson Mandela lent his voice of moral authority to condemn what he called the “tragic failure of leadership in our neighboring Zimbabwe.” Those are strong words, and I think obviously those words—coming from Nelson Mandela, the former President of South Africa and really founding President of their democracy today—those words diminish Mugabe's legitimacy.

Obviously, words aren't going to save Zimbabwe's people. The international community needs to take action, and it needs to take action that sends the regime in Zimbabwe a simple, unequivocal message: Mugabe must go. If he thinks only God can remove him and shows such extraordinary disrespect

for the people of his country, clearly the international community has a responsibility to make it impossible for him to do anything else but go.

The Senate passed a resolution that I submitted in late April, but, frankly, resolutions don't get the job done. They indicate an intent, a desire by the Senate, perhaps; they indicate that we are taking notice of what is happening. But this is now a matter of life and death. It is also a matter of the credibility of the international community.

If words such as “never again” with respect to a holocaust mean something or if the lessons of Bosnia, Herzegovina, and the other disruptions that we have seen in other parts of the world mean anything, then we have to do whatever is necessary to be able to bring about a timely end to the violence and a peaceful transition to democracy.

The U.N. Security Council needs to impose, immediately, quickly, targeted sanctions on Mugabe. It needs to impose them on his cronies and his family. It needs to make it clear to them that they cannot do what they are doing with impunity. Freezing bank accounts and imposing further travel restrictions are punishments that may lead those around Mugabe to begin to reassess their own self-interests, without doing harm to the people who have already had harm done to them by this dictatorship.

The real leverage and legitimacy to motivate, mediate, and monitor a negotiated solution lies in the heart of Africa itself. The Southern Africa Development Community and the African Union have, frankly, too often been willing to sit on the sidelines. They need to play a sustained and active role in resolving this crisis in a way that respects the will of Zimbabwe's people. They need to do that now with the help of the European Community, ourselves, and the U.N. itself.

If Mugabe refuses to step down, both the Southern African Development Community and the African Union should suspend Zimbabwe's membership immediately and consider applying their own sanctions. I met the other day with the ambassadors from Botswana in South Africa and Zambia, and they agreed that if Mugabe stays now in a situation where he has nullified unilaterally the ability to have an election, he is, in fact, an unconstitutional leader of the country. Under the charter of the African Union, the Constitution, they would be completely within their rights—in fact, it would be imperative that they move to isolate him because he no longer would be a legal leader of that country.

The United States and the European Union need to stand squarely alongside African governments in withdrawing recognition from the illegitimate Mugabe regime and impose additional sanctions targeting his criminal cabal. Until recently, a few African leaders have proven to be an obstacle to the crisis. South Africa's President Thabo



Mbeki is perhaps the most prominent example, sadly. I think many people had a much higher expectation of President Mbeki. I have known him and worked with him. I regret that in this situation Mr. Mbeki has chosen to ignore the warnings of his predecessor and icon and of others. It has been some time now that the world has been waiting for Thabo Mbeki in South Africa to weigh in squarely with respect to Zimbabwe's future.

I believe President Mbeki is going to be judged by history for his response to this crisis. As the leader of the region's powerhouse in the southern African community, the development community's mediator in this crisis, President Mbeki still has an opportunity to turn up the heat on Mugabe, while also helping facilitate a respectable way out.

The world cannot afford for President Mbeki to remain out of step with other countries in the region, not to mention his own political party, in condoning Mugabe's brutality. If he chooses to continue on this ineffectual path, then President Mbeki will remain, in fact, complicit in the tragic events in Zimbabwe and risk isolating himself internationally, as well as in his own country. If Mugabe surrenders and a genuinely democratic government, committed to implementing the needed economic and political reforms, is formed, Zimbabwe's new leader will be left to pick up the pieces of an economy that has been run into the ground by Mugabe.

Annual inflation is reportedly running at over 150,000 percent. Unemployment stands at over 80 percent. Hunger grips 4 million people. An estimated 3,500 people die each week from hunger, disease, and other causes related to grinding poverty. The United States and the international community must be prepared to provide a comprehensive, economic, and political recovery package that will help the people recover from so many years of abuse and neglect.

Right now, our most urgent challenge is to protect the innocent people in Zimbabwe who have been devastated by violence, starvation or inadequate access to essential care and services. We need to do that by pushing Africa's leaders to restore and expand humanitarian aid, deploying a civil protection force to prevent attacks, help victims, and pursue vicious criminals. Matching words with action is a great challenge of this body, the Senate, and particularly it is the responsibility of this administration. This is a test for our collective moral authority, our willingness to lead with our values, and a test of whether we are going to send the strong, necessary message to the people of Zimbabwe, and indeed the people in all of Africa, that we support their aspirations for a free and democratic country.

We are losing lives almost every single day in Iraq. We are spending \$12 billion a month. We invaded that country, purportedly, to bring them democracy.

We support other countries in the Middle East—Lebanon and others—that are struggling to have democracy. We can't be regionally selective about where the virtues of democracy make a difference. In Africa, where for too long people have been neglected, even abandoned—and too many times they believe the rest of the world doesn't care—this is an opportunity for us to send a different kind of message and make a different kind of difference. I hope they will know that the free world will stand with the aspirations of those who are willing to risk their lives to have a better future and to actually give meaning, through our support, for free elections and democracy everywhere in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

#### WINNING IN AFGHANISTAN

Mr. CASEY. Mr. President, today, I rise to convey my growing concern—and I think the American people share this concern—on an issue that the three major television networks' evening newscasts devoted just 46 minutes of coverage to so far this year: The war in Afghanistan.

The White House has become distracted and weighed down by the war in Iraq. It has knowingly ignored dealing with the real threats that endanger American interests. It is time now to refocus our efforts and concentrate on the real front in the war on terror, and it is time to get serious about winning in Afghanistan.

The United States has one overarching priority when it comes to this region: to ensure that al-Qaida or any other terrorist group does not gain the sanctuary it requires to plot, plan, or train for another terrorist attack on American soil or against our allies.

However, despite some 62,000 NATO troops in Afghanistan, including approximately 34,000 American forces, and more than 140,000 Afghan troops and police, Taliban and al-Qaida forces have regrouped and become stronger over the past 2 years. Finding sanctuary in the southern and eastern parts of the country and along the border with Pakistan, Taliban and pro-al-Qaida forces are threatening to undermine hard-fought international efforts to bring stability and peace to Afghanistan.

The assessment from our top experts in the field is bleak. Retired General James L. Jones, who until the summer of 2006 served as the supreme allied commander of NATO, found in one report that:

NATO is not winning in Afghanistan. . . Afghanistan remains a failing state. It could become a failed state.

2007 was the deadliest year since the fall of the Taliban, with over 6,000 people killed. Violence continues in 2008. Secretary Gates reported in May that for the first time, more coalition troops were killed in a month's fighting in Afghanistan than in Iraq.

As of this week, at least 451 members of the U.S. military have died in Af-

ghanistan, including at least 20 from my home State of Pennsylvania. Overall, violence has risen 27 percent in Afghanistan in the past year, with a 39-percent increase in attacks in the eastern region—where most U.S. troops operate—and a 60-percent surge in Helmand province, where the Taliban resurgence has been the greatest. Suicide bombings rose to 140 in 2007, compared with 5 between 2001 and 2005.

The news in recent days has also been especially troubling. Over the weekend, militants operating in sanctuaries in Pakistan launched rocket and artillery attacks into Afghanistan killing four Afghan civilians, including two children. NATO forces, whose patience has been repeatedly tested by escalating insurgent violence along the Afghan-Pakistani border, have since retaliated by shelling guerrillas along the Pakistani border.

Last week, hundreds of NATO and Afghan forces engaged in one of their biggest battles in years against approximately 400 Taliban fighters in Kandahar. These fighters had bombed the main city jail and freed hundreds of their comrades. One report says that those who have been freed are among the most dangerous.

These setbacks emerged as the Government Accountability Office, GAO, released its latest report concluding that despite spending \$16.5 billion, the Pentagon and State Department still lack a "sustainable strategy" for developing the Afghan National Security Forces. Only two of the Afghan Army's 105 units are fully capable of fulfilling their mission. No police unit is fully capable. Today, I sent a letter to Secretary Gates and Secretary Rice asking for answers on why our progress in building Afghanistan's security forces is so stunted.

I ask unanimous consent that this letter be printed in the RECORD.

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

JUNE 26, 2008.

Hon. ROBERT M. GATES,  
*Secretary, Department of Defense,*  
*Washington, DC.*

Hon. CONDOLEEZZA RICE,  
*Secretary, Department of State,*  
*Washington, DC.*

SECRETARY RICE AND SECRETARY GATES: I read with great concern the U.S. Government Accountability Office's (GAO) June 2008 report on the Afghan National Security Forces (ANSF). Despite investing approximately \$16.5 billion to train and equip the Afghan army and police forces over the past six years, I am alarmed to learn that the United States still lacks a comprehensive interagency plan to build the Afghan army and police. More troubling is the fact that only two of 105 army units and zero police units are considered fully capable of conducting their primary mission. I am writing you today to ask a simple question: why are we so behind in this fundamental task?

Building sustainable peace requires having a national army and local police that can provide and maintain security once international forces leave. In the case of Afghanistan, this is especially crucial as terrorists could easily reestablish a safe haven. I recognize and appreciate that building capable

and effective security forces is a difficult and complex undertaking, especially given the well-documented challenges we face in Afghanistan. However, this task must remain an urgent priority at the highest levels of this Administration. The security services, especially the local uniformed police, are the face of the Afghan Government and will determine the fate of security in Afghanistan.

I have several specific concerns regarding our efforts to build and sustain the Afghan National Security Forces.

First, the costs for maintaining the security forces are estimated at approximately \$2 billion per year. Given the Afghan government's limited financial capacity, are these costs sustainable or will the international community be supporting the Afghan army and police for the foreseeable future?

Why is the United States' timeline for completion of a fully capable Afghan police force (2012) different from the benchmark used by the Afghan government and the international community (2010)?

How are we effectively evaluating the capability of the army and the police? How are the Defense Department's "capability milestones" being evaluated? Too often, we are overly concerned with quantitative indices (i.e. number of troops, weapons, uniforms, etc.) rather than taking a qualitative approach. The United Nations Police (UNPOL) has begun developing a Rule of Law Index (ROLIX) to help qualitatively measure the progress of security sector institutions in their work to establish the rule of law that may be of great value here.

The importance of civilian mentors in building the Afghan security forces cannot be overstated. As the GAO has stated, international peacekeeping efforts in Bosnia, Kosovo, and East Timor have shown that field-based training of local police by international police mentors is critical to the success of establishing professional police forces. Why is there still such a shortage of police mentors? How will this be remedied?

Equipment shortages plague both the Afghan army and police. Combined Security Transition Command—Afghanistan (CSTC-A) officials have stated that equipment shortages are due to competing U.S. priorities in Iraq. Why are the Afghan security forces facing such massive equipment shortages? Why is this not a major priority for the U.S. government?

I look forward to reading your report to Congress on our efforts to assist the Government of Afghanistan in increasing the size and capability of the Afghan Security Forces, including assessments of key criteria for measuring the capabilities and readiness of the Afghan Security Forces. I cannot overemphasize how important it is that we get this right and not squander any further opportunities to help build these basic institutions in Afghanistan. The security of the Afghan and American people depends on it.

Mr. CASEY. The problems plaguing Afghanistan are well documented: a resurgence of pro-Taliban forces, a burgeoning narcotics trade, rampant government corruption, insufficient resources for reconstruction, stalled development, fragile political and security institutions, and sheer, mind-numbing poverty. I spent a day in Kabul last month, where I had the good fortune of visiting with the chairman of the Armed Services Committee, Senator LEVIN, and even during this short amount of time, the magnitude of the challenges we face there was clear.

But what I also discovered is that despite these awesome challenges, there

is a strong spirit amongst Afghans and coalition troops to persevere in the face of overwhelming odds. Afghans do not want the Taliban to come back. They may be disappointed by the results of President Karzai's government and broken promises by the international community. But they have been fighting for over 30 years for peace and stability. And they are not going to stop now. Not when they are this close to achieving those goals.

So it is now up to us to demonstrate true global leadership and finish what we started in 2001. This means, as the Afghanistan Study Group so aptly said, replacing the "light" footprint approach this administration has taken with respect to Afghanistan with the "right" footprint approach.

There is a common sentiment here in Washington that what is needed the most in Afghanistan is resources. If only we had more money, more troops, and more trainers on the ground, we would see more positive results.

It is true that we need to devote more resources to Afghanistan. That is why I was pleased to see that the recent international donors conference in Paris secured about \$20 billion in commitments from more than 60 countries and international institutions, including a previous pledge of \$10.2 billion from the United States. And that is why I applaud Secretary Gates' and Secretary Rice's repeated efforts in Brussels and other European capitals to secure additional Allied troops for the coalition in Afghanistan, troops that are free to wage combat where they are needed. We do need more to accomplish our mission.

But I do not want to engage in the transatlantic blame-game of which country could be doing more because it glosses over the underlying fault lines that have plagued our strategy in Afghanistan from day one. Ultimately, the real problem is not just one of troops or money or resources.

Rather, our mission in Afghanistan is in jeopardy because we still have not defined our long-term U.S. strategic objective in Afghanistan and, by implication, across South Asia.

We have not linked our relevant military security operations to a political strategy, and, most importantly, we have not made a long-term strategic commitment to Afghanistan in the eyes of the Afghan people. We have decoupled Pakistan from Afghanistan instead of formulating a strategy that would address the inherent and historic relationship between the two nations.

It is time to reformulate our basic fundamentals on how to approach this war. First and foremost, any strategy for turning the tide in Afghanistan must incorporate what is happening in Pakistan. To date, this administration has not fully appreciated Pakistan's security paranoia and the duplicity it has generated. Fueled by a credible fear that the U.S. will once again leave Pakistan in the lurch, as it did in the seventies and nineties, credible evi-

dence exists that Pakistani security forces have renewed their ties to the Taliban to preserve their options.

We must redraw our map of this war to include the border region between Afghanistan and Pakistan. U.S. Army COL Thomas Lynch, a leading Afghan expert, has declared:

The future of Afghanistan can be lost in Afghanistan, but it can only be won in Pakistan.

GEN Dan McNeill, who briefed both Senator LEVIN and me when we were in Afghanistan—he recently left after 16 months of service commanding NATO's international security force—warned that success in Afghanistan would be impossible without a more robust military campaign against insurgent havens in Pakistan.

Second, we must take advantage of the opportunity to work with Afghan security forces. They remain nascent and fragile at this moment, but they have significant potential with the proper investment of training, manpower, and equipment. As our military leaders in Afghanistan told me last month, the Afghan army is made up of proud soldiers who want to fight for their nation and who have a can-do spirit. But we must provide them the tools they need.

We cannot underestimate the importance of properly training the Afghan security forces. Last week, a GAO report said:

Without capable and self-sustaining Afghan army and police forces, terrorists could again create a safe haven in Afghanistan and jeopardize efforts by the United States and international community to develop the country.

In particular, as Senator LEVIN and I recommended upon our return from Afghanistan, we need to assist the Afghan army to take over responsibility for border security functions in the territory adjoining Pakistan. Today, a lightly armed Afghan border police patrols this vital region, and this border police remains underequipped and underarmed. This is unacceptable. The United States and NATO allies should work together with the Afghan army to assume that critical national security function.

Finally, our strategy in both Afghanistan and Pakistan must focus on sustained development assistance. Former U.S. commander, GEN Karl Eikenberry, used to say, "The Taliban begins where the roads end."

Despite a massive influx of money into Afghanistan, we are not moving quickly enough to demonstrate to the Afghan people concrete results that improve their lives—building roads, schools, and hospitals.

We need to decouple our military activities from reconstruction assistance and bring our development experts from the U.S. Agency for International Development to the table where they belong. Our development approach thus far has overrelied on private contractors whose goals, missions, and timelines do not correspond with our own.

I have one more paragraph. We have to recognize that this battle against extremism is not going to be won in 2 or 4 or 10 years. It is not going to be won on the military battlefield. It is a generational challenge, a battle for the ages that will require significant resources in basic human development. Extremists exploit poverty, ignorance, and anger. The task before us is to defuse the igniters of that anger before they explode in the form of another failed state in Afghanistan or a terrorist attack in the United States.

We have a great history in this country of helping rebuild societies from ashes. It is time for a new Marshall Plan for Afghanistan, one that links the necessary resources with the right institutional expertise. It is time for us to do what we do best in the world.

In concluding, I go back to the work of the 9/11 Commission. In analyzing the many unexplored connections that led to that fateful day, September 11, 2001, the independent, bipartisan 9/11 Commission found:

The most important failure was one of imagination. We do not believe leaders understood the gravity of the threat.

That is what was said after 9/11. The same can be said today. Our brave men and women, the troops and diplomats who serve every day in Afghanistan get the picture. They see what this administration chooses to ignore. Failure in Afghanistan is not an option. Our national security, the safety of our families here, depends on what we do in Afghanistan, and preventing another terrorist attack here depends on what happens in Afghanistan and all of South Asia. We cannot fail in Afghanistan.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

#### FOOD VS. FUEL

Mr. GRASSLEY. Mr. President, for the past few weeks, I have been leading an effort to dispel the myths surrounding the impact of biofuels policies on our food prices. You may remember that back on May 15, I came to the Senate floor to announce to my colleagues that the campaign to smear ethanol is a well-funded and seemingly well-coordinated campaign. It is being led by none other than the Grocery Manufacturers Association.

In the weeks since that floor statement, I have been using every opportunity I can to beat back this smear campaign and inject the facts into the debate.

Biofuels are being scapegoated for rising wheat prices, even though the 2007 crop was the largest planted in 4 years. Biofuels are being blamed for the increased price of products such as rice and bananas, which have no correlation to corn production or our biofuels policies.

According to economists across the administration, biofuels have caused a tiny fraction of the increase in global and domestic food prices. They are also responsible for only a small portion of even the increase in the price of corn.

The fact is, the increased cost of oil is the biggest driver behind the increased price of food. In other words, energy and how energy fits into the food chain and the dramatic increase in the price of oil to \$130, \$140 a barrel is the biggest driver in the increased price of food.

But we also have drought in wheat-producing countries, such as Australia last year, adding to this increase. We have also had increased demand by the middle class of China and India for meats in their diet to a greater extent than ever before. Yet the grocery manufacturers and their association have focused the entire effort on ethanol. They see ethanol and renewable fuels as the root cause and most vulnerable to their attack.

Even with oil at \$135 a barrel, they see their victory in undermining biofuels policies. It is important to note that biofuels are actually working to lower the price of gasoline at the pump. In fact, in Iowa, you can buy gasoline with biofuels in it for about 13 cents a gallon cheaper than you can 100 percent gasoline.

So while high energy costs are driving increases in food prices, the grocery manufacturers would have you believe that the solution is less energy supply. That is counterintuitive.

The Grocery Manufacturers Association does not seem to care much about facts. Their criticism and talking points are not based on sound science, sound economics, or even common sense.

While biofuels are easy to blame, it is intellectually dishonest to make these claims. But maybe intellectual dishonesty does not make any difference to the Grocery Manufacturers Association.

They have indicated that they fully support advanced biofuels from biomass rather than food crops, and maybe with ethanol we think of that as cellulosic ethanol, and of course, we are all supportive of efforts to promote the next generation of biofuels. But undercutting the current industry is not the way to get fuels into that second generation coming from biomass instead of from grain.

Those who are determined to pull the rug out from under today's biofuels should know that the next generation will not exist if the current generation is undermined.

I hope the Grocery Manufacturers Association has taken notice that I am not going to sit quietly while they try to undermine 30 years of public policy. In other words, 30 years ago, we decided in this Congress we needed more emphasis on renewable fuels because God only made so much fossil fuel. So you have to get to what you are going to do postpetroleum, and it is renewables. Of course, conservation is the other part of that as well.

So 30 years ago, we started out with incentives for biofuels. It is still not a mature industry, but it is maturing very quickly. If you cut the legs out

from under that industry right now and the agriculture that supports it and the jobs in rural America that do the work, you are not going to have the next generation.

I sometimes think, even though I blame the Grocery Manufacturers Association because they announced this campaign of scapegoating ethanol, that somehow it is not just the Grocery Manufacturers Association. I cannot help but think that big oil is back there applauding everything the grocery manufacturers are doing.

Until now, in fact, the only significant opposition to developing renewable fuels over the past 30 years has come from big oil. I was not afraid to stand up to big oil over the last 30 years, and I am not going to stand by while the Grocery Manufacturers Association, with their smear tactics, destroy what the American people have been calling for—an industry so we can produce renewable fuels. And because of our national defense, the stakes are too high.

The Grocery Manufacturers Association's efforts, if successful, will raise prices at the pump in Iowa. I said 13 cents higher if you have 100 percent gasoline instead of 10 percent ethanol and 90 percent gasoline. And in the process, we would be increasing our dependence on foreign oil. Why not keep the money in the United States instead of spending \$130 a barrel and sending it over to the Arabs where they will allow terrorists to train against us? Is risking our national and economic security worth the bottom line of a few multimillion-dollar food companies? Don't be fooled. Their campaign is not altruistic. It came directly from their mouths that this campaign is about their "bottom line."

Where is the outrage? American consumers need to know that a few big food companies are jeopardizing our efforts toward energy independence so that they can raise the price of food and increase their profits. They want to do away with this industry and, in the process, as Iowa State University tells us, without ethanol, gasoline would be on average about 30 cents higher per gallon. If the increased price of energy goes up, and energy is the cause for about one-third of the increase in the cost of food, then obviously food is going to go yet higher.

We are on a path, from the standpoint of national security and economic security, to reduce our dependence on oil from the likes of Venezuela and Iran. The Grocery Manufacturers Association wants to put the brakes on our efforts toward energy independence. They apparently prefer putting our economic security in the hands of crazy people, such as the President of Venezuela and the President of Iran, rather than putting their economic security in the hands of American farmers growing renewable fuels.

The Grocery Manufacturers Association, through their president and CEO, Cal Dooley, requested to have a meeting with me to discuss the impact of

food-to-fuel policies. Given the association's objectives to "obliterate whatever intellectual justification might still exist for their corn-based ethanol among policy elites"—and that is what their public relations firm said about ethanol—I was pleased to accept former Congressman Dooley's efforts to talk to me about it.

U.S. Secretary of Agriculture Ed Schafer was also kind enough to accept my offer to participate in that meeting. However, I thought to have a meaningful discussion on their campaign to smear ethanol and my justification for renewable fuels, and so I requested the attendance of chief executives of 15 of the GMA's member companies. I thought it would be important for the CEOs of these companies, who are members of the association, to speak for themselves about the impact biofuel policies are having on their businesses. The companies themselves are in a much better position to explain why they believe the anti-ethanol campaign they have underwritten would be warranted. So I invited the CEOs of Campbell's Soup, Del Monte Foods, Lakeside Foods, Sarah Lee, Dean Foods, Hormel Foods, Procter & Gamble, Kellogg's, Land O'Lakes, ConAgra Foods, General Mills, Kraft, Ralston Foods, Cargill, and Archer Daniels Midland to come to the meeting. I expected to have many of the CEOs jump at the opportunity to tell me I am wrong. I thought I would hear firsthand how the increase in corn prices was affecting the bottom line of General Mills or Kellogg's or Kraft.

Many of the CEOs I invited are members of that trade association's board of directors. Naturally, I expected the CEOs to want to defend their association's campaigns and its tactics. Unfortunately, that is not what I got. Only one CEO—Chris Policinski of Land O'Lakes—agreed to attend, and Cargill offered a senior executive in place of their CEO. But of 15 companies, only one CEO thought it was worth their time to come to Washington and visit with me and Secretary of Agriculture Schafer about their trade association's campaign to smear ethanol. So I had no choice but to cancel the meeting.

They have hired a high-priced public relations firm to coordinate their campaign. One would assume they believe in the policies they are promoting. So why wouldn't they take advantage of this opportunity to convince Secretary Schafer and me that we have it all wrong? This is clearly a high priority for them. They seem to have invested a great deal in it, and a lot of dollars in it. Why wouldn't they attend the meeting? Don't they believe in what they are doing?

It appears all they want to do is to give a thumbs-up to their trade association's hiring of expensive PR firms to do their dirty work, instead of entering into real dialog with those of us who feel strongly that this country needs a policy of renewable energy, and more renewable energy every day.

I don't know whether GMA encouraged these CEOs not to attend. My colleagues might find it amusing, however, that two companies declined my invitation with a form letter. The letter from Mr. Conant, CEO of Campbell's, and the letter from Mr. MACKAY, CEO of Kellogg's, used the same text declining my invitation. Now isn't that something? CEOs of two major companies coming up with exactly the same words in letters signed by them to decline. I don't know who wrote it first, but I might expect CEOs of such primary companies to be a little more original in their communication with me. It makes one wonder who wrote the letter.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks these two letters.

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

(See Exhibit 1.)

Mr. GRASSLEY. Mr. President, I am going to keep pounding home the facts behind the relationship between food prices and biofuels, because it is not supported by economics, it is not supported by common sense, and it is not supported by sound science. The fact is, biofuels are increasing our national security, biofuels are helping our balance of trade, and they are reducing our dependence on Middle East oil and the whims of big oil. Every barrel we use of biofuels is \$135 not going to some foreign land where they train terrorists to kill Americans.

So it is time we cleared the air, it is time we looked at the facts, and it is time we recognize, once again, that everything about our domestic renewable fuel industry is good, good, good. I emphasize it is good for the environment—less CO<sub>2</sub> in the air—it is good for good jobs in rural America, because a lot of these ethanol refineries are in rural America, where we never thought we would have good-paying jobs, and a lot of these refineries respond to another problem—we don't have enough oil refineries in this country. In a sense, every ethanol plant, every biofuels plant is a refinery. It is good for our national security, which I think I have made very clear, and it is good for agriculture. It is good that we don't have Government supporting surplus grains. We are not having taxpayers' money go out to farmers. Farmers are getting their money from the marketplace now that prices are higher.

So I don't know how many times I have to say it, but there are no negatives about biofuels and everything about them is good, good, good.

EXHIBIT 1

CAMPBELL SOUP COMPANY,  
Camden, NJ, June 18, 2008.

Hon. CHARLES GRASSLEY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR: Thank you for your invitation to meet regarding the relationship between US biofuels policies and their impact on commodity and food prices. Regrettably, I am unable to attend.

In my stead, however, the Grocery Manufacturers Association and a number of other organizations with similar concerns plan to participate. I also understand GMA will extend to you an invitation to attend the November meeting of the GMA Board of Directors, where we can have a full and productive discussion regarding our nation's energy policy.

As you know, GMA is working with many farm organizations, including the National Turkey Federation, the National Chicken Council, and the National Cattleman's Beef Association, to improve our federal food-to-fuel policies by accelerating the development of biofuels made from crop wastes and other energy feedstocks. Many experts have concluded that cellulosic biofuels hold enormous promise and will not pit our energy needs against the needs of food companies, livestock farmers and consumers. The Campbell Soup Company strongly supports biofuel policies that boost the income of farmers and simultaneously meet the needs of food companies and consumers.

In light of growing prices for corn and other commodities, we support policies that will reduce the use of food and feed crops to produce fuels. Although there are many factors contributing to rising commodity prices, federal policies that divert one-third of the U.S. corn crop is the only factor legislators have the power to change. Recent studies by the World Bank, the United Nations, and America's leading agricultural think tanks have linked rising commodity prices to these federal food-to-fuel policies.

Again, I thank you for your kind invitation to join you and Secretary Schaffer to discuss these concerns and regret that I am unable to attend. If appropriate, I would be happy to offer Kelly Johnston, Campbell's Vice President—Government Affairs, whom you know, to represent our company. The Campbell Soup Company looks forward to working with you and all interested parties to craft sensible and sustainable energy policy.

Sincerely,

D.R. CONANT,  
President and Chief Executive Officer.

KELLOGG COMPANY,  
Battle Creek, MI, June 17, 2008.

CHARLES E. GRASSLEY  
U.S. Senator,  
Washington, DC.

DEAR SENATOR GRASSLEY: Kellogg Company strongly supports biofuel policies that boost the income of farmers and simultaneously meet the needs of food companies and consumers. I sincerely appreciate your invitation to meet regarding these policies on June 24th. Regrettably, I am unable to attend.

In my stead, however, the Grocery Manufacturers Association and a number of other organizations with similar concerns plan to participate. I also understand GMA will extend to you an invitation to attend the November meeting of the GMA Board of Directors, where we can have a full and productive discussion regarding our nation's energy policy.

As you know, GMA is working with many farm organizations, including the National Turkey Federation, the National Chicken Council, and the National Cattleman's Beef Association, to improve our federal food-to-fuel policies by accelerating the development of biofuels made from crop wastes and other energy feedstocks. Many experts have concluded that cellulosic biofuels hold enormous promise and will not pit our energy needs against the needs of food companies, livestock farmers and consumers.

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will reduce the use of food and feed crops to produce fuels. Although there are many factors contributing to rising commodity prices, federal policies that divert one-third of the U.S. corn crop is the only factor legislators have the power to change. Recent studies by the World Bank, the United Nations, and America's leading agricultural think tanks have linked rising commodity prices to these federal food-to-fuel policies.

Again, I thank you for your kind invitation to join you and Secretary Schaffer to discuss these concerns and regret that I am unable to attend. Kellogg Company looks forward to working with you and all interested parties to craft sensible and sustainable energy policy.

Sincerely,

A.D. DAVID MACKAY,  
President,  
Chief Executive Officer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the time until 2:15 is under the control of the junior Senator from Alaska or her designee.

The Senator from Alaska.

#### ALASKAN STATEHOOD

Ms. MURKOWSKI. Mr. President, today is an opportunity for us in the next 45 minutes to talk about a celebration. We have had some pretty serious business under discussion here on the Senate Floor, and today I and my colleague, Senator STEVENS, joined by others, rise to celebrate the 50th anniversary of the Senate passage of the Alaska Statehood Act, the act which eventually conveyed statehood upon the great State of Alaska after a fight for equal rights and representation that lasted literally decades.

After a long and contentious battle, both in Congress and across the country, the Senate passed the Alaska Statehood Act 50 years ago, on June 30, by a vote of 64 to 20. The act was signed into law 7 days later by President Eisenhower, and Alaska officially became a State on January 3, 1959. This was the headline in the Anchorage Daily News announcing, "We're In." Our territorial Governor, Mike Stepovich, President Eisenhower, and Secretary Seaton are in this photo that we look to in our State's very young history with great fondness.

This year across the State, there will be celebrations all over put on by communities, by clubs, by businesses, by the State government. To help kick off this celebration, I would like to briefly remember a little bit of the history of a very rough journey toward statehood.

The territory of Alaska was bought from Russia in 1867. I know many students, when they are looking at their history books, learn that it was dubbed "Seward's Folly." It was World War II

and the Cold War that really transformed the face of Alaska, however. Having a strategically critical location for both wars, Alaska saw a large increase in Federal money and population in the 1930s and the 1940s.

While the aspiration for statehood had existed for many years and though Alaska had a delegate to Congress since 1906, it was during this time period that a serious and motivated and modern statehood movement rose up and captured the attention of Alaskans across the State.

The Alaska Statehood Committee was formed in 1949. This committee of 11 Alaskans was bipartisan. No more than six could belong to the same party, and at least two members had to come from each of the four judicial districts Alaska had at the time. They were given the task of publicizing and educating the public on statehood, both in Alaska and nationally, as well as framing a State constitution.

As early as 1946, though, 3 years before the Statehood Committee was formed, there was a large majority of Americans who were already very supportive of Alaskan statehood. A Gallup Poll that year indicated that 64 percent of Americans were in favor of statehood, with only 12 percent opposed. The percentage of supportive Americans grew to 81 percent by 1950. But even then, nearly a decade still remained in what became a bitter battle against special interests.

The wealthy salmon canning industry was the primary lobbying group that opposed statehood at the time. The salmon cannery would put fish traps at the mouth of some of Alaska's largest rivers, and they caught nearly 30 percent of Alaska's salmon every year, sending the yearly salmon catch plummeting from 924 million pounds to 360 million pounds over a 20-year period. Alaska was in a tough spot. They were powerless to resist. With 99 percent of the territory's land owned by the Federal Government and with very little control over resource policy, the industry was pretty much free to devastate one of the State's most valuable renewable resources, and that was our Alaskan salmon.

This desire for a say in our own affairs only grew the intense desire of Alaskans to attain statehood for themselves. The newspaper the New York Journal-American summed up the situation this way:

Alaska wants statehood with the fervor men and women give to a transcendent cause. An overwhelming number of men and women voters in the United States want statehood for Alaska. This Nation needs Alaskan statehood to advance her defense, sustain her security, and discharge her deep moral obligation.

In 1950, after years of thwarted attempts to bring an Alaska statehood bill to the floor of either Chamber of Congress despite the strong support of President Truman, a bill actually got a floor vote. It passed the House of Representatives, but it failed over here in the Senate.

Frustrated by repeated legislative defeats, Alaskans decided to write a State constitution. This was done in 1955. We decided to do it to show the country that we were politically mature and genuinely ready for statehood.

After a 75-day Constitutional Convention at the University of Alaska Fairbanks, a constitution was adopted by the delegates and ratified by Alaskans. It was later described by the National Municipal League as "one of the best, if not the best state constitutions ever written."

The way it dealt with natural resources was particularly distinctive and ingenious. The State's natural resources were viewed as a public trust and were required to be developed for "maximum use consistent with the public interest [and] for the maximum benefit of its people." Development based on "sustainable yield" was constitutionally mandated. To this day, the State continues to operate on this principle in our fisheries, minerals, fossil fuel development, and our timber. One example of the results of this policy is that Alaska is the only region in the United States that has no overfished fish stocks.

Two years after the constitution was ratified and 50 years ago, on May 28, the House of Representatives voted on the bill that would eventually confer statehood upon Alaska. The bill passed the House 210 to 166. The Senate passed it 64 to 20, and then President Eisenhower signed it into law. Over 15 years passed between April 2, 1943, when the first bill was introduced, and June 30, 1958, when the final bill was passed. We were officially a State on January 3, 1959.

I have been perusing the CONGRESSIONAL RECORD to kind of get a sense of the Senate debate at the time, the debate that preceded Alaska's entry into the American Union. I am a born and raised Alaskan. I have found the record absolutely fascinating. It includes enthusiastic and very passionate arguments in favor of statehood but also countered by lawmakers who saw Alaska's entry into the Union as being a huge mistake. There is even an occasional Communist threat reference, a reminder that this debate occurred against the backdrop of the Cold War.

Some of the arguments against statehood included the fact that Alaska was not contiguous with the rest of the United States; Alaska was not sufficiently developed economically or politically to be ready for statehood. There was also a reference to the fact that Alaska doesn't produce enough agriculture.

There were provisions granting Federal land to the State. They alleged it was a huge Federal giveaway, but keep in mind that the Federal Government still owns over half of the State of Alaska. But really the argument centered around the concern that Alaska would be a huge burden on the Federal Government financially.

Senator Richard Neuberger of Oregon, who was a supporter and was presiding over the Senate during the historic Alaska statehood rollcall vote, said that Alaska statehood would afford the United States the opportunity to show that "we practice what we preach."

Neuberger said:

For decades we have preached democracy to the rest of the world, yet we have denied full self-government to our vast outposts to the north, despite many assurances that such would not be the case.

He continued on by saying:

The voice of America may talk of democracy, but its message will ring hollowly through the rest of the Free World if America fails to practice democracy. In the crucible of world opinion, we shall be tested by deeds and not words. Statehood for Alaska will be a tangible deed.

Among Alaska's greatest friends in the Senate were both Senators from Washington State, Henry "Scoop" Jackson and Warren Magnuson. Jackson told his colleagues that the time was "past due" for the admission of Alaska to the Union, while Magnuson said it in another way. He said:

Alaska has sat impatiently in the anteroom of history for 42 years.

These comments represent only a fraction of the Alaska statehood debate which began years before the last frontier became the 49th State, but still they offer some valuable perspective on the challenges and obstacles our forefathers faced on the road to statehood.

A few of my colleagues will be joining us over the next half hour or so to help remember and reenact the debate that occurred 50 years ago. I am grateful for their willingness to join me in celebrating our 50th anniversary of the 49th star on the flag.

I mentioned that Alaska has been referred to as "Seward's Folly." I don't think many people know that we also were referred to as "Icebergia," obviously a reference to the colder environment up there. But Alaska has since made incredibly significant contributions to our great Nation. I do not think anyone considers Alaska a folly. We provide 55 percent of America's seafood, we attracted 1.5 million tourists last summer to the State, and we have been a stable domestic supplier of U.S. oil needs for the past 30 years.

Alaska is proud to be "the Great Land" in the greatest Nation in the world. I am privileged to represent its people here in the United States.

With that, I yield the floor to my senior colleague, Senator STEVENS.

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

Mr. STEVENS. I believe I have been allocated 20 minutes to speak.

The PRESIDING OFFICER. There is no previous order.

Mr. STEVENS. Mr. President, that photograph brings back many memories to me. The gentleman on the right was my employer at the time, the Secretary of Interior, Fred Seaton. As a

matter of fact, I was standing right behind him at the time that photograph was taken.

I remember the debate here on the floor of the Senate on the Alaska statehood bill. On the day the vote was taken, I was standing up where those people are right now in the Press Gallery. That was unheard of, but I was standing beside my good friend who was the editor of the Fairbanks Daily News-Miner, C.W. "Bill" Snedden. He had bought this newspaper. He purchased it a few years before we got statehood, and he turned its policy around to support statehood.

One of the things he created was a cartoon they put on the front page of the paper every day. It was a small thing down at the bottom. This was Sourdough Jack. Sourdough Jack had wise sayings every day. This one day he published this, it was:

All of the valid arguments against Alaska statehood are listed in full on pages 2, 3, and 4.

All blank. That was the attitude of Alaskans. There really was no valid opposition to our becoming a State.

However, I think the Senate should know what the Senate did then and the role of the Senate in Alaska becoming a State—and Hawaii, too, later the same year.

Our delegate at that time in the House of Representatives, Democrat Bob Bartlett, discovered an old rule in the House that permitted matters of constitutional import to be taken to the floor of the House and worked on solely by the Committee of the Whole of the House, bypassing the Rules Committee. So after having tried since 1913 into 1958 to get statehood, our delegate made the motion to bypass the Rules Committee. With a vote of the House, they approved going right to the floor with the Alaska statehood bill. That was an achievement no one could even have expected. But it showed the power of the press at that time. The American press took up the cudgel, they took up the sword to have both Alaska and Hawaii become States. It was really great to see Hearst and Luce and so many of the leaders of the newspaper profession joined together to urge the American people to swell up and demand these bills be passed.

As the bill passed the House and came over here, there was a great problem because the Rules Committee chairman made it very plain that if there was an attempt to have a conference committee on this bill admitting Alaska to the Union, he would see to it that it would never see the light of day in the House. So our job at that time was to get the statehood bill passed by the Senate without one single change—not a comma, no paragraphs, nothing altered, and nothing changed.

I think the Senate today would appreciate that problem because those were the days of the true filibusters. Those were the days before the current rule on cloture. At that time, it took

two-thirds to stop debate. It was something to behold, sitting in the gallery as I did, to see the power of Senator Scoop Jackson on the one hand and Senator Norris Cotton on the other—Norris Cotton being a Republican from New Hampshire, Scoop Jackson being a Democrat from Washington—guide that bill through the Senate and overcome the filibuster that was led by my late good friend Strom Thurmond.

It is a total tribute to the democracy we represent that this enormous act of admitting a State—there had not been another State admitted since Arizona had been admitted in 1913. Here we were in a post-World War II period, when part of the momentum for our getting statehood was, in fact, the people who had served in the Armed Forces and were stationed in Hawaii or in Alaska—many of them had been stationed in the territories and went back to the territories after they were released from service after we won World War II.

But this day, the day the Senate finally passed this bill, was a unique one.

The galleries were full. That is one reason I was up in the press gallery rather than over in the normal gallery for visitors. But, very clearly, we knew it was going to be a difficult day for us. We had counted votes and all of the rest trying to predict what was going to happen. But when it happened, I want the Senate to know, this was something significant that happened. The people in that photograph, except for the President, gathered right out in the reception room of the Senate. Then we went to—Republican and Democratic alike—members and people from the gallery, we went to the then-chapel of the Senate, and we offered a prayer to thank the people who had given us this new right.

It was one of the most significant days that I can remember in my life. I am proud of my colleague who has brought upon the Senate the idea of having some remembrance here of what went on in those days. Our State has become a State. We have developed our economy to be one of the great producers of natural resources. Many people have challenged that, and we are currently blocked in exploring the Outer Continental Shelf off our State. Two-thirds of the Continental Shelf of the United States is off our State.

Every well so far that has been tried has been blocked. We have been blocked now for 25 years at getting the right. We thought we achieved it in the 1980 act which set aside 1.5 million acres of the Arctic for oil and gas exploration and development.

I hope we will come to a time where we will realize the errors of our past and we will find that the day will come when the Arctic Coastal Plain will be opened. Once it is, the Alaska oil pipeline, which was built to carry 2.1 million barrels a day—it is carrying less than 700,000 barrels a day now—will be full. Because we know from 3-D seismic and from the well that was drilled,



there is no question that there is oil on the Coastal Plain that some people call ANWR. But the development of that plain will bring us, both the Federal Government and the State, billions of dollars that we want to dedicate to the development of renewable and alternative resources.

For instance, we have half the coal of the United States. We should have mine-mouth conversion for coal gasification, coal liquefaction.

We have those magnificent five military bases in our State. They all need lots of energy. We have to find some way to assure they will have energy for our national defense. I think we are proceeding to the point that the American people know what we must have; that is, we must have the right to proceed to develop our resources.

Fred Seaton, whose picture was photographed there as the Secretary of the Interior, was an appointed Senator from the State of Nebraska. He made only one statement on the floor of the Senate. He was absolutely convinced that Alaska should become a State.

Let me read a portion of what he said:

Alaska is as deserving of statehood, and as ready for statehood, and as greatly in need of statehood, to come into her own, as were any of the present States when it was their turn before the bar of the Senate.

Let us deal with the American citizens in Alaska no less generously in this manner than were our forbearers dealt with in their respective territories. Alaska, like all other States will keep the faith and carry the grand old United States tradition. Alaska's star has for too long been denied its rightful place on the glorious flag of the United States of America.

We, as Alaskans, are proud of what we have done. From the days we became a part of the United States in 1867 when Secretary Seward led the negotiations to buy the Territory of Alaska from Russia for a mere 2 cents an acre, we have contributed substantially to the income, the resources, and to the well-being of our people.

We are the northern territory for the defense of this country. Our national missile defense site at Fort Greely, AK, has the capability of defending the whole United States, 360 degrees around, from Maine to Florida, from the tip of California to the tip of Alaska. That national missile defense site defends America.

We have committed ourselves to support those in uniform who defend this country and defend our way of life. So I think this is a wonderful thing to celebrate, the fact that the Senate took the action it did in approving the basic approach of the House to take the initiative to bring Alaska into the Union.

We were followed by our great and dear friends from Hawaii. And many people wonder why we are so close, those of us from Hawaii and Alaska. We represent offshore States. When we got here, many of the laws that applied to the 48 States did not apply to us. The effect of our working together has been that Hawaii has four Senators and

Alaska has four Senators because we have a lot in common. We do not vote together on issues of national issues, that is not a position. But when it comes to the rights of our States, we have shown what can happen in the Congress of the United States when two delegations say: We are together. And as new States, we deserve to be recognized and treated as equal partners in this Union.

I am proud to speak of the alliance that we have with Senators Inouye and Akaka—that has been achieved in my almost 40 years here.

As I have said, Mr. President, for many days in June of 1958 I watched from the gallery as the Senate debated and finally passed the Alaska Statehood Act. That vote marked the end of our long and difficult road to self-determination.

Alaska was my home. I had been U.S. Attorney in Fairbanks. Working in Washington as Assistant to the Secretary of the Interior, Fred Seaton, I became involved in the battle for statehood.

Some Americans believed Alaska was too remote and too politically immature to become a full partner in the Union.

Alaskans worked tirelessly to show the American people and Congress that the Union would benefit from Alaskan statehood. My friends, Bill Snedden, publisher of the Fairbanks Daily News Miner, and Bob Atwood, publisher of the Anchorage Times, wrote to almost every paper in the U.S. setting forth our positions for statehood and requesting support for our efforts.

Alaskans reached out to their friends and family in the lower 48 asking them to write their Senators requesting they support statehood.

Fifty-five men and women met at our constitutional convention in Fairbanks and devoted themselves to creating what has been called "the best state constitution ever written," proving Alaskans had the political maturity to join our union.

I worked with the Secretary of the Interior, Fred Seaton, and members of the Eisenhower administration to explain the President's support of Alaska being a State.

Six years earlier Secretary Seaton had been a Senator from Nebraska. He served for only 1 year being appointed to fill the vacancy caused by the death of Senator Wherry. In his first address to this body, Senator Seaton spoke strongly in support of statehood for Alaska, recalling the doubts and objections raised when his own State of Nebraska was struggling for statehood.

Senator Seaton said:

Alaska is as deserving of statehood, and as ready for statehood, and as greatly in need of statehood, to come into her own, as were any of the present States when it was their turn before the bar of the Senate.

Let us deal with the American citizens in Alaska no less generously in this matter than were our forbearers dealt with in their respective territories. Alaska, like all the other States, will keep the faith and carry

on the grand old United States tradition. Alaska's star has for too long been denied its rightful place on the glorious flag of the United States of America.

Our delegate to the House of Representatives, Bob Bartlett and our "Tennessee Plan" Senators and Representatives, and Alaskan pioneers Ernest Gruening, Bill Egan and Ralph Rivers met with Members of Congress to convince them to support Alaska statehood.

After the House passed our statehood bill on May 28, 1958, opponents in the Senate tried to stop the bill by attaching controversial, unrelated amendments.

Our good friend from Washington, Senator Henry "Scoop" Jackson led a bipartisan effort to fend off changes to the bill.

In the 6 days of debate prior to the vote, Senators carefully weighed the prospect of granting statehood to Alaska.

Alaskans are proud of all we have accomplished in the 50 years since that historic vote.

Through responsible development of our vast natural resources we are working to build a strong and vibrant economy.

Prudhoe Bay and the 800 mile Trans-Alaska Pipeline, completed in 1977, have delivered more than 15 billion barrels of oil to the American economy.

In 2007 alone, Alaska's mining industry contributed an export value of \$1.1 billion to the national economy.

Through science-based management, our fisheries have been protected and rehabilitated. Because of our success, Alaska's fisheries management principles are now used as models for fisheries across the country. Today half our Nation's total domestic seafood production comes from Alaska.

Modern water and sewer facilities and health care clinics are now located in most rural Alaskan communities. Through these and other projects and development of our natural resources, Alaskans are creating educational and job opportunities in the most remote corners of our state.

Alaskans proved our strategic military value to the Nation during WWII when our Territorial Guard provided a first line of defense and protected the terminus of the lend lease Aerial Bridge at Fairbanks.

Today Alaskans welcome and support the men and women of the 1st of the 25th Stryker Brigade Combat Team based in Fairbanks, the 4th of the 25th Airborne Brigade Combat Team based in Anchorage and the 11th Air Force based at Elmendorf.

They, and our Alaska National Guard, have served our Nation bravely in Afghanistan and Iraq and around the world. Our strong tradition of service has resulted in more veterans per capita living in Alaska than in any other State.

While Alaskans have much to celebrate on our 50th anniversary of statehood, we continue working to accomplish more.



The Alaska Natural Gas Pipeline will deliver 4 billion cubic feet of domestically produced natural gas each day to homes and businesses throughout the United States. Our pipeline will also create 400,000 new jobs nationwide.

Continued development of Alaska's resources, including oil and gas development on the arctic coastal plain and our outer continental shelf, could also help deliver the energy needed to power our Nation's economy.

Recent estimates show that the arctic coastal plain alone could deliver 1.5 million barrels of oil a day to market and contribute billions of dollars in corporate income tax revenues and royalties to the U.S. Treasury.

Alaskans began our journey to statehood in 1867 when the Secretary of State William Seward advocated for the purchase of the territory from Russia for a mere 2 cents an acre. At the time the decision was ridiculed as "Seward's folly."

Alaskans have worked hard to realize the full potential of our land and our people. There is no doubt Alaskans have lived up to the faith the Senate showed in us 50 years ago when it voted to grant us statehood. Alaskans have earned the name of our State, "the Great Land."

Ms. MURKOWSKI. Mr. President, I want to thank my senior colleague for his comments. It is rare that we have an opportunity to speak from such personal knowledge about the battle for statehood.

As he spoke, I imagined Senator STEVENS sitting up there in the gallery watching this debate anxiously as the future of Alaska was being decided. So it is an honor to work with him representing the people of Alaska. But for him to be able to share this historical perspective is wonderful. Our neighbors to the south in Washington have worked with us on so many different issues over the years.

As I mentioned in my comments, Senator Jackson and Senator Magnuson were big advocates for statehood for the State of Alaska.

I am delighted that our colleague, Senator MURRAY, has agreed to join us in talking about Alaska's statehood.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. "Mr. President, let us vote for the 49th star in the flag." Those were the words from the great Senator from the State of Washington, Warren Magnuson, spoken on this floor in 1958, just before this body finally agreed to make Alaska one of the United States.

Today, I am very pleased to join our colleagues from the north in Alaska to say a warm congratulations to the people of Alaska on this 50th anniversary of their statehood. Alaska's statehood, as you heard, was controversial a half century ago. But I think time has proven that the United States is a greater Nation thanks to the Land of the Midnight Sun.

As Senator MURKOWSKI has said, Washington State's Senators, Warren

Magnuson and Henry Jackson, were some of Alaska's greatest friends. Their advocacy helped to sway this Senate that Alaskans were ready to join the Union. Today I want to give you a flavor of that debate at the time and their role in it.

Back in 1958, Alaska's statehood had already been an issue for 42 years, and legislation to make it a State had been introduced in every Congress since 1943.

As Senator Jackson said in one speech that led up to that final vote that Congress had held 11 hearings, two of them in Alaska, and others here in Washington, DC. And more than 4,000 pages of testimony had been published.

"It was time to put the issue to rest," he argued, and I quote:

There can be no doubt that the record is complete. Our objective is statehood. It can be achieved now.

Those were the words of Senator Jackson back then. And as the debate continued, Senators Magnuson and Jackson were confident that Alaska was ready.

Senator Magnuson argued that with 180,000 citizens, Alaska had more residents than Missouri, Kansas, Arkansas, Alabama, Nevada, Idaho, and 21 other States when they were admitted into the Union. He pointed out to this body that Alaska was strategically located between the United States and the Soviet Union and that it was home to two important military bases at the time right when the Cold War was escalating.

He dismissed the argument that Alaska could not support itself as a State because that argument had not held up when it was used for his own State of Washington.

He said:

Alaskans feel confident that they can lick this problem as they have met and solved others. I say, we should give them that opportunity.

So in Senator Magnuson's mind, the controversy was very similar to a family argument about whether a child was ready to leave home. He said:

These United States, like fearful parents, can waver further in indecision, and allow our lack of confidence to undermine Alaskans and say, "You will be ready for statehood someday, but not now." Or we can be proud of Alaskans' determination to strike out for their true independence through their own real self government.

"The United States should follow through the second course," Magnuson said.

He said:

The territory feels entitled to sit and deliberate with us—be one of us. Alaska wants to work out her own future, just as each of the other 48 partners in our nation have been allowed to do. Alaska's hopes, aspirations, and quiet self-confidence are understandable. She knows that her resources, her people, and their combined potential spell a brilliant future.

Alaska has sat impatiently in the anteroom of history for 42 years. Alaska should be a State.

I am very proud of the role Washington's two Senators played in this de-

bate at the time. Alaska's road to statehood was long and it was hard. But Alaskans are some of the toughest people around. They fought for their rights. They did not give up. And they prevailed.

So as they celebrate across their State I wish them a happy and a successful future. I want to close by once more quoting Senator Magnuson's words to the people of Alaska.

He said:

We approve and commend your vision, understand and believe your hopes, know that your mission and goal can and will be reached, so good luck and godspeed.

Mr. CRAPO. Mr. President, I am honored to stand and speak today on the occasion of the 50th anniversary of the legislation establishing Alaska as our 49th State. I continue a tradition of sorts: A former Idaho Senator, Frank Church, stood in this same chamber 50 years ago, May 5, 1958, to be exact, to call for Alaska's statehood.

Let me begin, if I may, with the words Senator Church recited that day:

Wild and wide are my borders,  
Stern as death is my sway,  
And I will wait for the men who will win me—  
And I will not be won in a day;  
And I will not be won by weaklings,  
Subtle, suave and mild,  
But by men with the hearts of Vikings  
And the simple faith of a child;  
Desperate, strong and restless,  
Unthrottled by fear or defeat,  
Them I will guild with my treasure,  
Them I will glut with my meat.  
Send me the best of your breeding,  
Lend me your chosen ones,  
Them I will take to my bosom,  
Them I will call my sons.

These lines come from a poem entitled, "The Law of the Yukon," and were written by Robert W. Service, a Canadian poet who traveled north, caught up in the fever of the Klondike Gold Rush. The poem was inspired by the majesty of the land of the Northwest Territories and the Alaska territory, and for Senator Church set the stage for an impassioned, intricately argued plea for Alaska's statehood.

Senator Church spoke that day of taxation without representation. He referenced the treaty by which the United States acquired Alaska which said that the inhabitants of the Territory "shall be admitted to the enjoyment of all the rights, advantages and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty." Senator Church asked this body the question: "Can it be that ours, too, will be the error of the Roman senate, which sapped the vitality and strength from the Roman Republic, refusing to extend the right of franchise, until government became a mockery, empty of empty of principle . . .?"

Fortunately for the United States in this matter, right prevailed that year, and those calling for Alaska's statehood were vindicated in their tireless quest.

The admission of Alaska into the Union represents a rejection of the status quo, a manifestation of the very American tendency to look beyond what is to what could be, and Alaska has exceeded all expectations. That historic 1958 debate about Alaska's statehood mentions things familiar today which remain the backbone of Alaska's economy and, by extension, are integral to the U.S. economy, salmon, oil and natural gas to name a few. Alaska enriched our inventory of public land immeasurably: forests rich in wildlife; the majestic mountains of the Denali and the breathtaking flanks and soaring peak of Mount McKinley; glaciers of incredible beauty; rivers teeming with salmon; and bays and harbors with orcas and other ocean wildlife. Alaska holds beauty and riches beyond measure above and below the land, rivers and oceans.

Periodically, the U.S. Senate does something that, in the words of Senator Church that year, falls outside the realm of meeting exigencies of the present. When the Senate bestowed statehood upon Alaska 50 years ago this week, it grasped the brief shining moment history had granted it and looked beyond partisan politics to do something great and glorious for the good of our Nation.

I appreciate the Senator from Alaska's invitation to speak during this auspicious time in Alaska's history. I am proud of the role of Idaho lawmakers in the history of Alaska's statehood, particularly Senator Church, and also Congresswoman Gracie Pfof who also supported Alaska's statehood that year. In fact, an editorial in the Fairbanks News-Miner on May 6, 1958 called Senator Church "one of Alaska's greatest champions in Congress."

Idaho and Alaska will always have much in common. Both western Rocky Mountain States, we face similar land use, wildlife and natural resource issues and we both celebrate the staggering beauty of our land. While Idaho does have the largest amount of wilderness area in the continental United States, it is dwarfed, of course, by Alaska which has the largest amount of Federal land of any State. Idaho and Alaska lawmakers can be proud of half a century of working together for the good of our States, our constituents and the mountain west.

Congratulations, Senator MURKOWSKI and Senator STEVENS, on the birthday of your great State.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank my colleague from the State of Idaho. As he indicated, Senator Church was a great leader in the statehood fight. Idaho and Alaska have long since maintained that good relationship from five decades ago. I also recognize the comments of Senator MURRAY from Washington. The relationship our two States have had throughout the years

through trade and commerce has provided issues on which we have worked jointly. Again, I thank them for taking the time to help Alaska commemorate its 50th anniversary celebration.

I will tell my colleagues, as the first Senator serving in the Senate to ever have been born in the State of Alaska—I was actually born just a little bit before statehood, born in the territory—I am fiercely passionate about my State. My mother was born in the community of Nome in the early 1930s, at a time when Alaska was pretty rough and tumble. My family on both sides was involved in the issues that led to statehood. I am very proud of how we as a State have advanced over these 50 years. To be able to recognize that progress and then look forward with anticipation as we forge the next 50 years, a State that has so much to offer this country, not only our natural resources but the ingenuity and resourcefulness of our people, the fact that our Alaska Natives per capita serve at record numbers in our military, providing for the defense of this country, we are full participants in this great Nation. Even though our geography separates us, there is a sense of patriotism and love for this country that does not go without recognition.

I am honored to stand before the Senate today to celebrate the battle that led to statehood and the recognition of decades of good work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent to print in the RECORD the names of distinguished young Alaskans who have been permitted to be on the floor today to witness the celebration of our 50th anniversary.

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

#### SENATOR MURKOWSKI'S INTERNS AND THEIR HOMETOWNS

Brian O'Leary—Kodiak, Rochelle Hanscom—Fairbanks, Nychele Fischetti—Anchorage, Taryn Moore—Anchorage, Lyndsey Haas—Petersburg, Kristen Coan—Palmer, Wes Stephen—Soldotna, Haleigh Zueger—Unalaska, Kelsey Eagle—Sitka, Samantha Novak—Anchorage, Cameron Piscoya—Nome, and Alexis Krell—Wasilla.

#### SENATOR STEVENS' INTERNS AND THEIR HOMETOWNS

Bennett Clare—Nikiski, Castillo Serame—Anchorage, Choi Claire—Anchorage, Downey Michael—Anchorage, Hein Dyle—Juneau, Horstkoetter Paul—Anchorage, Johnsen, Jakob—Fairbanks, Lettow Jaimee—Wasilla, Malmberg Cort—Kodiak, Syversen Karmel—Anchorage, Alguire Coleman—Ketchikan, Eby Eryn—Anchorage, Gilman Rebecca—Kenai, Joynt Marshall—Wasilla, Kazmierczak Jessica—Salcha, Mallipudi Andres—Anchorage, Oh Samuel—Wasilla, Osterman Thomas—Kasilof, and Welch Alisha—Bethel.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I could add a word to my two distinguished colleagues. I have had the

good fortune—and it is good fortune—to have visited every State in the United States and the territories in my nearly 82 years of wonderful life that the good Lord has given me. I would think every American would deem, every American who has a feeling for the outside and the magnificent beauty of nature, that their education would not be complete unless they visit Alaska and see with their own eyes and breathe the air, see the water, all the magnificent beauty. I have enjoyed a number of trips to Alaska, largely sponsored by my dear friend Senator STEVENS, through the years. We have been there together many times, many times in connection with the U.S. military, which finds a wonderful home in Alaska. Alaskans have taken such good care of them.

But you have a great strength. Those of us in the Senate are proud to serve with two fine Senators from the great State of Alaska.

Mr. President, I ask at this point in time if I could address the FISA bill. Is that the pending business or may I ask to speak on that business now?

The PRESIDING OFFICER. The Senate is postcloture on the motion to proceed to the FISA bill.

Mr. WARNER. So it is appropriate at this time to deliver remarks with regard to that bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. I thank the Chair.

Mr. President, this is one of the most important subjects I have had the privilege of addressing in my 30-some years in the Senate. I and many others will rise in connection with this bill in support of the FISA Amendments Act. It is a critical piece of legislation for America's present and future security. It achieves an important balance between protecting civil liberties and ensuring that our dedicated intelligence professionals have the capabilities they need to protect this Nation.

Currently, Admiral McConnell is Director of our intelligence system. I have had the privilege of knowing him for over 30 years, working with him. We are fortunate that he and General Hayden and many others are carrying the torch for our Nation's intelligence. They have worked very hard on this piece of legislation, as has my dear colleague from Missouri, Senator BOND. I am on the Intelligence Committee. He has done a splendid job in negotiating the conference—hopefully, what will be a settlement. He was supported by our chairman, Senator ROCKEFELLER. It has been a team, with the two of them achieving the juncture we are at now in the consideration of this bill.

The bill ensures that the intelligence capabilities provided by the Protect America Act, enacted in August of 2007, remain sealed in statute. I cannot overemphasize how important that is to ensuring our Nation's security. I wish to underscore, once again, the importance of legal protection for the telecommunications carriers that have voluntarily—underline voluntarily—come

forth for the private sector and have assisted our Government with the terrorist surveillance program, commonly referred to as TSP, which was originated and authorized by the President under appropriate sections, in my judgment, of the Constitution, particularly article II.

I wish to emphasize that I was privileged to be Secretary of the Navy in the period of the 1970s, when the All-Volunteer Force was conceived. That force of young men and women, each of whom raised their hands and said, I volunteer to serve in uniform, is not unlike the issue today with elements of corporate America, the private sector, who have come forward to volunteer to assist this Government in performing the intelligence responsibilities undertaken which guarantee the freedoms and safety we enjoy every day here at home. The extensive evidence made available to the Senate Intelligence Committee shows that carriers that participated in this program relied upon our Government's assurances that their actions were legal, authorized by the President, and in the best interests of the security of our Nation.

In brief, our Government provided the carriers with essential assurances, and the carriers responded to our Government's request for help. These carriers must be protected from costly and damaging lawsuits. Such lawsuits could end the current level of participation in the vital intelligence programs by these carriers and will likely deter other companies and private citizens who might like to step forward and volunteer in helping us protect ourselves by virtue of the essential intelligence we must monitor and collect every day. After all, these carriers are corporations in most instances, if not all. They are beholden, the executives of these corporations, to the stockholders. That is the system of free enterprise we have in the United States. Consequently, they, on behalf of their stockholders—and the stockholders could be the pension funds, could be a stock held by any number of people and entities in our system of Government—are coming forth simply asking for codification of assurances having been given by the Government so they can go back to their stockholders and explain that: We are doing this to protect America. We now have, by virtue of the actions of the Congress, signed and sealed by the President, the law that will protect your interests in this country from lawsuits which have no foundation in law.

I would like to share a "Dear Colleague" letter which all Members of our Chamber some months ago received from the esteemed chairman and vice chairman of the Intelligence Committee, Senators ROCKEFELLER and BOND.

I ask unanimous consent that the full text of the letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. WARNER. The letter discussed the Senate Intelligence Committee's extensive and bipartisan review of the TSP, which included dozens of briefings, hearings, and interviews, as well as extensive document reviews. As a result of this more than 10-month comprehensive examination, the committee concluded—and I quote what was written and published to our colleagues by the committee—

Irrespective of one's opinion of the President's reliance on Article II authority to justify the TSP, those companies that assisted with the TSP did so in good faith and based upon the written—

I repeat: "written representations"—from the highest levels of government that the program was lawful. The Committee's bill reported out on a strong, bipartisan vote of 13-2—

I wish to repeat that. That is a strong vote. I have served on the Intelligence Committee. This is my third tour of duty, you might say, given that we have, under our leadership, stipulated periods to serve. That is a big, strong vote. At one time, I was ranking member, as is Mr. BOND, of that committee, and that is about as strong a vote as you can get among the diversity of the wonderful people who have, throughout my years in the Senate, served on that committee.

[That vote] reflects our determination that companies that cooperated with the government in good faith should be protected from time-consuming and expensive litigation. It is a matter of fundamental fairness.

End quote by the committee.

Another item which played a key role in my thinking about the issue was a thoughtful article published in a newspaper by private citizens with past distinguished careers in public service relating to intelligence. The first is Benjamin Civiletti, U.S. Attorney General under President Jimmy Carter; followed by Dick Thornburgh, U.S. Attorney General under President George Herbert Walker Bush; and Judge William Webster, a very distinguished gentleman I have known personally for many years, former Director of the CIA and former Director of the Federal Bureau of Investigation.

Now, there are three diverse public servants, with different political backgrounds, but they came together for the common purpose of trying to strengthen America's intelligence system. The article, entitled "Surveillance Sanity," appeared in the October 31, 2007, edition of the Wall Street Journal. I have spoken on the floor previously about this article and their contribution, but because of its direct relevance to the issue we are now deliberating on and hopefully will vote on today, I ask unanimous consent that a copy of the article be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. WARNER. Let me share with you some of their thoughts. Regarding the

Intelligence Committee's carefully crafted and limited liability provision, which is very similar to the provision in the bill currently before us, these three distinguished public servants—now private citizens—said:

We agree with the Committee. Dragging phone companies through protracted litigation would not only be unfair, but it would deter other companies and private citizens from responding in terrorist emergencies whenever there may be uncertainty or level risk.

Unfortunately, our committee has already heard testimony that without such protections, some companies believe they can no longer continue their cooperation and assistance to our American Government, particularly the intelligence sections.

Messrs. Civiletti, Thornburgh, and Webster also wrote:

The government alone cannot protect us from the threats we face today. We must have the help of all of our citizens. There will be times when the lives of thousands of Americans will depend on whether corporations such as airlines or banks are willing to lend assistance. If we do not treat them fairly when they respond to assurances from the highest levels of the government that their help is legal and essential for saving lives, then we will be radically reducing our society's capacity to defend itself.

That is very strong language, very clear language. I urge my colleagues, once again, to look at their article.

As the Senate considers this bill, it should reject any amendments which would put the carriers and their millions of shareholders in legal limbo, waiting while the Government litigates unrelated constitutional claims. Lawsuits against the companies would likely continue in the interim which would: have negative ramifications on our intelligence sources and methods; likely harm the business reputations of these companies; and cause the companies to reconsider their participation—or worse—cause them to terminate their cooperation in the future.

The Senate Intelligence Committee, by a vote of 13 to 2, stated its belief that the carriers acted in good faith and that they deserve to be protected.

Clearly the issue of whether the President acted within his constitutional authority in authorizing the TSP can and should be addressed in a separate context from this bill.

Even the exclusive means provision in this bill favored by my Democratic colleagues in the House and Senate acknowledges the President's constitutional authority in stating that certifications to companies for assistance shall identify the statutory provision on which the certification is based, "if a certification . . . is based on statutory authority." This clearly indicates that the certification could be based on the President's constitutional authority.

But, even if one did not agree that the President acted within his Article II powers, why would anyone want to punish the carriers for something the Government called on them to do and assured them was legal?

Individuals who believe that the Government violated the civil liberties can pursue legal action against the Government, and the bill before us does nothing to limit that legal recourse.

As stated so eloquently by Messrs. Civiletti, Thornburg, and Webster, I quote the following:

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. . . . Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality.

I strongly believe that the President did act within his Article II executive branch authority in authorizing this program. Even the exclusive means provision in this bill favored by my Democratic Colleagues in the House and Senate acknowledges the President's constitutional authority in stating that certifications to companies for assistance shall identify the statutory provision on which the certification is based "if a certification . . . is based on statutory authority." This clearly indicates the certification could be based on the President's constitutional authority.

But even if one did not agree that the President acted—acted—within the confines of the U.S. Constitution—particularly article II outlines the executive branch's power under the President—why would anyone want to punish the carriers for something the Government called on them to do and assured them was legal? Individuals who believe the Government violated their civil liberties can pursue legal action against the Government, and the bill before us does nothing—I repeat: does nothing—to prohibit a citizen to bring that legal recourse against their Government, the U.S. Government.

As stated so eloquently in the Messrs. Civiletti, Thornburgh, and Webster document, I further quote:

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. . . . Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality.

I agree with the conclusions of these three eminent private citizens.

I would like to also call your attention to an important letter sent last week—June 19, 2008—to Senate and House leadership from the Attorney General of the United States and the Director of National Intelligence—that is GEN Michael Mukasey and ADM Michael McConnell—two distinguished public servants now serving America.

Mr. President, I also ask unanimous consent that this letter be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. WARNER. These gentlemen said:

[P]roviding this liability protection is critical to the Nation's security.

They confirmed that the intelligence community cannot obtain the intelligence it needs without—I repeat, without—the assistance from these carriers, companies, and other segments of the private sector. They noted:

It is critical that any long-term FISA modernization legislation contain an effective liability protection provision.

It should be clear from this letter that the Director of National Intelligence and the Attorney General of the United States could not support the bill without explicit retroactive legal protection for the carriers and other segments of the private sector.

It is for these reasons that I urge my colleagues to support H.R. 6304, the FISA Amendments Act, as passed by the House, and to vote against any amendments that intend to strip out or alter the critical civil liability provision or any other section of the bill that is essential to our intelligence community.

Mr. President, I yield the floor.

#### EXHIBIT 1

U.S. SENATE,  
SELECT COMMITTEE ON INTELLIGENCE,  
Washington, DC, February 1, 2008.

DEAR COLLEAGUES: The FISA Amendments Act, S. 2248, provides limited and narrowly-drawn retroactive civil liability protection to those telecommunication companies that allegedly assisted the government with the President's Terrorist Surveillance Program (TSP). An amendment has been offered to this Act to strike these liability protections in favor of "substitution," a legal mechanism for replacing the companies in the ongoing TSP litigation with the government.

The Senate Intelligence Committee conducted a comprehensive and bipartisan review of the President's TSP, including the issue of carrier liability. The Committee reviewed numerous documents, including the Department of Justice legal opinions and the letters from the government to the companies. The Committee held a number of briefings and hearings involving government and company officials. The Committee also visited the National Security Agency to see firsthand how the TSP worked.

As a result of this extensive review, the Committee concluded that, irrespective of one's opinion of the President's reliance on Article II authority to justify the TSP, those companies that assisted with the TSP did so in good faith and based upon the written representations from the highest levels of government that the program was lawful.

The Committee's bill, reported out on a strong, bipartisan vote of 13-2, reflects our determination that companies that cooperated with the government in good faith should be protected from time-consuming and expensive litigation. It is a matter of fundamental fairness. The Committee rejected the broad immunity proposal sought by the Administration. Our limited immunity provision only covers assistance provided from September 11th to when the TSP was put under court authorization in January of last year. It does not provide protection from criminal prosecution or extend protections to government officials. Any litigation against government officials will continue.

In concluding that civil liability protection for those companies was appropriate,

the Committee recognized that allowing the current litigation to continue could: (1) compromise our intelligence sources and methods through ongoing discovery and other litigation proceedings; (2) result in significant loss of business reputation or financial loss for those companies that participated in good faith; (3) jeopardize the personal safety of overseas employees of these companies if it becomes known that the companies assisted the government in fighting terrorism; (4) put taxpayers' dollars at risk for dubious legal claims; and (5) lead to reluctance by these and other companies to cooperate with legitimate requests for assistance in the future.

The substitution amendment sponsored by Senators Specter and Whitehouse does not alleviate any of these concerns. Even if the companies are removed directly from the litigation, discovery would still be allowed to proceed against them. In short, the conduct of the companies would continue to be litigated, raising significant concerns that their identities or details about their assistance will be disclosed. Given the essential role that our private partners play in intelligence collection, we believe that this is simply too great a risk to our national security.

We believe, therefore, that the ongoing litigation against the telecommunication companies should be brought to an immediate close and that the Intelligence Committee's bipartisan determination of good faith should stand. We urge you to support the Intelligence Committee's bill and oppose any effort to modify or strike its civil liability provision.

Sincerely,

JOHN D. ROCKEFELLER IV,  
Chairman.  
CHRISTOPHER S. BOND,  
Vice Chairman.

#### EXHIBIT 2

[From the Wall Street Journal, Oct. 31, 2007]

#### SURVEILLANCE SANITY

(By Benjamin Civiletti, Dick Thornburgh and William Webster)

Following the terrorist attacks of Sept. 11, 2001, President Bush authorized the National Security Agency to target al Qaeda communications into and out of the country. Mr. Bush concluded that this was essential for protecting the country, that using the Foreign Intelligence Surveillance Act would not permit the necessary speed and agility, and that he had the constitutional power to authorize such surveillance without court orders to defend the country.

Since the program became public in 2006, Congress has been asserting appropriate oversight. Few of those who learned the details of the program have criticized its necessity. Instead, critics argued that if the president found FISA inadequate, he should have gone to Congress and gotten the changes necessary to allow the program to proceed under court orders. That process is now underway. The administration has brought the program under FISA, and the Senate Intelligence Committee recently reported out a bill with a strong bipartisan majority of 13-2, that would make the changes to FISA needed for the program to continue. This bill is now being considered by the Senate Judiciary Committee.

Public disclosure of the NSA program also brought a flood of class-action lawsuits seeking to impose massive liability on phone companies for allegedly answering the government's call for help. The Intelligence Committee has reviewed the program and has concluded that the companies deserve targeted protection from these suits. The protection would extend only to activities

undertaken after 9/11 until the beginning of 2007, authorized by the president to defend the country from further terrorist attack, and pursuant to written assurances from the government that the activities were both authorized by the president and legal.

We agree with the committee. Dragging phone companies through protracted litigation would not only be unfair, but it would deter other companies and private citizens from responding in terrorist emergencies whenever there may be uncertainty or legal risk.

The government alone cannot protect us from the threats we face today. We must have the help of all our citizens. There will be times when the lives of thousands of Americans will depend on whether corporations such as airlines or banks are willing to lend assistance. If we do not treat companies fairly when they respond to assurances from the highest levels of the government that their help is legal and essential for saving lives, then we will be radically reducing our society's capacity to defend itself.

This concern is particularly acute for our nation's telecommunications companies. America's front line of defense against terrorist attack is communications intelligence. When Americans put their loved ones on planes, send their children to school, or ride through tunnels and over bridges, they are counting on the "early warning" system of communications intelligence for their safety. Communications technology has become so complex that our country needs the voluntary cooperation of the companies. Without it, our intelligence efforts will be gravely damaged.

Whether the government has acted properly is a different question from whether a private person has acted properly in responding to the government's call for help. From its earliest days, the common law recognized that when a public official calls on a citizen to help protect the community in an emergency, the person has a duty to help and should be immune from being hauled into court unless it was clear beyond doubt that the public official was acting illegally. Because a private person cannot have all the information necessary to assess the propriety of the government's actions, he must be able to rely on official assurances about need and legality. Immunity is designed to avoid the burden of protracted litigation, because the prospect of such litigation itself is enough to deter citizens from providing critically needed assistance.

As the Intelligence Committee found, the companies clearly acted in "good faith." The situation is one in which immunity has traditionally been applied, and thus protection from this litigation is justified.

First, the circumstances clearly showed that there was a bona fide threat to "national security." We had suffered the most devastating attacks in our history, and Congress had declared the attacks "continue to pose an unusual and extraordinary threat" to the country. It would have been entirely reasonable for the companies to credit government representations that the nation faced grave and immediate threat and that their help was needed to protect American lives.

Second, the bill's protections only apply if assistance was given in response to the president's personal authorization, communicated in writing along with assurances of legality. That is more than is required by FISA, which contains a safe-harbor authorizing assistance based solely on a certification by the attorney general, his designee, or a host of more junior law enforcement officials that no warrant is required.

Third, the ultimate legal issue—whether the president was acting within his constitu-

tional powers—is not the kind of question a private party can definitively determine. The companies were not in a position to say that the government was definitely wrong.

Prior to FISA's 1978 enactment, numerous federal courts took it for granted that the president has constitutional power to conduct warrantless surveillance to protect the nation's security. In 2002, the FISA Court of Review, while not dealing directly with the NSA program, stated that FISA could not limit the president's constitutional powers. Given this, it cannot be said that the companies acted in bad faith in relying on the government's assurances of legality.

For hundreds of years our legal system has operated under the premise that, in a public emergency, we want private citizens to respond to the government's call for help unless the citizen knows for sure that the government is acting illegally. If Congress does not act now, it would be basically saying that private citizens should only help when they are absolutely certain that all the government's actions are legal. Given the threats we face in today's world, this would be a perilous policy.

#### EXHIBIT 3

JUNE 19, 2008.

Hon. NANCY PELOSI, Speaker,  
*House of Representatives,*  
*Washington, DC.*

DEAR MADAM SPEAKER: This letter presents the views of the Administration on the Foreign Intelligence Surveillance Act of 1978 ("FISA") Amendments Act of 2008 (H.R. 6304). The bill would modernize FISA to reflect changes in communications technology since the Act was first passed 30 years ago. The amendments would provide the Intelligence Community with the tools it needs to collect the foreign intelligence necessary to secure our Nation while protecting the civil liberties of Americans. The bill would also provide the necessary legal protections for those companies sued because they are believed to have helped the Government prevent terrorist attacks in the aftermath of September 11. Because this bill accomplishes these two goals essential to any effort to modernize FISA, we strongly support passage of this bill and will recommend that the President sign it.

Last August, Congress took an important step toward modernizing FISA by enacting the Protect America Act of 2007. That Act allowed us temporarily to close intelligence gaps by enabling our intelligence professionals to collect, without having to first obtain a court order, foreign intelligence information from targets overseas. The Act has enabled us to gather significant intelligence critical to protecting our Nation. It has also been implemented in a responsible way, subject to extensive executive, congressional, and judicial oversight in order to protect the country in a manner consistent with safeguarding Americans' civil liberties. Since passage of the Act, the Administration has worked closely with Congress to address the need for longterm FISA modernization. This joint effort has involved compromises on both sides, but we believe that it has resulted in a strong bill that will place the Nation's foreign intelligence effort in this area on a firm, long-term foundation. Below, we have set forth our views on certain important provisions of H.R. 6304.

#### TITLE I—FOREIGN INTELLIGENCE SURVEILLANCE

Title I of H.R. 6304 contains key authorities that would ensure that our intelligence agencies have the tools they need to collect vital foreign intelligence information and would provide significant safeguards for the civil liberties of Americans.

*Court Approval.* With respect to authorizations for foreign intelligence surveillance di-

rected at foreign targets outside the United States, the bill provides that the Foreign Intelligence Surveillance Court (FISC) would review certifications made by the Attorney General and the Director of National Intelligence relating to these acquisitions, the reasonableness of the procedures used by the Intelligence Community to ensure the targets are overseas, and the minimization procedures used to protect the privacy of Americans. The scope of the FISC's review is carefully and rightly crafted to focus on aspects of the acquisition that may affect the privacy rights of Americans so as not to confer quasi-constitutional rights on foreign terrorists and other foreign intelligence targets outside the United States.

We have been clear that any satisfactory bill could not require individual court orders to target non-United States persons outside the United States, nor could a bill establish a court-approval mechanism that would cause the Intelligence Community to lose valuable foreign intelligence while awaiting such approval. H.R. 6304 would do neither and would retain for the Intelligence Community the speed and agility that it needs to protect the Nation. The bill would establish a schedule for court approval of certifications and procedures relating to renewals of existing acquisition authority. A critical feature of the H.R. 6304 would allow existing acquisitions, which were the subject of court review under the Protect America Act or will be the subject of such review under the H.R. 6304, to continue pending court review. With respect to new acquisitions, absent exigent circumstances, Court review of new procedures and certifications would take place before the Government begins the acquisition. The exigent circumstances exception is critical to allowing the Intelligence Community to respond swiftly to changing circumstances when the Attorney General and the Director of National Intelligence determine that intelligence may be lost or not timely acquired. Such exigent circumstances could arise in certain situations where an unexpected gap has opened in our intelligence collection efforts. Taken together, these provisions would enable the Intelligence Community to keep closed the intelligence gaps that existed before the passage of the Protect America Act and ensure that it will have the opportunity to collect critical foreign intelligence information in the future.

*Exclusive means.* H.R. 6304 contains an exclusive means provision that goes beyond the exclusive means provision that was passed as part of FISA. As we have previously stated, we believe that the provision will complicate the ability of Congress to pass, in an emergency situation, a law to authorize immediate collection of communications in the aftermath of an attack or in response to a grave threat to the national security. Unlike other versions of this provision, however, the one in this bill would not restrict the authority of the Government to conduct necessary surveillance for intelligence and law enforcement purposes in a way that would harm national security.

*Oversight and Protections for the Civil Liberties of Americans.* H.R. 6304 contains numerous provisions that protect the civil liberties of Americans and allow for extensive executive, congressional, and judicial oversight of the use of the authorities. The bill would require the Attorney General and the Director of National Intelligence to conduct semi-annual assessments of compliance with targeting procedures and minimization procedures and to submit those assessments to the FISC and to Congress. The FISC and Congress would also receive annual reviews relating to those acquisitions prepared by the heads of agencies that use the authorities

contained in the bill. Congress would receive reviews from the Inspectors General of these agencies and of the Department of Justice regarding compliance with the provisions of the bill. In addition, the bill would require the Attorney General to submit to Congress a report at least semiannually concerning the implementation of the authorities provided by the bill and would expand the categories of FISA-related court documents that the Government must provide to the congressional intelligence and judiciary committees.

Title I also includes provisions that would protect the civil liberties of Americans. For instance, the bill would require for the first time that a court order be obtained to conduct foreign intelligence surveillance outside the United States of an American abroad. Historically, Executive Branch procedures guided the conduct of surveillance of a U.S. person overseas, such as when a U.S. person acts as an agent of a foreign power, e.g., spying on behalf of a foreign government. Given the complexity of extending judicial review to activities outside the United States, these provisions were carefully crafted with Congress to ensure that such review can be accomplished while preserving the necessary flexibility for intelligence operations. Other provisions of the bill address concerns that some voiced about the Protect America Act, such as clarifying that the Government cannot "reverse target" without a court order and requiring that the Attorney General establish guidelines to prevent this from occurring. We believe that, taken together, these provisions will allow for ample oversight of the use of these new authorities and ensure that the privacy and civil liberties of Americans are well protected.

#### II. TITLE II—PROTECTIONS FOR ELECTRONIC COMMUNICATIONS SERVICE PROVIDERS

Title II of the bill contains, among other provisions, vital protections for electronic communications service providers who assist the Intelligence Community's efforts to protect the Nation from terrorism and other foreign intelligence threats. Title II would provide liability protection related to future assistance while ensuring the protection of sources and methods. Importantly, the bill would also provide the necessary legal protection for those companies who are sued only because they are believed to have helped the Government with communications intelligence activities in the aftermath of September 11, 2001.

The framework contained in the bill for obtaining retroactive liability protection is narrowly tailored. An action must be dismissed if the Attorney General certifies to the district court in which the action is pending that either: (i) the electronic communications service provider did not provide the assistance; or (ii) the assistance was provided in the wake of the September 11 attack and was the subject of a written request or series of requests from a senior Government official indicating that the activity was authorized by the President and determined to be lawful. The district court would be required to review this certification before dismissing the action, and the provision allows for the participation of the parties to the lawsuit in a manner consistent with the protection of classified information. The liability protection provision does not extend to the Government or to Government officials and it does not immunize any criminal conduct.

Providing this liability protection is critical to the Nation's security. As the Senate Select Committee on Intelligence recognized, "the intelligence community cannot obtain the intelligence it needs without assistance from these companies." That com-

mittee also recognized that companies in the future may be less willing to assist the Government if they face the threat of private lawsuits each time they are believed to have provided assistance. Finally, allowing litigation over these matters risks the disclosure of highly classified information regarding intelligence sources and methods. As we have stated on many occasions, it is critical that any long-term FISA modernization legislation contain an effective liability protection provision. H.R. 6304 contains just such a provision and for this reason, as well as those expressed with respect to Title I above, we strongly support its passage.

#### III. TITLE III—REVIEW OF PREVIOUS ACTIONS

Title III would require the Inspectors General of the Department of Justice, the Office of the Director of National Intelligence, and of certain elements of the Intelligence Community to review certain communications surveillance activities, including the Terrorist Surveillance Program described by the President. Although improvements have been made over prior versions of this provision, we believe, as we have written before, that it is unnecessary in light of the Inspector General reviews previously completed, those already underway, and the congressional intelligence and judiciary committee oversight already conducted. Nevertheless, we do not believe that, as currently drafted, the provision would create unacceptable operational concerns. The bill contains important provisions to make clear that such reviews should not duplicate reviews already conducted by Inspectors General.

#### IV. TITLE IV—OTHER PROVISIONS

Title IV contains important provisions that will ensure that the transition between the current authorities and the authorities provided in this bill will not have a detrimental effect on intelligence operations.

Title IV also states that the authorities in the bill sunset at the end 2012. We have long favored permanent modernization of FISA. The Intelligence Community operates more effectively when the rules governing our intelligence professionals' ability to track our enemies are firmly established. Stability of law also allows the Intelligence Community to invest resources appropriately. Congress has extensively debated and considered the need to modernize FISA since 2006, a process that has involved numerous hearings, briefings, and floor debates. The process has been valuable and necessary, but it has also involved the discussion in open settings of extraordinary information dealing with sensitive intelligence operations. Every time we repeat this process it risks exposing our intelligence sources and methods to our adversaries. Although we would prefer that H.R. 6304 contain no sunset, a sunset in 2012 is significantly longer than others that were proposed and it is long enough to avoid impairing the effectiveness of intelligence operations.

Thank you for the opportunity to present our views on this crucial bill. We reiterate our sincere appreciation to the Congress for working with us on H.R. 6304, a long-term FISA modernization bill that will strengthen the Nation's intelligence capabilities while respecting and protecting the constitutional rights of Americans. We strongly support its prompt passage.

Sincerely,

MICHAEL B. MUKASEY,  
*Attorney General.*

J.M. MCCONNELL,  
*Director of National Intelligence.*

The PRESIDING OFFICER. The Senator from Michigan.

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

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

Ms. STABENOW. Thank you, Mr. President.

#### MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT

We are at a critical point today for 44 million Medicare beneficiaries—seniors, people with disabilities—and the physicians, the health care providers, who serve them. We are at a critical point.

I am very hopeful we are not going to see this number go up—the number of filibusters that have been done on the other side of the aisle. I am very hopeful this number is not going to go from 78 to 79 over the Medicare legislation that is in front of us.

We have already seen a filibuster in a successful effort to stop the Medicare bill that would make sure that the 10-percent cut for physicians does not take place and that other preventative and other access issues are addressed. That is already part of these 78 filibusters. We have already seen the Medicare bill filibustered.

But today we are hopeful, based on the wonderful bipartisan vote of 355 Members of the House of Representatives, that as we come back with their bill that was passed—and I should mention, based on the bill that was crafted by Senator BAUCUS; and I wish to give him tremendous credit for all the hard work he has done; and I am proud to be a member of the Finance Committee, as the distinguished Presiding Officer is—but the House, based on the work of the Senate, as well, has passed, with 355 votes, on a bipartisan basis, a bill to make sure 44 million seniors and people with disabilities do not find themselves worse off as it relates to being able to get a doctor or being able to get the care they need.

So we are at a crossroads right now. The time is up. As of next Tuesday, July 1, a cut will take effect if we do not act. On top of that, we will not see the other beneficial parts of this bill take effect for our seniors, for people with disabilities, for their families. So we are now at a point where it is decisionmaking time. The House has acted. It is my understanding they will, in fact, be adjourning at the end of today, and we will be in a situation to either act, based on a strong bipartisan vote and a tremendous amount of work that has been done in the Senate, or we will see devastating consequences in the Medicare system.

I do not want to see this number go from 78 to 79 because of a filibuster on a critically important Medicare bill. That is what we are talking about. This legislation itself is good public policy. That is why it received the 355 votes that it did, because it not only stops the cut, the 10-percent cut that is scheduled to take place next Tuesday, July 1—which, by the way, is the result of a fatally flawed sustainable growth rate formula, which I have talked about many times on this floor—we have to change the way what is called



the SGR is set up in terms of physician payments—this would not only stop a major cut for physicians that translates into cuts in service for Medicare beneficiaries, but it also does some other very important things that relate to increasing service.

First, let me say that if the cut were to take effect, we are talking about in Michigan alone losing \$540 million—\$540 million—for the care of seniors and people with disabilities over the next 18 months—only 18 months, \$540 million, if we do not act before next Tuesday.

Right now, as to the 20,000 M.D.s and D.O.s in Michigan who provide high-quality care to 1.4 million seniors and people with disabilities and the over 90,000 TRICARE beneficiaries—our men and women in the military—we would see cutbacks in their staffing, in their ability to provide service.

I have heard so many stories from physicians' practices about what all of this means. At a time when more and more people are going into Medicare, as our country is aging, we do not need to see cutbacks that mean there are fewer physicians available to treat our senior citizens and people with disabilities. That is what that means. That is what this will mean if we do not act.

Additionally, the bill provides important and meaningful protections. We are looking at increasing help for low-income seniors, low-income individuals on Medicare who will be able to get additional assistance. It also improves coordination in a number of areas and addresses what we call mental health parity—being able to make sure that mental health services are treated in the same way as public health services. This is something we have gone on record to address in this body in a bipartisan basis on more than one occasion. In this Medicare bill, we address discrepancies between mental health services and physical health services, all of which are the same thing, in my mind. This is a continuum of care in terms of health care. But that is addressed in this bill and has very strong support.

The bill also addresses very important investments in technology for the future—investments that won't take place, such as electronic medical records that will not be developed if, in fact, we see huge cuts in Medicare, rather than investing in the future and investing in technology.

The legislation in front of us would do two things in the area of technology. We would provide additional opportunities for telehealth—more providers, more facilities that would be able to use and be reimbursed for telehealth—and we focus on e-prescribing, which is the first stage of health information technology, bringing it into the 21st century in terms of our health care system and technology.

I am very proud of Michigan. We have been one of the leaders in both of these areas. In telehealth, in the upper peninsula of Michigan, we have had 15 counties that have been connected

through the health care system. We have had the opportunity to see how well telemedicine works for all of our seniors, for people with disabilities, for families in general in the UP, as well as in northern Michigan and all around Michigan, including our rural communities, as well as in many of our urban communities. Telehealth is very important and it is expanded in this Medicare bill with more access to care.

We also address the first building block of health information technology, and that is e-prescribing. There are incentives for physicians to use e-prescribing and there is accountability in that arena. This is another area I have to say that I am proud of my State of Michigan for, because we have spent a lot of time and effort, and we have gotten real results for people, in terms of saving lives and saving money as it relates to e-prescribing. We have a group called the Southeastern Michigan E-prescribing Initiative, our auto industry, the United Auto Workers, BlueCross and BlueShield, and many of our businesses and providers have come together and found extraordinary results.

One of the things that I think is so important about e-prescribing is when you have an e-prescribing system, an electronic system where your current medicines can then be compared with any new prescription that the physician wishes to write, they are finding very important safety and quality results. For instance, 423,000 prescriptions that were originally written by physicians were changed or canceled by the doctor once they received very important information about potential allergic reactions or some other interaction with the other medicines their patient was on. So this is very important information that is available. We also know that 39 percent of the time, the physician, given more information, changed the prescription to save the patient and the employer money; being able to offer the option of more generic drugs. So there are huge benefits to e-prescribing. On top of that, you can read the physician's handwriting, and I say that lovingly to all of my physician friends.

But we are in a situation now where we have a bill in front of us that not only stops cuts that would be devastating but looks to the future in terms of electronic e-prescribing, in terms of telehealth, preventive services, helping low-income seniors and people with disabilities, being able to provide mental health parity; a number of areas that while they overall are low in cost are huge in benefit in terms of saving lives. In fact, there are many places in this bill where we are talking about saving dollars at the same time we are saving lives.

I am also very pleased with the fact that the bill addresses a number of health disparities that face those who receive Medicare based on the legislation I have introduced with, in fact, all of the women Members of the Senate—

all 16 women Members. We have co-sponsored the HEART for Women Act, which begins to gather gender and race data to determine gaps in coverage around heart disease. We are now using similar language in the Medicare bill to collect more data for researchers about disparities around health treatments and so on.

The bottom line is this is a must-pass bill, and we need to pass it now. Time is running out. In fact, in my mind, time has run out. It is now time to act today. When our leader, Senator REID, who is very committed to this legislation, committed to Medicare, came to the floor and asked for unanimous consent to be able to take up the Medicare bill, there were objections again. I am very concerned that those objections are going to be leading to another filibuster, another filibuster vote coming in the next day or few days.

I hope colleagues are aware that the American Medical Association strongly supports this bill and has been actively involved in promoting the bill and urging all of us to support the bill. The AARP, a leading seniors' organization, has endorsed the House bill as well. I will read a portion of their letter. AARP's letter notes:

Our members have also stressed strong interest in knowing how their elected officials vote on key issues that affect older Americans. Given the importance of the Medicare legislation, we will be informing them how their Senators vote on this legislation when it comes to the Senate floor.

There is great concern among people around the country watching and waiting. People are asking what is taking us so long and why haven't we acted. We have legislation that we worked through on a bipartisan basis here in the Senate, and it has now passed by 355 votes in the House of Representatives. You can't get much better than that vote. This bill has now come over to us and it is time for us to act.

I thank again Chairman BAUCUS for his leadership and his hard work. I also thank my good friends in the House, Chairman RANGEL and Chairman DINGELL, for their work on behalf of Medicare beneficiaries and physicians. I stand squarely behind this bill. I was proud to introduce legislation a number of months back to address the question of physician payment and the need to change the process and the way this is done fundamentally. I am so pleased that the bill in front of us mirrors the 18-month bill I introduced and adds to it some critically important changes, critically important incentives to modernize the system with telehealth and more access to health care, modernize the system as it relates to electronic prescribing, and does more to make sure our low-income seniors receive the help they need, and makes sure that we are, in fact, providing a more equitable system where mental health and physical health payments and services are looked at in the same kind of way. This is very important. Focusing more on prevention is very important.



The bottom line is we have 44 million Americans who rely on Medicare every day. Medicare is a great American success story. It passed in 1965. It is a great American success story that has brought healthier lives through better medical care as well as opportunities for longer lives for millions and millions of Americans. Access to those services is jeopardized seriously if we do not pass this bill. The ability to expand on services and prevention is also in jeopardy if we do not pass this bill.

I am hopeful we will come together, as our House colleagues have done, and stand on a bipartisan basis in support of our providers, our health care providers and, most importantly, those men and women who are counting on us to keep the Medicare system strong for the future. I am hopeful we will not see another filibuster stopping us from addressing the important issues of Medicare. This needs to be done today.

Mr. President, 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.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I ask unanimous consent to speak as in morning business for a few minutes.

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

#### TANKER AIRCRAFT COMPETITION

Mr. SESSIONS. Mr. President, we heard a good bit recently and there has been some discussion in the Senate about the competition for the tanker aircraft that was decided by the Air Force in favor of the Northrop Grumman team.

The Government Accountability Office team of lawyers—not technicians—conducted a review of the procedures utilized in that selection process, in light of 111 objections filed by the losing Boeing team. They concluded that eight objections were merited against the procedural conduct of the competition by the Air Force. Now the ball is back in the lap of the Air Force to review those objections and to take appropriate steps to make sure this is a fair and just competition.

I will just say that I was committed in the beginning and throughout this process that it should be a nonpolitical decision, a decision made by the U.S. Air Force based on the criteria set out in law, based on the fact that the Congress, after an attempt had been made to carry out a sole-source lease agreement for the Boeing aircraft—after that was rejected and after great embarrassment to the Air Force and Boeing, we ordered that a bid take place.

I want my colleagues to understand the posture we are in. At the end of the bid process, the Air Force concluded this:

While [the] KC-767 offers significant capabilities, the overall tanker/airlift mission is best supported by the KC-30.

The Northrop team.

They go on to say:

[The] KC-30 solution is superior in the core capabilities of fuel capacity/offload, airlift efficiency, and cargo/passenger/aeromedical carriage.

On the most important factors, the core capabilities, they found that the Northrop team's aircraft was superior.

GAO did not overrule those findings. In fact, the contrary is the case. What GAO said was in this very long, complex RFP request for proposal—and legal requirements of bidding processes, the Air Force made some errors. Mr. President, 111 complaints were raised against the Air Force, but 8 were found to be worthy of objection.

In the course of GAO's evaluation of the procedural conduct of the bid process, they reached these conclusions that I think have been overlooked as people have discussed this issue. For example, the GAO stated and did not dispute this:

Northrop Grumman's proposed aircraft exceeded to a greater degree than Boeing's aircraft a key performance parameter objective to exceed the RFP's identified fuel offload to the receiver aircraft versus the unrefueled radius range of the tanker.

In other words, GAO concluded and agreed that the KC-45 is more capable at refueling than the Boeing aircraft, which is what the Air Force found. They did not object to that point.

In addition to carrying more fuel, which clearly the Northrop team's aircraft does, the GAO also agreed with the Air Force's professional conclusion that it would be easier—and this is important—it would be easier for pilots to refuel their jet fighters, for example, from the Northrop KC-45. This is an important issue.

The GAO said:

Boeing also protests the Air Force's conclusion in the aerial refueling area that Northrop Grumman's proposed larger boom envelope—

The spread of the refueling booms—proposed larger boom envelope offered a meaningful benefit to the Air Force. From our review of the record, including hearing testimony on this issue, we do not find a basis to object to the Air Force's judgment that Northrop Grumman had offered a larger boom envelope and that this offer provided measurable benefit.

Further, the GAO also supported the Air Force's conclusion that Northrop's KC-45 was a better airlifter.

GAO said:

Boeing also challenges the Air Force's evaluation judgment in the airlift area that Northrop Grumman's proposed aircraft offered superior cargo, passenger, and aeromedical evacuation capability than did Boeing's aircraft. From our review of the record, including the hearing testimony, we see no basis to conclude that the Air Force's evaluation that Northrop Grumman's aircraft was more advantageous in the airlift area is unreasonable.

That is a big issue. Every combatant commander with whom I have talked and who has had to move troops, cargo,

personnel, and equipment to the battlefield knows the critical need for as much airlift capability as they can have. These refueling tankers can also serve as a cargo aircraft and a troop movement aircraft. Clearly, the Northrop Grumman aircraft is more advantageous, according to the Air Force's professional finding. And that was approved by the GAO's analysis.

The GAO also found and upheld the Air Force's holding that Northrop Grumman had a higher "fleet effectiveness" rating. Fleet effectiveness—also called IFARA—reflects "the quantity of an offeror's aircraft that would be required to perform the scenarios in relation to the number of KC-135R aircraft that would have been required." Put simply, to boil that down, the Air Force judged that one Northrop plane could do more refueling more efficiently than one Boeing plane. And the GAO upheld that finding.

GAO found no fault with the Air Force's conclusion that Boeing's proposal was more risky in certain areas and that their past performance on similar contracts was "marginal."

The GAO said:

We find from our review of the record no basis to object to the Air Force's past performance evaluation, under which both firms' past performance received a satisfactory confidence rating. We also find no basis to question the SSA's judgment that, despite equal confidence ratings that the firms received under this factor overall, Northrop Grumman's higher "satisfactory confidence" rating, as compared to Boeing's "little confidence" rating, under the program management area, was a reasonable discriminator. The Air Force evaluated Boeing's past performance as marginal in this area . . . We have no basis, on this record, to find the Air Force's judgment unreasonable.

What that means is they evaluated how well both of the bidders, Northrop Grumman and Boeing, have performed in other contracts in the past and found that Boeing's record was less sound. They were less reliable in performing the contract once they had been awarded it, and they gave extra points for that. That was affirmed by the GAO.

Amidst all the discussion of procedure and KKP's, RFP's, and dotted i's and crossed t's, what did the GAO say in this matter? They said the Air Force picked a plane that could carry and offload more fuel more efficiently and in a more desirable way for the pilots. They also found that the plane's secondary mission, airlift, that can be very critical in a national emergency when we have to move cargo and personnel rapidly around the world would be accomplished more effectively by the Northrop aircraft. Finally, GAO agreed that the Northrop plane was lower risk and that Boeing had marginal past performance.

So as we allow this process to proceed, as it should, as we expect the Air Force to take seriously the matters raised by the GAO, we will adhere to one overriding principle; that is, Congress ordered that the Air Force conduct a bid of which would be the best

aircraft. This bid process was conducted by the Air Force as we as Members of Congress directed. I, as a lawyer, am not capable of flying an aircraft. Nor am I capable of analyzing aerodynamics and validating how much weight or wingspan or how much boom coverage is needed to safely refuel multiple aircraft at one time. I cannot fully evaluate how valuable the ability to carry large amounts of fuel is as compared to an aircraft that carries less, but the Air Force is. What we need to do is make sure the Air Force does its job and selects the best aircraft. I strongly object to any attempt to politicize this process.

Finally, I note that this aircraft would be constructed in Alabama, my home State. It is not going to be built around the world in some foreign land. It is a team headed by Northrop Grumman, also the EADS team. It will be an aircraft constructed in our country, with tens of thousands of jobs created in our country.

I thank the Chair for the opportunity to share these remarks. I hope my colleagues will allow this process to proceed in a professional, lawful way and respect and honor the professional decision of the Air Force, which will have to live with this choice of tanker for perhaps another 50 years, like the current tanker.

I yield the floor.

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

Mr. INHOFE. Madam President, so that we can lock in a couple of things, I ask unanimous consent to speak as in morning business, and then I would be followed by the junior Senator from Pennsylvania.

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

#### ZIMBABWE

Mr. INHOFE. Madam President, I thank the junior Senator from Pennsylvania for allowing me to go ahead of him on something I think is very significant and something with which I am sure he agrees.

Today, I want to call attention to a place that has been lost in the sea of many other conflicts and crises plaguing our world—Zimbabwe, a country slightly bigger than the State of Montana which sits in the southeastern portion of Africa. It has faced and continues to face difficult challenges and untold sufferings caused by an authoritarian and corrupt leader, Robert Mugabe.

After fighting a long battle and civil war, Zimbabwe gained independence in 1980 from the white Rhodesians. Independence came with an envisioned sense of hope. Everyone thought good things were going to happen, and the President that was elected was a man named Robert Mugabe. But the honeymoon quickly ended with the realization that newly elected President Mugabe had fought the war to gain personal power and control rather than to provide freedom and democracy for its people.

In the 1990s, the country continued to weaken under the self-centered leadership of Mugabe. As the Book of Proverbs—Solomon—tells us: “Where there is no vision, the people perish.” That is what is happening in Zimbabwe.

Robert Mugabe failed to provide a vision for his country, focusing solely upon himself and his ability to remain in power. The people of Zimbabwe have suffered dramatically as a consequence.

In a country that once showed evidence of steady economic growth—a country, I recall, that was considered one of the wealthiest countries in Africa; that was considered to be the bread basket of Africa—it has now been named the world’s fastest shrinking economy.

In 2007, inflation rose above 8,000 percent. Unemployment is estimated at 80 percent, and 80 percent of the population lives on less than \$2 a day. Mugabe’s leadership has been such a disgrace. Throughout almost 30 years of his leadership, nearly 28 years, he has worked to tighten his rein over the nation by intimidation, violence, and oppression.

In 2002, the Government initiated a farmland redistribution program which resulted in 400,000 farmers losing their homes and livelihood. The program resulted in scandal and embarrassment to Mugabe when investigations revealed that more than 300 farms were intended for his senior officials and ministers rather than for resettlement. In other words, these were payoffs to his political friends.

In 2005, Mugabe initiated one of the most inexcusable incidents of his Presidency. Operation Murambatsvina—or translated, Operation Clean Out the Filth—was a demolition project the Government claimed was designed to reduce crime in the major city. It resulted in an estimated 700,000 Zimbabweans losing their homes. Twenty percent of the population has been reported as affected by the demolitions.

Many people thought this was a political move aimed at squashing any potential protests or uprisings against the regime and displacing the opposition party base. Not only has Mugabe’s actions displayed his blatant disregard for the well-being of his people, but he has also expressed this in his own words. In August of 2006, after a violent crackdown on a peaceful protest by the Zimbabwean union, Mugabe said he had warned, prior to the incident, that security forces “will pull the trigger” against the protesters.

Mugabe said this:

Some people are now crying foul that they were assaulted. Yes, you get a beating. When the police say move, move, if you don’t move, you invite the police to use force.

Many believe that the farmland redistribution and Operation Clean Out the Filth contributed drastically to the poverty affecting the Zimbabweans. The Government has accused food aid agencies of using food to turn

Zimbabwe away from Mugabe’s ruling party, and, in turn, continues to maintain tight control of food distributions.

The totalitarian regime has, not surprisingly, placed a very significant emphasis on their military and security forces. In 2006, the Government reportedly spent more than \$20 million—that is 20 million U.S. dollars—to purchase new cars for police, military, and intelligence officers. In a dying economy, it is stunning that Zimbabwe is able to buy high-priced military articles, to include their recent purchase of fighter jets from China costing more than \$240 million.

As you know, Madam President, China has an increasing influence on the continent of Africa, but their relationship and long support of Mugabe’s ZANU-PF Party is concerning. China is currently Zimbabwe’s largest investor and second largest trading partner. As most Western countries, including the United States, enforce an arms embargo against the country, China continues to sell defense articles to the regime. Most recently, South Africa refused to let a Chinese cargo ship unload because it was carrying more than 70 tons of small arms destined for Zimbabwe.

China has also played a significant role in diplomacy in Zimbabwe. China was Mugabe’s key supporter through the international outrage in response to Operation Clean Out the Filth. China worked to quiet the U.N. condemnation of the incident and is now expected to veto any proposed action by the Security Council to punish Mugabe’s administration—which, of course, they can do under the rules of the United Nations. China’s persistent support and supply to Mugabe’s regime demonstrates their indifference to the violence, oppression, and potential civil war looming in the country.

On March 29, 2008, Zimbabwe held Presidential elections along with parliamentary and local elections. I am very familiar with this, Madam President, because I was there when it happened. I was actually in Tanzania, and we were watching very carefully, with all the countries, all hoping that they would have an honest election. Sure enough, Mugabe lost. The incumbent President Mugabe ran for the ZANU-PF Party, and a man named Morgan Tsvangirai for the Movement for Democratic Change Party.

The election process was tainted with intimidation of voters and violence against the opposition party and supporters of the opposition. Political rallies were banned. The opposition party’s secretary general was jailed, denied bail, tried for treason, and may face the death penalty. There are also reports that the regime is restricting access to food in opposition areas, threatening already hungry people to either vote for Mugabe or to starve.

The results of the race, finally released in May, indicated that the MDC opposition leader won the election but didn’t quite reach the 50 percent, so

there was a runoff that was scheduled for Friday—that is this Friday, the 27th. Sadly, this week, the opposition leader, because of threats on his life, pulled out of the race and refused to take part in what he calls “a sham of an election process.” He said he cannot ask Zimbabweans to vote “when that vote could cost them their lives.” He has taken refuge now in the Embassy of the Netherlands.

Mugabe has clearly stolen the election, and the outlook for true reform for democracy for the people of Zimbabwe looks very bleak at this time.

As I have traveled across the continent—and I have traveled across Africa more than any other Member probably in the history of America—I have seen wonderful things happening on the continent. Whether it is Rwanda, Burundi, Tanzania, Uganda, Ghana, Benin, or Cote d'Ivoire, in these countries wonderful things are happening. They are making great strides everywhere except Zimbabwe. While Mugabe leads Zimbabwe away from reaching its full potential, there are other leaders on the continent who have chosen a vision of democracy, freedom, and progress in their countries. And while not perfect, each is making improvements and taking strides to improve democratic practices and exercising the free political will.

Mugabe will never allow his people to decide the next phase and direction of their country. I think we should call on the African leaders, which I have done personally in Africa—many of whom are my friends and brothers—and leaders all over the world to do what we can to help the people of Zimbabwe.

I have to say, Madam President, and I speak firsthand because I was there when this happened, that Zimbabwe was once the bread basket of sub-Saharan Africa, and I have seen Zimbabwe now, the most devastated of all the 52 countries of the continent of Africa.

With that, I yield the floor, and again I thank my friend from Pennsylvania for allowing me to go before his presentation.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, the Senator from Pennsylvania is now, under previous consent, going to be recognized, and it is my understanding as well that the Senator from Rhode Island, Senator WHITEHOUSE, would like to follow him. I ask unanimous consent that following both Senator CASEY and Senator WHITEHOUSE that I be recognized.

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

The Senator from Pennsylvania is recognized.

#### RIISING GAS PRICES

Mr. CASEY. Madam President, I rise today to talk about a problem so many of our families are facing and so many of our businesses, and that is the problem of rising gas prices. Unfortunately, we have seen an increase of at least \$1 at the pump in just 1 year.

Like a lot of my colleagues in the Senate, I just received a letter from a woman in Pennsylvania, 86 years old, from Bucks County, PA, and she talked about, in her letter, the Great Depression, when she was describing how people had nothing and how worried she is about our current economic crisis, especially in light of these gas prices. She reminds us that, just as in the Great Depression, we need to have commonsense solutions to dig ourselves out of the economic trauma so many families face.

Today, whether it is on gas prices, the cost of health care, or the mortgage foreclosure crisis that has gripped the country, we do need commonsense solutions. We don't need more gimmicks, we don't need more partisan bickering, we need commonsense solutions. And those solutions on gas prices are not a magic wand. No piece of legislation in the Senate will bring down gas prices immediately. We know that. Anyone who says otherwise is not speaking the truth. But there are things that we can do to at least begin the process, or go down that road, I should say, of bringing those prices down.

We have to move in a direction that focuses on short-term solutions as well as long-term—short term and long term. We will talk about those in a couple of moments, but, in particular, I think we should focus on one problem where I think there is even some bipartisan agreement on, and that is speculation in the oil futures market. We have never seen it like it is now, where profiteers from places in this country but also from around the world, literally make money, in some cases millions of dollars, every time that price of gasoline goes up.

So we have to bring some discipline and some accountability and some transparency to the marketplace. And speculation is one area where we need to have legislation. That would help more short term than long term.

How about big oil? They have a role to play. By one estimate, the five biggest oil companies, over 5 years, have seen their profits go up by five times. I don't think there are many families in America who have seen their bottom line, their family income, go up by five times over 5 years, and big oil has seen that. Just since 2001, their profits have increased over \$600 billion. Now, if their profits are going up at that rate since 2001, and if the price of gasoline under this administration went up from \$1.46 or \$1.47 to \$4—and on top of all that, in addition to those oil company profits, the previous Congress gave them \$17 billion in tax breaks—something is wrong. This is beyond inequitable; it is just bad policy. It is not working.

What we are seeing is the status quo. We keep giving oil companies tax breaks hoping their hearts are big enough to help us and it will all work out, but that hasn't happened, and it will never happen in light of what we

have seen in recent history. So it is about time for big oil to do what President Kennedy implored us to do many years ago, and that is to do something for their country at this time of record profits for them and pain at the pump and this economic squeeze that so many families and small businesses face.

What can we do? A couple of things. First, we could enact legislation such as the legislation I proposed in 2007, way back in the spring of 2007. My bill was the Energy Security and Oil Company Accountability Act. It would do basically two things. I will describe it very quickly.

First, end those tax breaks for big oil. They have gotten enough and we have not seen any results for those tax breaks. End those breaks and other credits our Government gave them and use those savings to our Government not just to sit there, but use those savings to invest in research and development on alternative fuels and the infrastructure we need to bring alternative fuels to the marketplace and to help us with our energy challenges. That is No. 1: End the breaks.

No. 2, under my legislation, impose a windfall profits tax on big oil and use that savings to redirect those dollars for relief for our families, especially low-income families who are trying to make ends meet. They are trying to pay for health care, they are trying to pay for a mortgage, trying to pay for higher education, and on top of that they are paying \$4 or more at the pump. It is time oil companies helped us in this process.

My legislation would do those two things. I was happy the major part of my legislation from 2007 made its way into what Democrats in the Senate proposed a couple of weeks ago, legislation that was blocked and obstructed by the Republicans in the Senate. The Consumer First Energy Act would do a number of things. I will describe that quickly.

First, getting back to our point about speculation, this legislation, the Consumer First Energy Act, would finally at long last do something about market speculation. Why should we sit back and say: Gas prices are too high; it is too bad; there is nothing we can do about it.

There is something we can do about it. One part of the solution, one part of the commonsense approach—and I think my colleagues on the other side would agree with this for the most part—is we should bring more transparency to these transactions. This raw speculation is all over the world, but it is even here in America, where profiteers are making money while the price of gasoline goes up for our families. They are literally trading in the dark.

You know the old expression that sunlight is the best disinfectant to corruption—which is one of the best ways to describe what is happening here. To

take the corruption out of that marketplace, we need to apply some sunlight to those transactions. If the transactions are OK and people want to make a lot of money, why shouldn't we have information about those transactions? Apply some sunlight and transparency to those transactions. If people are going to make money, they ought to do it in the light of day, not under cover of darkness. If it is so good to do and they want to make money, these profiteers, and do well in the marketplace, we ought to require them to have more stake in the transaction, more skin in the game, so their margins, what they have to put down, should be a much higher number. If they want to make money, we want more transparency on those transactions and we want them to put down more money. If they do that, they will have the opportunity to make money.

The first thing this legislation does is crack down on speculation. The legislation the Senate Democrats offered, the Consumer First Energy Act, also made it very clear that, at long last, in American law, price gouging is illegal. It is at best murky right now. We have to be very clear about what price gouging is and what it is not, and make it illegal.

The other thing this legislation did was adopt the idea I had, and many others had—I am not the only one—on the issue of the windfall profits tax, saying to oil companies: You can have profits; there is nothing wrong with that; but if you are going to have record profits while American families do not have their income going up, you have to help us. You have to do, as I said before, something for your country, Mr. Oilman, Mr. Oil Company. You have to do something to help your country.

If you are diversifying and helping us reduce our dependence on foreign oil, if you are giving us options to reduce our dependence and have a long-term energy strategy, then maybe the profits tax on your company wouldn't be as high. But if you are going to turn a blind eye to this problem and say you are going to make record profits and not help, we are going to impose a tax on you and make sure you are doing your share—especially when the oil companies have made \$600 billion since 2001.

There are other parts of the Consumer First Energy Act I will not go into in the interest of time. But there are things we can do. These are short-term strategies. But the long-term solution here we know is committing ourselves to future of energy independence. That means investing dollars, using the Tax Code, using incentives to do what Americans do best. When Americans have an opportunity to use their brainpower and their innovation and their ingenuity to help on a problem, we have to make sure our Government is backing them up.

We are not doing nearly enough to invest in the new technologies—wheth-

er it is clean coal technology or whether it is investing in biofuels, all kinds of alternatives, and renewable sources of energy. Our Government is not doing enough to incentivize the marketplace to come up with a solution long term so we do not face this problem in the future.

Before I conclude, I want to address a couple of arguments. One of the arguments we hear time and again is about drilling. Over and over we hear about drilling from some people here in Washington, some people here in this body. I do not think many people believe the basic argument that we can drill our way to energy independence. No one believes that. But the argument is made over and over again. I think in the interests of putting facts on the table, we ought to put a few on the table right now. Here are some facts important in this debate about “we can just drill our way out and all our problems will go away with lower gas prices.”

Fact No. 1, the percent of America's recoverable oil reserves already open for drilling—79 percent.

Fact No. 2, America has 3 percent of the world's oil reserves. That is not nearly enough to impact world oil prices. We have 3 percent of the reserves, yet we consume 25 percent of the world's oil. There is no way, no matter what we do on drilling, that we can drill our way out of this.

Fact No. 3, oil companies already have access to 45.5 million acres of Federal land to drill for oil and natural gas. They should tell us why they are not drilling in those areas.

Oil companies, fact No. 4, are only drilling on 21 percent of the leases they currently have offshore in Federal waters. Why is that, Mr. Oil Company? Why are you not drilling on more than 21 percent?

The last fact: Oil companies have refused to invest in refining capacity. They have lost 4 percent of refining capacity since 2001. Since 2001—remember those profits I talked about? Since you were making, oil companies, \$600 billion in profits since 2001, why did you lose 4 percent of refining capacity? Why are you crying crocodile tears right now that you need more land when you have all those acres?

These are questions the oil companies should answer. These are facts that are not making their way into the debate.

I think we have not a magic wand to propose, but we have short-term relief we can provide and long-term strategies to reduce our dependence on foreign oil; to literally not just commit ourselves to an energy future that is good for our families and for our country but is about national security in the end. Unless we can do that over time, and unless we commit ourselves to these strategies, we are not only going to be dependent on other countries for our oil but we will be less and less safe because of that dependence.

I think it is critically important that we take action instead of blocking leg-

islation, as happened earlier this month on so many of these short- and long-term solutions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Madam President, before I discuss for a moment the Foreign Intelligence Surveillance Act, I applaud my colleague, the distinguished Senator from Pennsylvania, for his remarks. In the year and a half we have served together in this body, he has stood out as a powerful advocate for consumers, particularly Pennsylvania consumers. He has always had a very thoughtful, helpful, and productive approach to the solutions he has put forward and espoused. It is an honor for me to follow him on the Senate floor here.

On the question of the Foreign Intelligence Surveillance Act, I will talk about the immunity question for telecoms at another time. It is not yet clear what amendment will be allowed to be offered. I thought I would talk about two other issues at this point. The first is the process that has got us here. I do wish to pay particular tribute to the chairman of the Senate Select Committee on Intelligence, JAY ROCKEFELLER, for how steadfast he has been in pushing through this process.

We in the Senate have also been done a great service by our colleagues in the House of Representatives, who stood fast against the Bush administration efforts to stampede this legislation through without proper negotiation and without the basic process of back and forth that ordinarily improves legislation. It has made for a better piece of legislation. It also makes for a notable contrast with what happened a year ago, when we first took up this legislation.

I wish to talk for a minute about that because it was a very disappointing episode, I believe, in the Senate's history, and it is one I wish to make sure we chronicle because it should not be repeated.

In order to understand what I am going to say, it will be important to remember the schedule at the time. I have just replicated July of 2007, and the early days of August here. The first time the big sort of stampede push began, for me at least, was when the Director of National Intelligence, Admiral McConnell, met with me on July 11 in the secure confines of the Senate Intelligence Committee to tell me what he wanted. There had been a big FISA bill that had everything but the kitchen sink in it. It was clearly going no place. He realized he would have to focus on what he wanted, and he said three things. These are from my notes of that meeting.

No. 1, we need to compel the telecoms to help us; No. 2, we need to get foreign-to-foreign conversations, not Americans, foreign-to-foreign conversations without having to go to the FISA Court; and No. 3, we need a warrant if we are going to wiretap Americans. We accept that.

So I said to him: That is fine, but you do not have any legislation. We are suspicious of what is going to be in this legislation when it shows up, so the sooner you can get it written and the sooner you can get it to us the better, because the devil is going to be in the details and we need a chance to look it over. That was on July 11.

The draft legislation was circulated on July 27. It was circulated, at least to me, by mail, so I didn't get it on July 27. I got it over the weekend, the following Monday, on July 30. The Friday from Monday delivery stunt is one we have seen before. But what concerned me was that once that legislation was delivered, the Bush administration began to whip up everything they could do to try to panic Americans about what was going on.

On July 28, that Saturday, President Bush gave a radio address, saying:

Our intelligence community warns that under the current statute we are missing a significant amount of foreign intelligence that we should be collecting to protect our country. Congress needs to act immediately to pass this bill so that our national security professionals can close intelligence gaps and provide critical warning time for our country.

He asked us to work together to pass FISA modernization now, before we leave town, and said our national security depends on it. That is what he said here.

The Senate promptly picked up the chorus with one of my colleagues saying we would be deaf during August to discussions of threats being carried on by al-Qaida and others seeking to do us harm if we did not pass the legislation.

Another colleague said:

This is a time when the Director of National Intelligence and the Secretary of the Department of Homeland Security have said it is a high threat month and it is imperative for national security that we adopt this now.

Another one of our colleagues said:

Make no mistake, inaction on our part needlessly subjects every American to increased danger. We need to act.

Those are just several high points of a real campaign to try to drive this issue by public fear.

Well, here is what concerned me. If, when the President spoke on July 28, national security was that vitally affected by the speed of this legislation; if every day that went by we were missing intelligence, because of an intelligence gap, of al-Qaida plots that were being developed then and there to attack us; if that were true also on the 3rd, why wasn't it true back here on July 11 and 12 and 13, 14, 15, and all the way through here when they circulated the draft on July 27?

Here is what they sent us. This. It is 12 pages. That is it. Double spaced. I could write 12 pages of legislation double spaced in 17 hours if our national security depended upon it. It would not take me 17 days. So when it takes them 17 days to write 12 pages of legislation and then deliver it on the Monday before we recess and suddenly there is an explosion of concern about immediate

al-Qaida attacks that are being planned that we need to get into, something does not add up. I believe the result was what I call the August stampede, and as a result we passed, bluntly, a very poor piece of legislation, the so-called Protect America Act.

This piece of legislation does a number of very good things to repair some of the damage in the Protect America Act.

The first is protection for Americans when we travel abroad. Americans travel a lot now. They travel on business, they travel on vacation. It is a lot more expensive now given the Bush administration's oil prices, but people still travel a lot. The rule had been, under the Protect America Act, that if you were traveling abroad, you had no statutory or judicial protection of your privacy, none whatsoever. They could listen to your telephone calls, they could take your BlackBerry, e-mails, anything—it was open season. There were no statutory or judicial protections for Americans once they set foot outside of the country. The only protection was an executive order, 12333, which said that if the Attorney General determined that you as an American were an agent of a foreign power, then they could listen, then they could surveil, then they could intercept, but only if the Attorney General made that determination. So there was a protection, but it was only an executive order—nothing statutory, nothing judicial. Then we looked into the opinions that underlie the Bush warrantless wiretapping program, and here is what I found.

The flaw in the Protect America Act is that it contained no statutory, no judicial protections for Americans once they were traveling abroad and put them at the mercy of the executive branch of Government to be wiretapped at will, protected only by an Executive order. Our discovery, in the course of looking at the classified legal opinions that supported the warrantless wiretapping program, we discovered this rule that had been inserted by the Office of Legal Counsel:

An executive order cannot limit a President. There is no constitutional requirement for a President to issue a new executive order whenever he wishes to depart from the terms of a previous executive order. Rather than violate an executive order, the President has instead modified or waived it.

Well, as a theory, I think that is, frankly, deeply flawed legally.

In my examination of Attorney General nominee Mukasey, I asked him what the force of an Executive order was. He answered me saying:

Should an executive order apply to the President and he determines that the order be modified, the appropriate course would be for him to issue a new order, or amend the prior order.

I think that is not only the correct but the obvious solution. But we were left in a situation in which an American traveling abroad, without statutory protection, without judicial pro-

tection, and with the only protection from the executive being a protection that the President cannot be limited by and that he can ignore at will—frankly, that was no protection at all.

So we worked very hard in the committee—and it has persisted through the entire lengthy process we have been involved in—to make sure that an American, whether you are in the United States or traveling abroad, has the protection of a judicial order before your Government can wiretap you. And that has been achieved. That has been an important achievement.

A second achievement has been in the area of minimization. I know the Presiding Officer was a prosecutor in Minnesota. I have run wiretap investigations as a U.S. attorney, I have run wiretap investigations as an attorney general, and I have seen firsthand how important minimization is to a wiretap investigation.

Minimization is what happens when you have the authority to wiretap somebody, but because you have the authority to wiretap one person, they could be talking to somebody else who is not part of the criminal or national security activity involved, and if that proves to be the case, you have to minimize that to protect the rights of the third person they are talking to. In the old days, the FBI agents would literally sit there with their earmuffs on listening and flip the switch on and off to see whether the conversation was still an innocent conversation or related to some criminal matter.

Now it is more complex, but those minimization procedures did not previously have any judicial oversight. They only were required to be filed. Under this bill, the Attorney General shall adopt minimization procedures. It is mandatory. But more than that, the Foreign Intelligence Surveillance Court is given authority to review those minimization procedures; specifically, to determine whether those procedures meet the statutory standards we require for minimization procedures. So that is particularly important.

Finally, this statute for the first time recognizes "the inherent authority of the FISA Court to determine or enforce compliance with an order or a rule of such court." So they not only get the minimization procedures, they get to approve the minimization procedures. If it is determined that the executive branch isn't following them, they can check for compliance, and they can enforce the procedure. That is a substantial, additional improvement that brings this in line with the traditions of wiretap surveillance within the United States.

Another significant improvement has been in the area of exclusivity. FISA has always said that "it shall be the exclusive means by which electronic surveillance . . . and the interception of domestic wire, oral, and electric communications may be conducted."

That was clearly the intent of Congress, as courts, including in the

Andonian decision, have agreed. However, we have a problem again with the Office of Legal Counsel. The Office of Legal Counsel said this:

Unless made a clear statement in the Foreign Intelligence Surveillance Act that it sought to restrict presidential authority to conduct wireless searches in the national security area—which it has not—then the statute must be construed to avoid a reading.

I don't know how you get "which it has not" out of the clear language of the Foreign Intelligence Surveillance Act saying this is the exclusive means. But once we found out that in these classified opinions the Office of Legal Counsel had suggested this language right here either didn't exist or didn't mean anything, it had to be solved. Thanks to the leadership of Senator FEINSTEIN, in particular, there has been great energy put into improving the exclusivity provision. I think it is now an exclusivity provision that would defeat this type of, frankly, improbable legal analysis and clearly define that it is Congress's intent in the FISA statute to take every possible avenue it can to limit executive surveillance activities to those that are performed within the statutory authority of this particular legislation.

The last thing is reverse targeting. There has been considerable concern about allowing the Government to identify a foreigner who is in touch with Americans regularly and target that foreigner with the reverse targeting purpose to actually pick up the conversations of the American and dodge the requirement for a warrant for judicial review vis-a-vis the American. There are strong provisions in here that require that regulations and procedures be developed to prevent that.

I hope to be able to discuss the statute further, as we get to the discussion about immunity. But I will conclude by summarizing that the process we went through to get to this piece of legislation, particularly article I of this bill, was a very proud moment for this Senate and for this caucus, for Chairman ROCKEFELLER. It has been infinitely better than the degraded process we went through last August in the atmosphere of stampede. I think the quality of the underlying legislation shows it. I hope as we continue to work together in the Senate on other issues, we continue to follow the process that took place with respect to this iteration of the FISA bill, and we never go back to the kind of hectic, imprudent stampede we were put through last August. Second, the elements of article I are improved. This is, in article I, a bill we can be very proud of. We will have our dispute about the immunity provisions. I will have my thoughts on that for later. But there is much that has been accomplished and great credit is due particularly to Chairman ROCKEFELLER for those accomplishments.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF WILLIAM T. LAWRENCE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

#### NOMINATION OF G. MURRAY SNOW TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

Mr. REID. Madam President, under the authority of the June 24 order issued by the Chair, I now ask that the Senate proceed to executive session to consider Calendar Nos. 627 and 628.

The PRESIDING OFFICER. The clerk will report the nominations.

The legislative clerk read the nominations of William T. Lawrence, of Indiana, to be United States District Judge for the Southern District of Indiana; and G. Murray Snow, of Arizona, to be United States District Judge for the District of Arizona.

Mr. REID. Madam President, all Senators should be aware that this vote will occur very quickly and the second vote will occur immediately after the first one is completed. We appreciate everyone's cooperation. We are still working through some issues, and we will have some news for the rest of the Senators by the time, hopefully, the first vote is announced.

Mr. LEAHY. Will the Senator yield?

Mr. REID. Yes.

Mr. LEAHY. Madam President, I advise the distinguished leader, I will speak on these judges and judicial matters probably for 10 to 15 minutes at most, and then I would be prepared to go to a rollcall vote on William Lawrence, which would be the first one. I intend to support both nominees.

Mr. REID. Madam President, let me say to the distinguished chairman of the Judiciary Committee, we are glad we are at the point where we are today. There has been cooperation. We have approved two circuit court judges. This will be the third district court judge. It is my understanding there was a mark-up that went ahead today without any problem and a couple more judges were reported out at that time.

Mr. LEAHY. I advise the leader, four judges were reported out this morning, as well as a U.S. attorney and another one of President Bush's nominees.

Mr. REID. I appreciate the continued good work of my friend, the distinguished Senator from Vermont.

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

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

Mr. LEAHY. Madam President, the distinguished leader has put the Senate in executive session to consider two more judicial nominations. I would like to speak on these in my capacity both as a Senator from Vermont and as chairman of the Judiciary Committee. We are going to be confirming these two nominations which are, of course, for lifetime appointments to the federal bench, as the distinguished Presiding Officer, an attorney in her own right and with a distinguished background as a prosecutor in Minnesota prior to being here, knows. The two are William Lawrence, nominated to a vacancy in the Southern District of Indiana, and Murray Snow, nominated to a vacancy in the District of Arizona.

I have been delighted to work with my friend of 30 years, Senator LUGAR of Indiana. He strongly supports the recommendation of Judge Lawrence. He came to see me about Judge Lawrence prior to his nomination coming up here. Senator BAYH of Indiana also came to see me and supports the nomination. I have been pleased to accommodate Senator KYL in scheduling first Committee action and now Senate action on the nomination of Judge Snow. Both nominations are being expedited for confirmation in a Presidential election year.

As we approach the Fourth of July recess and celebrate the independence of our great Nation, we will be confirming our fourth and fifth judicial nominations of the week.

But when I go back home to Vermont, as I did this past weekend, and as I will this week, I find that Vermonters—and I suspect this is so with all Americans—are not really concerned about judicial nominations. I have not had anybody come up to me—when I am coming out of church or walking through the grocery store or gassing up my car—and say: We need more judicial nominations.

But what they are concerned about are gas prices that have skyrocketed so high they don't know how they are going to be able to afford to drive to work. I have talked to parents of children in rural parts of our State where there is no mass transportation—never will be. They have to bring their children to school. Both the mother and father are working. They then have to drive to work. These are not high-paying jobs. They then have to drive back and get their children. One couple might have to take care of elderly parents, and they are wondering how they can afford to do it with these gas prices. They are far more concerned about that than they are with lifetime appointments to our Federal bench.

They are concerned also about the steepest decline in home values in two



decades. Madam President, when I was a child, I remember my parents always telling me one of the greatest things you can do is to own your own home. Marcelle and I have been fortunate. We have been able to do that. We have encouraged our children to do the same. And I encourage people in my own State of Vermont, especially young people: If you can own your own home, it is worth borrowing money because that will be part of your retirement, part of your stability. But now they have seen the steepest decline in home values in two decades. Many owe more on their house than their mortgage. Many are wondering as they see jobs failing, as they see their gasoline prices go up, as they see the value of their homes go down, if their children will have a brighter future than they did or their parents did.

More and more Americans are affected by rising unemployment. Last month brought the greatest 1-month rise in unemployment in 20 years. It brought the job losses for the first 5 consecutive months of this year to over 325,000 people. The number of people who lost their jobs are equal to half the population in my whole State. Americans are worried about soaring health care costs. They are worried about rising health insurance costs. They are worried about the rising costs of education. They are worried about rising food prices—long before they are worried about the number of Federal judges being confirmed.

Just yesterday, the front page of the Wall Street Journal had this headline: "Consumer Confidence Plummets." That is a pretty dire headline: "Consumer Confidence Plummets." The next line read: "Home Prices See Sharp Decline." With that article they ran a graph titled "In a Free Fall" that shows housing prices in April down more than 15 percent from a year ago and consumer confidence at the lowest level in nearly 20 years. According to the Wall Street Journal, the number of Americans saying they intend to buy a home in the next 6 months is at a 25-year low and consumers' expectations of the economy over the next 6 months is the lowest it has ever been in the more than 40 years they have kept track—the lowest it has ever been—ever been—in 40 years.

Unfortunately, the bad economic news for hard-working Americans is nothing new under the Bush-Cheney administration. During his administration, President Bush and all Americans have seen unemployment rise more than 20 percent and trillions of dollars in budget surplus—which he inherited from President Clinton's administration—turned into trillions of dollars of debt, with an annual budget deficit of hundreds of billions of dollars. When President Bush took office, the price of gas was \$1.42 a gallon. Madam President, I remember some people complaining about \$1.42 a gallon gas when the President took office. Today, it is at an all-time high of over \$4 a gallon.

The Nation's trade deficit widened 8 percent in April alone due to the surging gas prices, and now it is at the highest level in 13 months.

The numbers are staggering: \$4 a gallon for gas, \$139 a barrel for oil, more than \$1 billion a day—let me repeat that: \$1 billion a day—just to pay the interest on the national debt and the massive costs generated by the disastrous war in Iraq. These are the numbers Americans care about, not a few nominees who are getting the honor of a judicial appointment and lifetime tenure in a respected job that pays nearly \$200,000 a year.

Yet we do not hear about these numbers from the other side of the aisle. We do not hear about the free-fall in home prices. We do not hear about the free-fall in the consumer confidence index from the other side. We do not hear about the Bush deficits, which have brought the value of a dollar down almost in half. We do not hear about these numbers, as terrible as they are, and as much as they affect real people in Minnesota and Vermont and elsewhere. We do not hear from them about the number of Americans who are losing their homes, nor about the number of Americans who are losing their jobs, nor about the number of Americans who cannot afford to bring their children to school, nor about the number of Americans who cannot afford to put groceries on the table, nor about the number of Americans who cannot afford to gas up their car so they can go to work. The only numbers we hear about from the other side of the aisle are the number of nominees they insist must be considered by a certain date to reach some mythical average number.

Week after week, even as the Senate—under the leadership of Senator REID and the Democrats—continues to make progress on filling judicial vacancies, we hear a steady stream of grumbling from Republicans. And it turns out, they are responding to partisan pressures from special interest groups.

Madam President, the special interest group I listen to are the hard-working American families in my State of Vermont and the other 49 States. If we are going to listen to a special interest group, listen to the men and women who have to pay to take their children to school, put groceries on their table, go to work, try to make ends meet, and are seeing the value of their home drop 25 percent. If we are going to listen to any special interest group, at a time when the economy is tanking, let's talk about the special interest group, the average American man and woman.

It is ironic that the Senate's Republican minority is so focused on the number of judges because that is the only number that has actually improved under President Bush. On July 1, 2000, when a Republican Senate majority was considering the judicial nominees of a Democratic President in a Presidential election year, there were

60 judicial vacancies. Twenty-one were circuit court vacancies. These vacancies were the result of the actions of Republicans, when there was a Democrat in the White House, pocket-filibustering over 60 judicial nominees.

In stark contrast, after the two nominations we confirm today, and the circuit court judges we confirmed on Tuesday, there are just 40 total judicial vacancies throughout the country. There are only nine circuit court vacancies. By confirming Judge Helene White and Ray Kethledge to the last two vacancies on the Sixth Circuit Court of Appeals, we reduced circuit court vacancies to single digits for the first time in decades—only nine vacancies on our Nation's 13 circuit courts.

The history is clear. Democrats have reversed course on judicial vacancies from the days during which the Republican Senate majority more than doubled them. We have already lowered the 32 circuit court vacancies that existed when I became chairman of the Judiciary Committee in the summer of 2001. We had 32 vacancies. We lowered it to nine. In fact, this is the first time we have hit single digits in decades—since the Republican tactics of slowing judicial confirmations began in earnest in 1996. Why? Because the Democrats did not pocket-filibuster 60 judges, as the Republicans did to a Democratic President. We treated President Bush's nominees with more respect than they treated President Clinton's. But we also treated the whole Federal judiciary system with a great deal more respect. This is, after all, the third independent branch of Government. It is the one branch that should be devoid of politics. It is the one branch that should be able to be set apart from this. And it is the one branch where you leave your political affiliations at the doors.

The 100 nominations we confirmed in only 17 months in 2001 and 2002—I was working with a very uncooperative White House—reduced the vacancies I inherited by 45 percent by the end of 2002. I became chairman halfway through that year. The Republicans had been in control up to that halfway mark. They did not confirm a single judge. In 17 months, we confirmed 100.

So with 40 additional confirmations last year, and another 14 so far this year, the Senate, under Democratic leadership, has already matched the confirmation total for the entire last Congress. That was 2 full years with a Republican Senate majority working to confirm the judicial nominees of a Republican President. In fact, after these two confirmations, we will have reached 54 judicial confirmations for this Congress.

I am sure there are some who prefer partisan fights designed to energize a political base during an election year. I do not. The American people do not want Federal judges to be tied to partisan politics.

Madam President, I felt very honored to be a lawyer. I felt very honored to



try cases in Federal courts. I felt very honored to try cases when I was a prosecutor. And I feel honored to be on the Senate Judiciary Committee. But I have always said one of the things you should be able to do if you walk into a court room—whether you are a plaintiff or a defendant, whether you are the Government or the other side, whether you are rich or poor, no matter your race, no matter your issue—you should be able to look at the judge and say: I am going to be treated fairly. The judge is not going to ask what my political party is, what my station in life is, whether I am a big corporation, whether I am a poor defendant or a plaintiff.

So when there are efforts to make a partisan issue over judicial confirmations, as my friends on the Republican side have done, that is sorely misplaced. Their obstructionism has done a great deal of damage to our attempts to address the important needs of Americans.

We have seen Republican obstructionism since the beginning of this Congress. Republicans used filibuster after filibuster to thwart the will of the majority of the Senate from doing the business of the American people. Republican filibusters prevented the Senate majority from passing a climate change bill. Republican filibusters prevented the Senate majority from passing the Employee Free Choice Act and the Lilly Ledbetter Fair Pay Act. Republican filibusters prevented the Senate majority from passing the DC Voting Rights Act. Republican filibusters prevented the Senate majority from passing the Renewable Fuels, Consumer Protection and Energy Efficiency Act of 2007. Republican filibusters blocked the Renewable Energy and Job Creation Act of 2008. Republican filibusters blocked the Medicare Improvements for Patients and Providers Act of 2008. Republican filibusters blocked the Consumer First Energy Act. These are critical pieces of legislation to address the priorities not of special interest groups, but of real Americans—urgent priorities such as the energy crisis, the environment, voting rights and health care, and fair wages for working men and women. All of them had the support of the majority of the Senate. All were blocked by a minority of Republican Senators who filibustered them.

This long list of priorities unaddressed because of the Republicans in Congress would be even longer if we were to include the many important bills President Bush has vetoed since the beginning of this Congress. That list includes legislation to fund stem cell research, to fight debilitating and deadly diseases such as Parkinson's, multiple sclerosis, and diabetes; to extend and expand the successful State Children's Health Insurance Program that would have provided health insurance to more of the millions of American children who are without it in the wealthiest, most powerful Nation on

Earth; to set a timetable for bringing American troops home from the disastrous war in Iraq that has lasted longer than we were in World War II; and to ban waterboarding and thus help restore America as the beacon for the rule of law.

The effort of Republicans to turn attention from the real issues facing Americans to win partisan political points with judicial nominations is another in a long line of tactics we have seen that have prevented us from making progress since the beginning of this Congress.

As I said before, people do not stop me in the grocery store or coming out of church or walking down the street or getting out of my car to say please confirm more judges. They say: Please, do something about the high cost of gasoline. Do something about the fact that I am going to lose my home in foreclosure because the value has dropped so much. Do something about the fact that our child does not have health insurance.

These tactics would be laughable if they were not tragic. I believe they are an affront to those men and women in this country who are working hard to make ends meet. I know a lot of these good, honest Americans. I see them every weekend in my own State of Vermont. They don't face problems as Republicans or Democrats; they face them as proud Americans, proud Vermonters. They wonder how they are ever going to get insurance for their child and they worry every day their child may become ill. They wonder if they can get to their job, and often they are holding down two jobs to make ends meet. They wonder if they can bring their children to school.

I congratulate the nominees and their families on their confirmation today. These nominees have good reason to be proud. I predict they will be confirmed unanimously, and I am proud of them, because the Federal judiciary is the one arm of our Government that should never be political or politicized regardless of who sits in the White House.

So let us stop using this question of judges as some kind of an issue in trying to distort the fact that the Democrats have treated President Bush better than the Republicans treated President Clinton on judges. Let us stop using the issue of judges to prevent us from addressing the things Americans care about: their jobs, their homes, their children, the cost of gas and oil.

I will continue in this Congress, and I will be here in January with a new President in the next Congress, to work with Senators on both sides of the aisle to ensure that the Federal judiciary remains independent and this real jewel of jurisprudence be able to provide justice for all Americans, as they say in their oath of office, without fear or favor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, in my capacity as ranking member on the

Judiciary Committee, I did want to make very brief comments on the nominees who are pending for the district courts.

First, G. Murray Snow for the U.S. District Court for the District of Arizona, a very well-qualified man: a bachelor's degree from Brigham Young University in 1984, magna cum laude; a Harry S. Truman scholar for Nevada, a noted scholarship—parenthetically, one which our older son Shanin had—Phi Kappa Phi; law degree, magna cum laude—a very distinguished academic and professional record.

Similarly, William Thomas Lawrence for the U.S. District Court for the Southern District of Indiana has exemplary qualifications academically and professionally.

I ask unanimous consent to have the resumes printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. One additional addendum. I thank the chairman of the committee and the majority leader for moving ahead with three confirmations earlier this week, and these two confirmations.

Again I renew my request that we be able to move to a situation where we will avoid blocking judges, where we will proceed on up-and-down votes and we will not seek to hold vacancies in judicial nomination situations where there are judicial emergencies—for example, in the Fourth Circuit with the nomination of Judge Conrad pending from North Carolina—and that we will move ahead with the nomination of others who have been waiting for very long periods of time.

Today, the Judiciary Committee took up a report by the Inspector General, in which he noted that there had been political considerations in hiring at the Department of Justice. The report singled out Peter Keisler, who had been acting Attorney General and Assistant Attorney General in the Civil Division, and commended him for calling the inappropriate conduct for what it was. I mention Peter Keisler because he is so well qualified for the DC Circuit vacancy to which he has been nominated.

It will be my expectation that these two nominations would move through smoothly. They were accepted on a voice vote in the Judiciary Committee, and it is my hope that we will use this to move ahead on the confirmations of Federal judges on a yes-or-no vote.

#### EXHIBIT 1

WILLIAM THOMAS LAWRENCE—UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

Birth: 1947; Indianapolis, Indiana.

Legal Residence: Indianapolis, Indiana.

Education: Louisiana State University, 1965–1968; no degree received; B.S., Indiana University, 1970; J.D., Indiana University School of Law—Indianapolis, 1973.

Primary Employment: Attorney, Poore, Popchegg, Wurster, Sullivan & Burke, 1973–1976; Attorney, Popchegg, Lawrence & Page,

1976-1979; Public Defender (Part-time), Marion County Superior Court, Criminal Division 4, 1974-1983; Attorney, Lawrence, Carter, Gresk, Leerkamp & Walsh, 1979-1989; Attorney, Johnson, Smith, Pence, Densborn, Wright & Heath, 1989-1997; Master Commissioner (Part-time), Marion County Circuit Court, 1983-1997; Presiding Judge, Marion County Circuit Court, 1997-2002; Magistrate Judge, U.S. District Court for the Southern District of Indiana, 2002-Present.

Selected Activities: Indiana Bar, 1973-Present; Indianapolis Bar Association, 1973-Present—Distinguished Fellow, 1997, Chairman, Bench Bar Conference, 2002, Chairman, Judicial Section of the Association, 2004, Chairman, Continuing Legal Education Commission, 2002, Vice-President, 2005, Board of Managers, 2005, Executive Committee, Litigation Section, 2004-2005; Seventh Circuit Bar Association, 2002-Present; Federal Bar Association, 2002-Present; Indiana Judges Association, 1997-2002, Board of Managers, 2000-2002; Board of Directors, Judicial Conference of Indiana, 1997-2002; United States Magistrate Judges Association, 2002-Present; Board of Directors, Marion County Justice Agency, 1996-2002; Member, Indiana State Forensic Science Commission, 1984-1990; Executive Director, Indiana Merit Selection Commission on Federal Judicial Appointments, 1980-1986.

ABA Rating: Substantial Majority "Well Qualified," Minority "Qualified."

G. MURRAY SNOW—UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

Birth: 1959; Boulder City, NV.

Legal Residence: Tempe, AZ.

Education: B.A., magna cum laude, Brigham Young University, 1984—Harry S. Truman Scholar for Nevada, 1982; Member, Phi Kappa Phi Honor Society.

J.D., magna cum laude, J. Reuben Clark Law School, Brigham Young University, 1987—Editor-in-Chief, Brigham Young University Law Review, 1986-1987.

Primary Employment: Law Clerk, Hon. Stephen H. Anderson, U.S. Court of Appeals for the Tenth Circuit, 1987-1988; Meyer, Hendricks, Victor, Osborn & Maledon, P.A.—Associate, 1988-1994, Member, 1994-1995; Member, Osborn Maledon, P.A., 1995-2002; Judge, Arizona Court of Appeals, Division One, 2002-Present.

Selected Activities: Arizona State Bar Association, 1987-Present—Committee on the Rules of Professional Conduct, 1998-2004, Ethical Rules Review Group, 2000-2002; Mesa [Arizona] Judicial Advisory Board Member, 2003-Present; Judicial College of Arizona—Board Member, 2003-2004, Dean, 2005-Present; Committee on Judicial Education and Training—Board Member, 2005-Present, Executive Committee, 2005-Present; Task Force on Model Code of Judicial Conduct, 2007-Present—Chair, March 2007-Present; Recipient, Halo Award, Arizona Association of Providers for People with Disabilities, 2000; Recipient, Citation for Service on the Arizona State Bar Committee on the Rules of Professional Conduct, 1998-2004.

ABA Rating: Unanimous "well qualified."

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Madam President, I appreciate this opportunity to support the President's nomination of Judge William Thomas Lawrence to serve as a U.S. district judge for the Southern District of Indiana.

I would first like to thank the Senate Judiciary Committee chairman, PAT LEAHY, ranking member, ARLEN SPECTER, the respective leaders of the Senate, and especially my colleague, Sen-

ator EVAN BAYH, for their important work to facilitate the timely consideration of this distinguished nominee.

On December 18, 2007, the Senate voted to confirm the nomination of John Tinder to serve on the Seventh Circuit Court. John was a distinguished leader on Indiana's Southern District Court, and I knew his successor would need to possess the same degree of integrity and intelligence. Given this need for strong leadership, I was pleased to commend William Lawrence to President Bush for consideration. This selection was the product of a bipartisan process and reflective of the importance of finding highly qualified judges to carry forward the tradition of fair, principled, and collegial leadership.

I have known Bill Lawrence for many years. I have always been impressed with his high energy, his resolute integrity, and his remarkable dedication to public service.

William Lawrence attended Indiana University, where he received both his undergraduate and his law degrees. He immediately entered private practice but also devoted time to serve as a public defender in Marion County, IN, courts.

Subsequently, he served part time as a master commissioner of the Marion County Circuit Court.

In 1996, Judge Lawrence was elected to the Marion County Circuit Court. In this position, he built a reputation for fairness and efficiency. The Marion County Circuit Court is one of the busiest in the State of Indiana. In less than 3 years, Judge Lawrence reduced the number of pending cases by 20 percent. This impressive performance on the bench led to his appointment in 2002 to serve as U.S. magistrate judge.

Throughout Bill's career, his reputation for personal courtesy, fairness, decency, and integrity was equally well earned and widespread among colleagues and opposing counsel alike and on both sides of the political aisle.

I am also pleased that Bill's experience and professionalism are recognized by the American Bar Association, which bestowed a rating, by a substantial majority of the committee, of "well-qualified."

I would like to thank again Chairman LEAHY and Ranking Member SPECTER for their important work on this nomination. I believe Judge Lawrence will demonstrate remarkable leadership and will appropriately uphold and defend our laws under the Constitution.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I wanted to note that what Senator SPECTER said a moment ago about Arizona judge Murray Snow are my feelings as well.

He has been nominated to the Federal bench in Arizona. He is supremely qualified, unanimously "well-qualified," according to the Bar Association, and a fine appellate court judge already. He will make a fine addition to the Federal bench.

I will have an additional statement so all of my colleagues will know about his superb qualifications. We will be voting for him soon. I assume he will be approved. I appreciate my colleagues' support for his nomination.

Judge Snow has served on the Arizona Court of Appeals since 2002. Prior to his judicial service, he was a partner at Osborn Maledon. Judge Snow received his bachelor's degree magna cum laude from BYU in 1984 and received his law degree magna cum laude from BYU in 1987. He was Order of the Coif. After law school, Judge Snow clerked on the Tenth Circuit for Judge Stephen Anderson. Judge Snow was an adjunct professor of political science at ASU 7 years. He served for 4 years on the State Bar of Arizona Ethical Rules Review Group and for six years on the Committee on Rules of Professional Conduct. The ABA unanimously gave Judge Snow its highest rating of "well-qualified."

Mr. LEAHY. Madam President, I have permission to yield back time on both sides of the aisle for the judges, so I yield it back.

I ask for the yeas and nays on the pending nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of William T. Lawrence, of Indiana, to be United States District Judge for the Southern District of Indiana?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona, (Mr. McCAIN).

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 159 Ex.]

YEAS—97

Akaka	Cochran	Hatch
Alexander	Coleman	Hutchison
Allard	Collins	Inhofe
Barrasso	Conrad	Inouye
Baucus	Corker	Isakson
Bayh	Cornyn	Johnson
Bennett	Craig	Kerry
Biden	Crapo	Klobuchar
Bingaman	DeMint	Kohl
Bond	Dodd	Kyl
Boxer	Dole	Landrieu
Brown	Domenici	Lautenberg
Brownback	Dorgan	Leahy
Bunning	Durbin	Levin
Burr	Ensign	Lieberman
Byrd	Enzi	Lincoln
Cantwell	Feingold	Lugar
Cardin	Feinstein	Martinez
Carper	Graham	McCaskill
Casey	Grassley	McConnell
Chambliss	Gregg	Menendez
Clinton	Hagel	Mikulski
Coburn	Harkin	Murkowski

Murray	Schumer	Thune
Nelson (FL)	Sessions	Vitter
Nelson (NE)	Shelby	Voinovich
Pryor	Smith	Warner
Reed	Snowe	Webb
Reid	Specter	Whitehouse
Roberts	Stabenow	Wicker
Rockefeller	Stevens	Wyden
Salazar	Sununu	
Sanders	Tester	

## NOT VOTING—3

Kennedy	McCain	Obama
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The nomination was confirmed.

The PRESIDING OFFICER. There is 2 minutes of debate equally divided on the nomination of G. Murray Snow.

The Senator from Vermont.

Mr. LEAHY. Madam President, I yield back the remainder of time on this side, and I am advised on the other side they yield their time. There is no need for a rollcall vote.

The PRESIDING OFFICER. Time is yielded back.

Mr. REID. 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. 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. REID. For the information of all Members, Senator LEAHY and Senator SPECTER have agreed that we can have the judge's vote by voice, and we will do that in a minute. But I wish to inform everyone that the Republican leader and I, following this judge being approved—we will go into a quorum call, and we will be in a position, hopefully, in the next 15 minutes, half hour—you know how time is counted in the Senate. Jack, who used to work down here—one night I came in here and he gave me a dog chain. I said: Why did you do that? He said: Because the Senate goes on dog time.

We will try to do something very quickly. But we will go into a quorum call following the judge being approved, and Senator MCCONNELL and I will be back with the next chapter of the saga as quickly as we can.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination of G. Murray Snow, of Arizona, to be United States District Judge for the District of Arizona?

The nomination was confirmed.

The PRESIDING OFFICER. The motions to reconsider are laid on the table, en bloc, and the President will be immediately notified of the Senate's action.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The majority leader is recognized.

Mr. REID. Mr. President, we do not have our path forward yet, and that is an understatement. But we are working on it. There are a number of Senators, both Democrats and Republicans, who want to speak in morning business.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now be in a period for the transaction of morning business for a period of a half hour, that the time be divided equally and I, of course, ask this time count against postclosure time on the FISA matter on which we are working.

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

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, is the business before the Senate that we are in morning business?

The PRESIDING OFFICER. It is.

OUTER CONTINENTAL SHELF  
DRILLING

Mr. MENENDEZ. Mr. President, for years, we have had an energy policy that was written by big oil for big oil, and the result has been good for big oil but a disaster for the American people.

Gasoline is now at over \$4 per gallon, and the Bush-McCain plan is to do more of the same. My colleagues on the Republican side of the aisle have continuously sought to help big oil while at the same time they have blocked Democratic attempts to develop real policies to end our addiction to oil. The result is that under the Bush administration the price of oil has shot up to \$125 per barrel and more, and the price of gasoline has more than doubled.

Despite this history of gas prices going up and up because of failed policies, the Republican Party continues to block measures that will help create change in this situation. Every time we offer sensible policies to address the oil crisis, my friends on the other side of the aisle say no. They said no to the Consumer-First Energy Act that would finally clamp down on rampant oil speculation and burst the speculative bubble that has caused oil prices to skyrocket. Then they said no to the renewable energy tax extension bill that would help continue the rapid growth of wind and solar and provide an incentive for the purchase of plug-in hybrid vehicles. This would help us begin the transition to new energy sources so we are not so vulnerable to the rising cost of fossil fuels. And then our colleagues said no to climate change legislation that lays out the framework to com-

pletely change our economy from one based on oil and other fossil fuels to an economy based on renewable energy.

Democrats have now laid out a sensible plan for change in our energy policy that will make America stronger and more independent in the short, medium, and long term, but all our colleagues can say in return is no—no to the American people and—from what I hear in terms of their response—yes to big oil.

President Bush was right when he told the Nation we are addicted to oil. But what amazes me is their plan is designed to have us continue to act like addicts. Instead of supporting real plans to conserve oil or even transition to sustainable fuels, the Bush-McCain plan is to go out in search of our next oil fix.

Ending a bipartisan 26-year moratorium to open the Outer Continental Shelf to oil is simply not a solution to our oil crisis.

To defend the senseless Bush-McCain plan to open all our shores to drilling, my colleagues on the other side of the aisle have been playing fast and loose with the facts. They claim opening our shores to future drilling will somehow affect gas prices. As I recently pointed out on the floor, this argument flies in the face of projections by President Bush's own Energy Information Agency. They project that even if we opened the entire Outer Continental Shelf to drilling off the East Coast, off the West Coast, and opened the entire eastern Gulf of Mexico, nothing would happen to gas prices—not today, not tomorrow, not ever.

Now, it seems that Senator MCCAIN cannot keep up the charade any longer. On Monday, he admitted he did not expect his plan to provide relief at the pump, but that his plan would have a psychological impact that would be "beneficial." Psychological games are not going to reduce the price of oil. The American people are sick and tired of Republican politics that try to use political spin rather than sound policy to solve our problems.

Another fact that the other side of the aisle wants to keep from the American people is that 80 percent of the oil and natural gas resources in our Federal waters are already open, already open for exploration. Oil companies are sitting on 68 million acres of oil and natural gas leases where they have not produced any oil or natural gas. I joined my colleagues, Senator DODD and Senator DURBIN, to introduce a bill, the Responsible Ownership of Public Lands Act, that will charge oil companies an escalating fee for leased acres they put aside and do not use for oil and natural gas exploration. This will give these companies the incentives they need to stop hoarding the resources they have instead of seeking access to environmentally sensitive areas.

One other factor that has not been discussed properly in this debate about

high gas prices is the effect of President Bush's disastrous economic policies. The weak dollar means it simply takes more money to buy the same barrel of oil than it did at the beginning of President Bush's term. In 2000, one Euro was equal in value to \$1. Today, one Euro is worth close to \$1.60.

In large part, this weak dollar has been caused by the enormous domestic budget deficits this administration has rung up to pay for the war in Iraq. Instead of actually paying for this mistake, the administration has been printing money and piling up huge debts. We are spending over \$12 billion a month in Iraq, and this foreign policy disaster is now adding up to be a fiscal policy disaster. It is time we finally end the war and get our fiscal house in order. In turn, this would strengthen the value of the dollar and help lower the price of gasoline.

But perhaps the most disturbing thing about the misinformation campaign to sell the Bush-McCain plan to open all our oceans to drilling is that they refuse to discuss how drilling will be economically and ecologically devastating to our coasts.

On June 3 of 1979, an exploratory oil well in the Gulf of Mexico blew out. The resulting 140 million gallon spill was the second largest in world history, over 10 times larger than the Exxon Valdez spill. As you can see from this map, the spill traveled 600 miles to blanket the coast of Mexico, Texas, and Louisiana, causing tremendous damage.

I think we all remember that on March 24 of 1989, the tanker Exxon Valdez ran aground in Prince William Sound, AK. The oil tanker ruptured and spilled over 10 million gallons of oil. The result was an oil spill over 600 miles that created one of the largest environmental disasters in history. We were told we had state-of-the-art technology then, in terms of carriers, tankers, and everything else. Well, that was 600 miles of devastation.

I am about to show images of the devastation following the spill, and certainly I would ask if there are any children watching, or those who are sensitive to the plight of animals, they should probably look away from some of the images.

The Exxon Valdez coated the Alaska shoreline, turning a pristine environment into a toxic waste cleanup site. Over 11,000 people worked to try to clean oil washed up onshore. Even today, there is estimated to still be over 20,000 gallons of oil on Alaska's sandy beaches. The spill killed thousands of animals immediately. It killed hundreds of otters and seals, as many as half a million sea birds, and over 200 of the very symbol of America itself—the Bald Eagle.

Anyone who saw these devastating images from this incident cannot forget them. But what is important to remember from these disturbing images is that if we open the east and west coast to drilling, the same thing could happen to places here in the lower 48.

My colleagues from the Commonwealth of Virginia want to open the coast of Virginia to drilling. They seem to think that oil drilling will only affect the State of Virginia. But oil spills do not sit still. Remember that oil drilling spill in the gulf that traveled 600 miles, and the Exxon Valdez spill off the coast of Alaska was over 600 miles wide. So what would a similar spill look like on the east coast? It would mean a devastated coastline from New York down to South Carolina. The environmental impact would be immeasurable, and the economic impact would be enormous.

The New Jersey shore is a priceless treasure my home State will protect at any cost. But the shore also generates tens of billions of dollars in revenues each year and supports almost half a million jobs in South Carolina; in Myrtle Beach alone, more than \$3 billion in revenue. Do we want oil washing up onto Virginia Beach, flowing up into the Chesapeake Bay? Can Maryland's famous blue crabs survive such an environmental assault?

It is time for a real cure, based on a tough examination and reordering of our energy priorities, and not tired old policies of the past. I ask my colleagues on the other side of the aisle to end their efforts to block real reform. It is time we unite together to pass the Consumer-First Energy Act to clamp down on excessive speculation and finally burst this oil bubble. It is time we come together and pass the renewable energy tax extension bill that will promote the development of clean energy here at home, help our automakers develop cars that run on electricity, and develop advanced biofuels so we have a sustainable alternative to gasoline.

If we do not do this, we are continuously wedded to the past, continuously wedded to the addiction, continuously wedded to a failed policy. To hear our colleagues on the other side of the aisle, if we opened the east and west coasts, it would go directly, like gas, into your car. We know that is not true. That is simply not going to happen.

The American people are sick and tired of an energy policy written by big oil. It is time for our friends on the other side of the aisle to join us in real reform so we can actually achieve something that moves us in a much different direction.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### LIHEAP AND COMMUNITY HEALTH CENTERS

Mr. SANDERS. Mr. President, on Tuesday, I introduced S. 3186, the Warm in Winter and Cool in Summer Act. This bill would provide \$2.53 billion in emergency funding for the Low-Income Home Energy Assistance Program, commonly known as LIHEAP.

I take this opportunity to thank the majority leader for completing the rule

XIV process of placing this bill directly on the Senate calendar yesterday. I also want to express my deep appreciation to him for his goal of moving this legislation forward within the next month. I think there is widespread support, in a nonpartisan way, for this legislation, which impacts people when the weather gets hot and it impacts people when the weather gets cold.

This bipartisan bill is being cosponsored by Senators LEAHY, SNOWE, BROWN, SUNUNU, CARDIN, COLEMAN, KERRY, COLLINS, KENNEDY, and SMITH and I expect that the numbers of Senators from both sides of the aisle who will be supporting it will only grow. The bottom line here is pretty simple, and that is: With the cost of energy soaring, we have many millions of Americans wondering next winter how they are going to be able to stay warm, and we have got to expand LIHEAP funding to match the inflationary costs of home heating fuel.

For those people living in warm weather States, what we understand right now is that electricity rates are also soaring. There are many Americans—elderly people, lower income people—who are unable to afford the increasingly high cost of electricity. They run the danger of seeing their electricity cut off. When the weather gets 110 degrees and the electricity gets cut off, and you are a senior citizen or you are a person who is frail or who is ill, you have a problem dealing with heat problems.

So I hope and expect there will be widespread support for this legislation. Once again, I thank the leader for putting this on the rule XIV process.

I also want to say a few words about the Medicare package that was approved overwhelmingly in the House on Tuesday, and which we expect, hopefully, to take up here shortly. This bill is nearly identical to the bill put forth on the floor last week by Finance Committee Chairman BAUCUS, and I thank the chairman for his commitment and his effort in putting together this excellent piece of legislation.

There is a lot in this bill, but there is one particular section I want to focus on, and that is the section pertaining to Medicare payments to community health centers.

Specifically, this bill provides for a much needed increase in the cap on Medicare payments to community health centers, and also requires a GAO study to determine whether the current structure for Medicare payments to community health centers provides adequate compensation for the care provided. I believe it does not.

According to the National Association of Community Health Centers, the artificially low cap on Medicare payments costs community health centers \$50 million annually—money that could be used to provide primary care access to thousands more of our Nation's seniors. An overwhelming majority of community health centers—a full 75 percent—now lose money—they

lose money—treating Medicare beneficiaries. An inadequate and arbitrary payment system jeopardizes the ability of community health centers to continue to provide necessary primary care to the 1.5 million Medicare beneficiaries who are seen at community health centers each year, many of who live in the most isolated and medically underserved regions of this country.

Let me say a word on community health centers, because I am a very strong advocate of that program. The truth is that in the midst of the disintegrating health care system, one of the major crises we are facing is in primary health care access. All over America, especially in rural areas, millions and millions of people simply cannot get access to a doctor, to a nurse, to a dentist, to people who will help them deal with their day-to-day health problems. The insanity of continuing that situation, that lack of health care access, means people will simply get sicker. They are going to go to the emergency room and they will end up in the hospital at far greater expense and a lot more human suffering.

I happen to believe this country has to join the rest of the industrialized world and establish a national health care program which guarantees health care to every man, woman, and child. I think at a time when we spend twice as much per person on health care as any other nation and have 47 million people uninsured and see our social indices, in terms of infant mortality or longevity, much worse than many other countries, I think we should finally conclude there is something fundamentally wrong with our health care system.

Health care should be a right of all people. We should do it in a cost-effective way. The function of health care should not be to make insurance companies rich or make drug companies rich but should be to provide quality health care to every man, woman, and child.

In the midst of all that, while we try to take on the insurance companies and all their lobbyists and while we try to take on the drug companies and all their lobbyists and advertising and campaign contributions, there is one simple thing we can do, where I suspect there is going to be tripartisan support, and that is substantially increase the funding for community health centers. In that regard, I thank Senator KENNEDY and Senator ENZI for a very strong authorization package that came out of the Health, Education, Labor Committee. I thank Senator HARKIN and Senator SPECTER for their support in giving us a reasonable increase in appropriations funding. But we have a long way to go.

The simple truth is—and this is a point that should be understood by all Members—if we spend as a nation \$2 or \$3 billion more on community health centers, do you know what? We could provide primary health care access to every man, woman, and child. That is

about 1 week of the war in Iraq. So you have war in Iraq, 1 week; or \$2 billion or \$3 billion building hundreds of community health centers, providing primary health care, dental care, mental health counseling, low-cost prescription drugs, to every man, woman, and child.

In the course of the coming months and years, I will be fighting for that \$2 or \$3 billion. It certainly is not going to solve all our health care problems, but by providing a place where any American—whether you are insured, uninsured, Medicare, Medicaid—regardless of your income you can walk in and get high-quality primary health care—wow, that is a huge step forward in this country.

In order to make sure these community health centers function, we have to do something else. Do you know what we have to do? We have to graduate doctors and nurses. We are living at a time when we are not graduating from medical school enough doctors or enough nurses or enough dentists. We have to work on that. One of the ways we work on that is to significantly increase funding for the Health Services Corps, a program which provides debt forgiveness and scholarships for those willing to serve in underserved medical areas.

There is a lot of work to be done. I think we are making some progress on the Medicare bill coming before us. The day has to come when all our people, by right, have primary health care access and access to health care.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I was asked by the Senator from Montana, Mr. TESTER, if there would be any objection if I asked that, after I finish my remarks, he be recognized for 5 minutes; that the Democratic time be extended 5 minutes and the Republican time be extended 5 minutes.

Is there any objection to that?

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

#### FISA

Mr. BOND. Mr. President, I know this is morning business, but I need to get people's attention back on FISA, I hope. Let me clarify some things that have been said earlier today. From time to time, some have tried to rewrite the history on what happened 1 year ago in producing the Protect America Act, our first attempt to fix the problems with foreign intelligence surveillance 1 year ago. That was not pretty, but I note there have been mischaracterizations of it. After last year, many critics of FISA, most notably in the House, tried to rewrite history and discredit ADM Mike McConnell, the Director of National Intelligence, and this compelled me to speak out on the matter at this time. He, in my view, from what I saw, acted in good faith, and he was charged with not having done so. But it seems there

is another effort today to rewrite history. I can say, as vice chairman of the Senate Intelligence Committee and the cosponsor of the Protect America Act, I was the lead negotiator during the final hours of the Congress, as we tried to pass a critical short-term update of our Nation's law governing terrorist surveillance.

As one who was there, I dispute the misinformation that was spread and largely by those who were not there. I will outline the events as they occurred, and here is what happened.

As I think most of us know, in January 2007, the President announced that the terrorist surveillance program was coming under the FISA Court. Our Director of National Intelligence, Admiral McConnell, subsequently stated that after that time, the intelligence community lost a significant amount of collection capability and that, combined with increased threat, compelled him to ask Congress to modernize FISA, sooner rather than later.

On April 12, Admiral McConnell sent his full FISA modernization proposal to Congress, and on May 1 he presented it in open session to the Senate Intelligence Committee.

Some would like us to believe that was the first time this became an issue for us, in July, but it was not. The DNI had appeared in open session before the Senate Intelligence Committee and had pleaded with us to update FISA months earlier.

I might say, along with another colleague of ours on the Senate Intelligence Committee, Senator BAYH, we visited Iraq in early May of 2007, and the Joint Special Operations Commander, LTG Stan McChrystal, told us at that time that the blockage in electronic surveillance by FISA was substantially hurting his ability to gain the intelligence he needed to protect our troops in the field and gain an offensive advantage. I believe I, and perhaps Senator BAYH, spoke about that in committee and on the floor.

Immediately following the admiral's testimony in May, I had urged the Intelligence Committee immediately to mark up FISA legislation. I was told by members of the majority that until the President turned over certain legal opinions from the terrorist surveillance program, Congress would not modernize FISA. That Congress would hold America's security hostage to receiving documents from a program that no longer existed was disheartening to me. We had already received an inordinate amount of documents from the Department of Justice and the Director of National Intelligence. Yet I do not dispute the desire or the right of members to seek privileged documents from the executive branch. In fact, I joined in requesting some of that. But I did disagree with holding up FISA modernization when those documents were not necessary to do that.

Despite the urging from the Director of National Intelligence, and knowing this outdated law was harming our terrorist surveillance capabilities, for

more than 3 months Congress chose to do nothing. Let me be clear, it was Congress that chose to ignore the pleas of the intelligence community. As a matter of fact, in late June, Admiral McConnell had a briefing for the entire Senate. I believe about 42 to 44 of us showed up there. He briefed Members of the Senate, again urging us to modernize FISA. Finally, his pleadings began to gain traction.

In mid-July, Members of Congress agreed to discuss a short-term, scaled-down version of FISA to protect the country for the next few months before we could address comprehensive reform in the fall. Admiral McConnell immediately sent Congress his scaled-down proposal.

Over the next week, Admiral McConnell was given nearly half a dozen versions of unvetted proposals from various congressional staffs across Congress and then pressed for instant support of these proposals. The admiral returned a compromise proposal to the Senate, including some of the provisions requested. Unfortunately, there were numerous bait and switches that took place during that time.

Since the bipartisan committee process was circumvented to craft legislation behind closed doors without input from the relevant committee and the minority, it got messy in the final hours. Even as the vice chairman of the Intelligence Committee, I was excluded from the key meetings. Not only was I excluded, most members of the Intelligence Committee, Republican and Democratic, were left out of the process.

Therefore, in the waning moments before the recess, I got together with a number of Democrats, including several from our Intelligence Committee, to discuss the short-term approach for the Protect America Act that Leader McConnell and I had introduced and which had the support of the DNI and the Department of Justice.

Finally, on August 3 and 4, Congress, on a strong bipartisan basis and a desire to get out of town for the August recess, passed the Protect America Act.

That was why it was jammed up. The administration was not trying to stiff us. The administration felt it was being stiffed. Fortunately, a solid, bipartisan majority of the Senate came together, passed the bill, and gave the House, regrettably, no choice but to pass it—which they did. But after the passage of the act, I think we all learned a good lesson. We sat down together on the Senate Intelligence Committee and began, on a bipartisan basis, to work out a permanent solution to FISA. I am very thankful we could do it. We put in a great deal of work. We spent a lot of time with the DNI, with the lawyers and the operatives for the program, and Senator Rockefeller and I worked, in a bipartisan fashion, to come up with a strong committee bill that we passed out of the Senate later on a 68-to-29 vote.

I thank my colleagues on the committee, their staff, and all the Members of Congress who supported us, particularly the 68 who came and voted aye to pass the FISA amendments in February.

That started the process that led us to where we are today. There is a strong bipartisan product before us. There were changes, cosmetic changes largely, made that the House believed were important and the intelligence community assured us would not interfere with their ability to collect information under the structure we had set forth in the FISA amendments that were passed by the Senate.

That is where we are today. I am ready, willing, and able, whenever it is the will of the leadership, to act on amendments that may be before us and try to pass this bill so we will have some certainty for the intelligence community that they will know what the guidelines are for the next period through 2012.

In any event, I will be back when we get on the bill to go over some of the items which are in question. But I think you see our chairman, Senator Rockefeller, who is on the floor, and I can assure you this is a good, solid, bipartisan bill that we should pass.

I see it is a good time to yield the floor.

THE PRESIDING OFFICER. The Senator from Montana is recognized, pursuant to the previous order.

#### GI BILL

Mr. TESTER. Mr. President, I rise in support of the bipartisan Webb GI bill, and I urge the Senate to join me in voting to pass it without further delay. As a member of the veterans committee, this legislation has been a big priority of mine for the past year and a half.

Montana is home to more than 100,000 veterans. I have spoken with many of them over the past year and a half, and I was very pleased to work on their behalf last year for the largest increase in funding in the history of the VA.

Earlier this year, the Senate passed my legislation to raise the reimbursement rate for veterans' travel to and from VA facilities. It was the first increase in 30 years.

As American forces continue to be engaged in wars in Afghanistan and Iraq, it is well past time for Congress to step up to the plate and deliver for our veterans.

This new GI bill will provide first-class educational benefits for those who served since 9/11. It will pay for tuition and books and a monthly stipend roughly equivalent to the benefits given to millions of Americans following World War II.

The first GI bill created a vibrant middle class that drives our economy to this day and makes America the envy of the world. This GI bill can do the same again.

Every major veterans organization in this country supports this bill. I under-

stand even the White House has dropped its longstanding opposition, and the President now says he will sign this bill into law.

Passing the 21st century GI bill will be a landmark achievement for this Congress. It will strengthen our Nation's military readiness through better recruitment by making military service a more practical option, and it will provide an important investment in America's future by enabling veterans to afford college at a time when career options and lifetime earning potential are increasingly linked to higher education.

One in nine Montanans have served our country in the military. We have one of the highest veterans rates in the country, and our Montana values compel us to take care of those who have served. Many of my Montana neighbors have written to me in support of this new GI bill for the new "greatest generation."

One airman from Belt, MT, said to me:

I hope this bill passes for myself and for future generations. I have been deployed three times in my five and a half years of active duty service, and will be leaving active duty service within the year. This bill is finally something that will allow people to do the things that they put off and that so many have died for since the beginning of our war on terrorism. I ask you to support this bill and allow all our Armed Forces members to succeed in life and all their endeavors.

Another veteran from Kalispell, MT, wrote:

I read with a great deal of interest your article in the Flathead Beacon about the need for a GI Bill, much like that of what we had in the past. I was able to attend college under the GI Bill after I was discharged from the Army in 1956 under that bill enacted for World War II vets. The GI Bill was instrumental in the creation of our middle class. It gave this child of the Depression an opportunity to experience the degree of success that I very likely would not have been able to achieve had it not been for that GI Bill.

These are just two examples of the many letters I have received from back home. I know many Senators received similar letters. I call on all of my colleagues to join me in voting for this vital legislation. We must pass this bill to honor the service and sacrifice of our Nation's veterans and to invest in America's future.

I have been pleased to work on this important piece of legislation with a bipartisan group of Senators led by the Senator from Virginia, one of my fellow members of the Senate class of 2006.

Senator WEBB and I hail from different parts of the country and different walks of life, but we joined the Senate at the same time with a simple hope: to provide a new direction for our Nation.

Last year, Senator WEBB and I traveled together to Iraq. We were able to visit with quite a few of the brave young men and women who serve our country day in and day out. When you talk to these folks, it really makes you feel that our Nation is in good hands.



They are serving us well, and now it is time to do right by them. This is commonsense legislation that will demonstrate to our veterans that America honors their service and cares about their future.

Passing this bill is the right thing to do, and it is the smart thing to do. I urge the Senate to vote as soon as possible to pass this new GI bill for America's new "greatest generation."

I thank the Senator from Missouri for giving me this opportunity to speak.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, as the chairman of the Senate Veterans' Affairs Committee, I am very pleased to express my support for the provisions of the war funding supplemental that would establish a new GI bill for the 21st century.

These provisions, drawn from S. 22 as introduced by the junior Senator from Virginia, Mr. WEBB, who serves with me on the committee, will establish a new program of educational assistance for the brave young men and women who have answered the call to duty in service to our country since September 11, 2001.

This past Sunday, June 22, marks the 64th anniversary of the original GI bill. As one of the 8 million World War II veterans who took advantage of the opportunity it made available, I know firsthand the value of what we are prepared to approve today. If it were not for the valuable educational benefits I received, I would not be standing here today in the Senate.

Without the GI bill and the maturity and discipline I learned through my military service, I am certain my life would have turned out much differently. The original GI bill changed America. It made higher education accessible for individuals from all backgrounds.

Veterans flooded colleges and universities. Huge lines of returning servicemembers doubled or tripled enrollments. By the time the original GI bill expired in 1956, the United States was richer by hundreds of thousands of trained engineers, accountants, teachers, scientists, doctors, dentists, and more than 1 million other college-educated individuals.

The original GI bill created major social change. Some have credited it with creating the middle class. And when the sons and daughters of the "greatest generation," the baby boomers, came of age, the legacy of a college education was passed on to them.

Today, we are set to approve a measure that will shape today's military, the future of the military, and the future of our Nation for many years to come. Today's new veterans will know that we honor the contributions they have made in service to this Nation. We understand the sacrifices they made, the hardships they endured, and the toll that has taken on their lives and the lives of their families.

This new GI bill will be a tool that the military can use to attract our best and brightest college-bound high school seniors to voluntary military service. Down the road these new veterans will turn to their children and grandchildren and tell them that the way to advancement is through the successful completion of an honorable period of service to their country.

I am genuinely delighted to have played a role, however small, in the formulation of this legislation. I sought to work with Senator WEBB early in the development of this measure. When the time for action was at hand, he and I came together as a team and crafted the workable measure that is before the Senate today. I express my deep respect and gratitude to Senator WEBB for his untiring efforts and personal commitment to this issue.

As chairman of the Senate Veterans' Affairs Committee, I am excited to see that this new GI bill will have a smooth transition. I intend to work closely with Senator WEBB and others toward that end. We will begin later this week by ordering reported a group of technical amendments that will help ensure that the implementation of the new GI bill will be as effective as possible.

The committee, in its oversight capacity, will also be working closely with both the Departments of Defense and Veterans Affairs to identify and resolve issues before they become problems.

Today, with the final passage of this new GI bill, we say to our newest generation of citizen soldiers, we appreciate you. We recognize that the ability of our Armed Forces to attract and retain quality personnel in the future, and consequently our national security, depends on how we meet the needs of those serving us today. The new GI bill will do that for our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

#### TAX POLICY

Mr. GRASSLEY. Mr. President, I want to address the Senate on the issue of tax policy. Serving as a member of the Senate Finance Committee with jurisdiction over this, I watch tax policy pretty closely. We are almost half through the year 2008. Since January 1 of this year, several tax relief provisions have expired. I am talking about what we call tax extenders that have been on the books in the Tax Code for several years, in some cases decades,

that sunset from time to time that must continue to be extended if you want the benefits of that tax policy.

In most cases, we think this tax policy is good policy because many times these policies have been on the books and expired, and we have extended them. So the term "tax extender" means keeping existing tax policy in place; however, it has sunset so Congress must act to keep it going.

The biggest one is called the AMT. Most people know it by the alternative minimum tax fix. That affects 25 million families. There are a number of other widely applicable tax relief provisions that fit into the term "tax extenders."

One provides millions of families with a deduction for college tuition, another provides deduction for our schoolteachers for out-of-pocket expenses that they might pay for that the school district does not pay for. One that is very important to innovation in American business is called the research and development tax credit, which has been part of the Tax Code since 1981.

All of these tax relief provisions expired not just today but 6 months ago.

This Congress has not passed legislation yet to deal with this problem. We have had two cloture votes in the Senate on taking care of this, but those votes have been on a bill that will not pass the Senate. And even if the House bill were to pass the Senate, the President would not sign it. So the issue is, do we want to get these things extended or not? If you are going to do it, you have to do it in a way that is going to get it through the House and Senate, as well as the President's signature.

What is holding up this bipartisan, time-sensitive tax relief? It is an obsession with the Democratic leadership, a version of pay-go or pay-as-you-go. I have spoken on this before, but the hangup is the Democratic Party's feeling and obsession over raising taxes to offset continuing current law tax relief policies.

I have offered a deficit-neutral path to these tax extenders, that being a restraint on new spending. But I have no takers from the other side. I haven't even received a response on the merits of my offer that I made to the other side. The action or lack of action thus far proves my point. The leadership of the other party—or maybe all Members of that party—is so obsessed with raising taxes that they are willing to hold hostage popular bipartisan tax relief measures.

Democratic spokespersons are threatening to kill these tax extenders unless they get tax increases they want so badly. It reminds me of a nursery story. I am referring to the story of the big bad wolf. I have a chart here so people don't forget who the big bad wolf is. You remember the story. The big bad wolf in that nursery story threatened the three little pigs. He said something like: I am going to huff and puff and blow your house down. The Democratic

leadership is playing the role of big bad wolf right now.

Here is what my friend the distinguished House leader said:

The extender bill is not going to pass unless it's paid for.

When asked if he would make a similar pledge regarding the \$62 billion cost of preventing the alternative minimum tax from hitting 21 million more taxpayers, the distinguished leader of the other body demurred:

The extender bill is not going to pass if it's not paid for.

I call this an obsession.

I might add, I have been pleased to work with the House majority leader in the past, particularly on the children's health insurance bill and other matters. But in the case of the tax extenders, I beg to differ with the distinguished leader of the other body. That is some very serious huffing and puffing. For those millions of families sending their kids to college, forget about your tuition tax deduction unless the Democrats get their offsetting tax increase. They have ignored the spending cut proposal I circulated over a week ago, so they are not holding tax extenders hostage to a pledge to pay for them. They are holding extenders hostage to their version of pay-as-you-go, which is guaranteed tax increases. More revenue, from their judgment, means more spending and yet bigger government.

Now I will show you the big bad wolf can sometimes be a Republican. I have another chart with a famous quote on it from a former majority leader of this body. Senator Frist said:

If the Senate kills the trifecta bill, we will not return to it this year. That means we would have no permanent death-tax reform, no tax-policy extenders, and no minimum-wage increase. It's now or never. It's this week.

That is what was said approximately 18 months ago. At the time, Republicans were in the majority. It was also the last time folks in control of Congress were holding extenders hostage for an unrelated reason. In that case, the unrelated issue was death tax relief. Extenders were part of what was referred to then as the "trifecta." A third part of the trifecta was a minimum wage increase.

Here is what then-Senate majority leader Bill Frist said, kind of a repeat:

If the Senate kills the trifecta bill, we will not return to it this year. That means we would have no death-tax reform, no tax-policy extenders, no minimum-wage increase.

He went on to say:

It's now or never. It's this week.

What we have is huffing and puffing, a threat to blow the extender House down—the big bad wolf once again. So you can see my criticism is not partisan. I have shown a case where the Republican majority held tax extenders hostage.

As we know, soon the then-Republican leader, the then-majority leader, Dr. Frist, came to his senses. He finally

brought forward a bill that addressed the tax extenders in the lameduck session of December 2006.

The bottom line is, the folks on our side recognized, although it took a long time, the merits of continuing tax policy that has been on the books for a long period of time, that a vast majority of the Congress knows is good policy and it ought to be extended. They recognized that the unsuccessful effort to leverage the popularity of these tax benefits did not mean the extenders had to die on the vine. This recognition occurred despite earlier threats I have already spoken to to kill the extenders.

It will be the same tale of the big bad wolf 2 years later. A partisan obsession with a tax-increase version of pay-go or pay-as-you-go will not, at the end of the day, trump bipartisan popular tax relief measures that millions of families are counting on and have been on the books for a long time. If I am wrong, the spokespeople for the Democratic Party should tell those millions of families and thousands of innovative businesses that their partisan agenda is more important than doing the people's business. I will continue to wait for a response. More importantly, the people should hear the answer.

I feel very strongly that these are tax matters we ought to address very soon. Certainty of tax policy and predictability in tax policy is very important for our economy to move forward. In this case, I am referring to the bipartisan tax relief this Congress passed in 2001 and 2003.

I wish to emphasize the word "bipartisan." The reason I wish to emphasize "bipartisan" is too often this policy of 2001 and 2003 that ought to be extended is referred to as "the Bush tax cuts," as my friends on the other side of the aisle would like our friends in the media to call them, and the friends in the media are catching on. But why not bipartisan tax relief? Because I remember when that suggestion first came from the White House. It was \$1.7 trillion worth of tax cuts over 10 years. I immediately said we were not going to be able to do that because we had to do something in a bipartisan way. So it ended up, because of my decision, in conjunction with Senator BAUCUS, that it was not going to be more than \$1.3 trillion. So I come to the floor with legitimacy to denigrate the label of "Bush tax cuts" and emphasize bipartisan tax cuts.

I have actually noticed that my Democratic colleagues like the reference "tax relief." They have used the reference on the campaign trail of their Presidential candidate. How ironic. My Democratic friends label the bipartisan tax relief the "Bush tax cuts," yet they call their own tax plan "tax relief," especially when this so-called Democratic tax relief is merely an extension of the 2001 reduction in tax rates for certain taxpayers, not all taxpayers. I am not surprised. After all, it is political season. But I feel a little bit disgruntled about it all. Sometimes

I get mad about it. But I also am dismayed. I am disappointed that the poll-driven use of the term "Bush tax cuts" flows so easily off the tongues of people in the other party. The media folks can't get enough, so they continue to repeat the "Bush tax cuts" over and over and over. You can imagine how an author of a bipartisan tax relief measure would feel if it is referred to this way.

But do you know what really disappoints me? The fact that the spokespeople for the Democratic Party and their Presidential candidate are telling Americans who make less than \$250,000 a year that their taxes will not go up if they vote Democratic in November. I think this is intellectually dishonest, and the folks in the media should call them on this and make it very clear that it is otherwise. Why do I say this? Because my friends on the other side will increase capital gains rates. They will also increase the tax rate on dividend income. I told this body and any friends in the media that Americans earning less than \$250,000 a year have capital gains each year. They also claim dividend income. Here I will remind my colleagues and the media that over 24 million tax returns last year claimed dividend income. There is not that many taxpayers over \$250,000 a year.

Also, over 9 million Americans claimed capital gains. We have another chart on capital gains. You would be correct if you guessed that not all of these Americans were making more than \$250,000.

So how do you get away with saying we are just going to increase the taxes on people over \$250,000 and let the capital gains rate go up, let the tax on dividends go up? You are hitting many Americans under \$250,000. I will bet some of them were even low-income taxpayers because we established a policy just a few years ago that under a certain income and a very low income, we want low-income people to have a savings ethic, not only that, but the ability to actually save, people who today have a zero rate of taxation on capital gains—zero.

Speaking of zero, the junior Senator from Illinois has proposed to reduce the capital gains rate for startup companies from 7.5 percent, which is the current rate, to zero. I like his thinking on that policy because it is going to help small business, it is going to help entrepreneurship.

But the distinguished Senator will increase the capital rates in other areas by at least 33 percent. That strikes me as being counterproductive. That is rearranging the deck chairs. It is simply squeezing the balloon. And in a sense, I consider it hot air and certainly not change you can believe in. It is not change I believe in, and eventually the American voters are going to see through this.

Let me get back to the tax increase that Americans making less than

\$250,000 will see. I want to take a moment to talk about an interview conducted by Wolf Blitzer of CNN. On his program Sunday, June 15, Mr. Blitzer delved into the capital gains and dividend income tax issue. He asked his guest—the chairman of the Democratic Congressional Campaign Committee—whether Senator OBAMA's plan to tax dividends and capital gains would increase taxes for Americans of every background, not just rich people. I am glad Mr. Blitzer asked the question.

The most interesting point to this story is the response. The response was that Senator OBAMA will increase the capital gains rate. Let me repeat that. If the distinguished Senator from Illinois is elected President, he will raise rates on capital gains. Why? Apparently the junior Senator from Illinois thinks investment income is, quote, unquote, leisure income. He thinks that "leisure income" should not get the same breaks as income earned through labor.

I wish to submit for the RECORD an excerpt of the transcript from the June 15 show on CNN so folks in the media can see this. The excerpt is the full interview of the DCCC chairman. I have highlighted the portion of the interview I wish folks to pay attention to.

To quote the chairman:

Obama has said that you shouldn't give a break to leisure over labor.

The DCCC chairman expounded upon this by saying:

In other words, people who are making money simply by investing it, rather than through their work in the labor force, shouldn't be getting a break over the people who are going to work every day.

The DCCC chairman thinks "that makes sense."

So the Democratic leadership, and their Presidential candidate, believe the current tax policy favors leisure over labor, and they consider that all investment income is leisure income. So what they are saying is anyone who saves and anyone who invests is a person of leisure.

Maybe my friends on the other side of the aisle have been reading the writings of Thorstein Veblen. Professor Veblen, as shown in this picture, authored "The Theory of the Leisure Class." "The Theory of the Leisure Class" took a satiric approach to American society and economics. "The Theory of the Leisure Class" characterizes this "leisure class" as individuals who only benefitted society in a minor or peripheral way because they did not engage in labor-intensive jobs. Instead, the "leisure class" often prevailed over "labor income" classes by making profits without producing goods and services.

Professor Veblen also argued that certain labor income individuals began to mimic or emulate the "leisure class" to do nothing more than achieve a so-called higher status.

So is the distinguished DCCC chairman, or his Presidential candidate,

suggesting that all people who invest money are part of a leisure class, a leisure class that is making money rather than producing goods and services? And as a result, somehow, they should not get any breaks over those who are laboring for their money?

Do they want to discourage those who labor and produce goods and services from saving and investing? Do they want to discourage laborers from mimicking or emulating those profiting off of investments? They seem to think that all folks who invest are higher income people.

As an aside, if the DCCC chairman were correct, we would not have at least 5 million Americans using the low-income saver's credit, adopted in a bipartisan way here in this Congress. I have a chart in the Chamber. It shows the number of low-income taxpayers on a State-by-State basis claiming the saver's credit.

This is data from 2003.

In Iowa, for instance, there were almost 96,000 low-income families and individuals using the saver's credit.

Chairman BAUCUS and I designed this policy in the 2001 bipartisan tax relief legislation. Now it is permanent law. About 5.5 million low-income savers—and these are not people of leisure—use the credit. I would tell the DCCC chairman and the junior Senator from Illinois that these low-income savers are not figments of somebody's imagination. They are real people. I do not think they consider themselves members of the "leisure class."

I encourage everyone to study this transcript. You will see that the distinguished Senator from Illinois, according to his surrogates, wants to tax investments because he believes that making investment income is leisure. He believes that hard-working Americans should not get a break on this type of income. He believes that taxpayers do not work hard enough to earn money they can invest and then, in turn, have investment income, and that those who do work hard should not be given an incentive to invest.

I wish my friends on the other side to know that investments begin with taxpayers' hard-earned income. So in order to invest it, they first have to work hard to even earn it.

Also, I would like my friends on the other side, who agree with the DCCC chairman, to ask any taxpayer who saves, any taxpayer who invests their money, whether they think investment is easy. Investment is hard work. You have to educate yourself. You have to make prudent decisions. Ask them if investing their own money is leisure. The other side thinks it is kind of like sitting out there on the beach in the Sun all the time, not having a worry in the world.

It is almost like the other side is reviving the "two Americas" that the former Democratic Presidential candidate—former Senator John Edwards—was all about. But here, my friends on the other side are saying

that higher income people—or folks in the "leisure class," according to Professor Veblen—are the only taxpayers who invest. They contend that these folks are bad, that this "leisure class" should no longer have incentives to invest.

At the same time, my friends are taking away incentives for hard-working Americans to save and invest. The implication is if you save and invest, you are bad, and if you do not save and invest, you are good.

But that is going too far. It is off the reservation. Separating workers who save and invest from workers who do not save and invest is new territory for the other party and should not go unchecked.

The junior Senator from Illinois eloquently states that we need to move past division and that we as Americans need to come together. Who is going to disagree with that? My friend talks about his disdain for old-style politics and emphasizes change. But it is interesting to hear the surrogates of Senator OBAMA reaching back to the class warfare discussions that took place in the last century.

This is not change you can believe in.

Middle- and low-income investors should be appalled—appalled because their Government believes their pursuit of the American dream is all leisure and that the Government wants to increase their taxes, yes, on Americans who make less than \$250,000.

So following the question of Mr. Blitzer, I wish to ask my friends on the other side of the aisle—or whoever wants to speak for them—whether Americans making less than \$250,000 will see a tax increase under a new Democratic administration. Because if you take their words for what they are now, you are going to see a lot of big tax increases for people making less than \$250,000 a year.

I wish to know whether they agree with Senator OBAMA and the Democratic leadership and believe that investment income is leisure.

My Democratic friends may respond that the junior Senator from Illinois wants to give middle-income folks a tax cut. But this middle-class tax cut is fiction for those middle-income taxpayers who save and who have investment. I challenge my media friends to tell Americans what is going on here.

Mr. President, I ask unanimous consent that the excerpt from the transcript of "CNN Late Edition" of June 15, 2008, be printed in the RECORD.

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

EXCERPT FROM TRANSCRIPT OF CNN LATE EDITION—JUNE 15, 2008

BLITZER: Welcome back to LATE EDITION. I'm Wolf Blitzer in Washington. The Democrats are hoping not only to win the White House this fall, but also to increase their majorities in the Senate and the House of Representatives. We're joined now by the man in charge of that effort in the House, the Democratic Congressional Campaign Committee Chairman Chris Van Hollen. He

is a Democratic congressman from Maryland. Congressman, thanks very much for coming in.

VAN HOLLEN: It's good to be with you.

BLITZER: You happen to be my congressman as well since I live in your district. But that's not going to make this any easier for you.

VAN HOLLEN: Come on, Wolf.

BLITZER: No favorites. All right. Let's talk a little bit about what we just heard from John Boehner. Why not start drilling? There are enormous amounts of oil right here in the United States on the coast, on the East Coast, the West Coast and Alaska. That could dramatically increase supply and as a result reduce the price per barrel and the price at the pump. What is wrong with that?

VAN HOLLEN: Well, we are drilling. There is nothing wrong with drilling. We have lots of oil companies in the United States that are drilling.

BLITZER: Nancy Pelosi votes against everyone of these drilling propositions.

VAN HOLLEN: And in fact, there are 60 million acres of federal land that are currently leased to the oil and gas companies that are sitting idle. They're not drilling. They like the status quo. They like the way things are going. We're going to have legislation that is going to be considered shortly that is use it or lose it. If you are going to hold up these 68 million of federal lands, you've got to start drilling for oil or else somebody else should have an opportunity to do it.

VAN HOLLEN: Because the fact of the matter is they've been idle for all these many years. So the point is there's lots of acreage out there already under lease . . .

(CROSSTALK)

BLITZER: Here is Congressman Roy Blunt, the number two Republican in the House, speaking out on this issue this week.

(BEGIN VIDEO CLIP)

REP. ROY BLUNT, R-MO: Who's to blame are policies that wouldn't allow us to use our own resources. Every other country in the world looks at their natural resources and sees them as an economic asset. Democrats in Washington look at our natural resources and see them as an environmental hazard. That's a mistake.

(END VIDEO CLIP)

BLITZER: All right. What do you say?

VAN HOLLEN: Facts are stubborn things. Sixty-eight million acres of federal lands, currently leased to the oil and gas industry, sitting idle. We're going to say to them, "Use it or lose it. Get pumping."

The issue isn't whether or not we should use our natural resources. The issue is exactly where. And what you're saying is, when you've got 68 million acres of federal lands already leased, you should use that before you start looking elsewhere.

BLITZER: They say they can drill in Alaska in an environmental safe way. You just heard Congressman Boehner say that.

VAN HOLLEN: As John McCain said, there are already areas where they can drill. We shouldn't be drilling there.

And let me point out that the Department of Energy, our own department of Energy, has said, if you drill in Alaska, first of all, you won't see any results at the pump for 10 years. And after 20 years, you might see a reduction of two cents per gallon.

This is not a way to solve our energy problem. The problem is the oil—the Republican Party has been very tight with the oil and gas industry for many years. And all they're proposing is more of the same, more subsidies for the oil and gas industry. I think it's important to point out that, since George Bush was elected president, the oil and gas industry has contributed over \$94

million to the Republican Party and its candidates. So I'm not surprised . . .

BLITZER: How much have they contributed to the Republicans?

VAN HOLLEN: A whole lot less. I mean, we're talking about, maybe, 80 percent to Republicans, 20 percent to Democratic candidates, generally.

The DCCC—we don't take money from oil and gas PACs. And I think what you see, in the results, is the policy.

They're calling for more of the same. We should not be giving more subsidies to the oil and gas industry. Our proposal is to say, let's take those funds and invest them in renewable energy and energy efficiency.

BLITZER: The DCCC is the Democratic Congressional Campaign Committee, which you're in charge of. You're the chairman and your job is to get more Democrats elected to the House of Representatives.

You say that you don't accept money from the oil and gas PACs. But you do accept money from lobbyists and other PACs, even though Barack Obama doesn't accept that money for his campaign. And he's now told the DNC not to accept that kind of money.

VAN HOLLEN: Well, we did something very new this time around. In fact, I led the effort in the House; Barack Obama led the effort in the Senate, to require transparency, for the first time, of bundling by lobbyists.

That means that, when registered lobbyists are raising money, not just their own contribution but they're going out and raising it from other people, that we're now going to disclose that.

So what we believe is you should have total transparency. People can make up their mind. But when we tried to do that under the Republican-controlled Congress, when we tried to get that transparency, they said no. So we've seen a dramatic change already.

BLITZER: But just to clear, unlike the DNC or the Obama campaign, you'll still take that PAC money, that lobbying money?

VAN HOLLEN: The DCCC is a multi-candidate committee, unlike the presidential campaign committee where one person gets to make a decision.

BLITZER: Listen to John McCain rail against Senator Obama on the issue of taxes. Because he says that, if Obama is elected president, taxes won't only go up for the wealthy, but they'll go up for the middle class as well. Listen to this.

(BEGIN VIDEO CLIP) MCCAIN: When Senator Obama talks about raising income tax rates on those making over \$250,000, that includes these businesses as well. He also proposes increases in dividends and capital gains taxes. Under Senator Obama's tax plan, Americans of every background would see their taxes rise.

(END VIDEO CLIP)

BLITZER: That's going to scare a lot of voters out there.

VAN HOLLEN: But it's flat-out untrue. And people need to go and look at what Barack Obama is proposing. What he has proposed is a middle-class tax cut. People in the middle income category will get a tax cut. If you're over \$250,000 a year, you may see your Bush tax breaks rolled back some.

So this is an issue where people have got to look at the facts. Because the Democrats have been pushing for AMT reform. We want to get rid of the alternative minimum tax. We want middle-class tax relief.

The Republicans, on the other hand, have focused on providing tax breaks to people at the very, very top.

(CROSSTALK)

BLITZER: A lot of middle-class families have investments where they get capital gains, where they get, you know, dividends. And he says, under Obama's proposals, they would be paying more tax.

VAN HOLLEN: Well, what Obama has said is that you shouldn't give a break to leisure over labor.

In other words, people who are making money simply by investing it, rather than through their work in the labor force, shouldn't be getting a break over the people who are going to work every day. That's essentially his position. And I think that makes sense to most people, that if you're working every day, you shouldn't carry a larger burden than other . . .

(CROSSTALK)

BLITZER: So you have no problem seeing the capital gains tax rate go up?

Because Obama has clearly suggested, if he had his way, it would go up.

VAN HOLLEN: Well, we're going to be looking at Senator Obama's proposal. We haven't adopted any particular position on that issue, in the House, as Democrats. But I just want to be clear that that's what he said.

I think what you're seeing here, Wolf, is a feeling in the country—we saw it in these polls—that the Republican leadership in Washington is in a bubble. They're very much out of touch with the economic pain Americans are feeling.

John McCain said, not long ago, that we have seen great progress under the Bush administration. And if you like George Bush's economic policies, you're going to love John McCain's economic policies.

What we've seen is unemployment has gone up. In fact, last month, we saw the largest increase . . .

(CROSSTALK)

VAN HOLLEN: But we proposed unemployment insurance compensation. John Boehner and the Republicans opposed that. When people are struggling with their mortgages, they were there to bail out Bear Stearns, but the fact of the matter is they voted against a housing stabilization plan.

So I think people see this disconnect between the Democrats, who are trying to connect with middle-class families, and Republicans, who are always looking out for the very folks at the top and the oil and gas industry.

BLITZER: Congressman Van Hollen, thanks for coming in.

VAN HOLLEN: Thanks for having me.

BLITZER: Happy Fathers Day.

VAN HOLLEN: Thank you.

BLITZER: I appreciate it very much.

Mr. GRASSLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

#### CFTC

Ms. CANTWELL. Mr. President, I rise for a few minutes this evening to talk about a couple events from today. First of all, the price of oil today hit over \$140 a barrel—another, I think, tragic milestone as it relates to the impact on our economy and the challenges we face as oil prices continue to go higher and higher and higher.

I also note for my colleagues that the House took very aggressive action today in basically ordering the Commodity Futures Trading Commission, on an overwhelming 402-19 vote, to take action to utilize its authority, including its emergency powers, which is critical for the CFTC to do if it wants to have proper oversight of these oil futures markets.

Now, I know this is something we have been pushing here in the Senate, saying there are loopholes we still need to close. Many of my colleagues joined in a letter last month—22 of us—to the CFTC telling them to use their authority and to act aggressively. They came back with a half step saying they were going to start collecting new information from the British regulators that oversee some of our oil markets in the U.S.

We told the CFTC that was not good enough. We told them to use their existing authority to start collecting information directly from the IntercontinentalExchange Futures Europe, a dark market that is subject to British oversight but operates in the United States under a CFTC staff no-action policy.

I think those pleas by us have basically gone ignored or at least half steps have been taken by the CFTC. So I was very pleased today that H.R. 6377 passed the House of Representatives 402 to 19. So there has been an outstanding margin of bipartisan support in the House of Representatives to pass a bill that requires the CFTC to use its existing authority, including emergency authority. This bill does not say the CFTC “may” utilize its authorities; it says they “shall.” So it is very direct. It says those broad emergency authorities that include investigating excessive speculation, reducing position limits—basically overall stricter position limits—and including limiting or suspending trading. These are things the CFTC has the power to do in its emergency authorities to make sure excessive speculation and manipulation are not occurring in the markets.

So I want to say I think this is a very bold step the House of Representatives has done. They did this very quickly today, and in a very aggressive, bipartisan fashion.

I hope the Senate would take the same aggressive measure as soon as possible, and in the same overwhelming majority, to show we are serious about reining in excessive speculation and potential manipulation in the oil markets.

I thank the Presiding Officer and yield the floor.

THE PRESIDING OFFICER. The Senator from Montana.

#### MEDICARE IMPROVEMENTS

Mr. BAUCUS. Mr. President, on Tuesday, the House passed the Medicare Improvements for Patients and Providers Act, and I urge the Senate to take up and pass this bill tonight.

The House passed the bill with an overwhelming vote, 355 to 59. That is a 6-to-1 ratio. Even among Republican Members of the House, more than twice as many Republicans voted for the bill as against it.

The Senate should take up and pass this Medicare bill not just because the House passed it with 355 votes, but, rather, because it is the right thing to

do. The Senate should pass this Medicare bill because time is running out. I understand the House is going to adjourn today. I think they have cast their last vote. If we don't act soon, the law cuts payments to doctors by 10 percent on July 1. We have to stop that cut. That cut threatens access to care for America's seniors. Already, some providers are declining Medicare patients. That trend will accelerate—believe me, I have talked to a lot of doctors—that trend will accelerate if we don't act. We must pass this bill tonight. The Senate should pass this Medicare bill because it is the only way to avoid the cut. There is no other option. There is no alternative. There is no short-term solution. This is the only train in the station. This is it.

The House-passed bill is very similar to S. 3101. That is the Baucus-Snowe bill the Senate considered 2 weeks ago, but the House made three noteworthy changes to that bill.

First, the House-passed bill includes legislation to delay the Competitive Acquisition Program for durable medical equipment. Congressmen PETE STARK and DAVID CAMP introduced legislation to do that in the House, and Senator GRASSLEY and I, along with 24 other Senators, introduced that legislation here in the Senate.

I support competitive bidding as a way to decrease costs, but Congress needs to ensure that these savings are not achieved at the expense of beneficiary access to the care they need in their own communities. We need to take a closer look at competitive bidding before it moves forward. The passage of this Medicare bill will allow that.

The House-passed bill also does not include cuts in funding for oxygen supplies and equipment, and it does not include cuts in funding for power wheelchairs. Those who support these reforms make a good case, but ultimately the cuts could not be included as part of this must-pass legislation.

This bill is a balanced package. It is a true compromise. It does not go nearly as far as many House Democrats wanted it to go, and it goes about as far as some of my Republican colleagues in the Senate can go.

When the House passed its children's health bill last year, the House made major changes to the Medicare Advantage Program. Last year's House CHIP bill would have significantly restricted the program, but this House Medicare bill does not do that.

This bill includes a reduction in the double payment for medical education costs to private plans in Medicare, and this bill would protect seniors from unscrupulous marketing practices by private health plans. That has to be corrected and it is in this bill. Both of those changes were also included in a bill crafted by Senate Republicans. I think they are wise, and they are wise to follow up with a similar vote later on tonight.

This bill would do more. It would also require the so-called private fee-

for-service plans to form provider networks. All other plans must, all other Medicare Advantage plans must, and so should private fee-for-service plans. It would also make sure there are doctors behind those plans. It is not the case in current law, but that change is made in this bill. This bill does not—I must say—does not include deep cuts to Medicare Advantage payments. It also does not cut private fee-for-service plan payments at all. It just has this provision which I think is a major reform.

I would go further on Medicare Advantage, but I must say to my colleagues that this is not the time and this is not the legislation to do that. This is the time to avert the pending cut in payments to doctors. That payment cut would devastate access to care for America's seniors. We cannot let that happen. We cannot let those cuts go through, which would devastate care for America's seniors.

So what else will this bill do? For Medicare beneficiaries, this Medicare bill would expand access for preventive services. We have all talked about that, and this bill does it. It would eliminate the discriminatory copayment requirements for seniors with mental illnesses. We have talked about that. We should not have discriminatory copayment requirements for seniors with mental illness. And it provides additional needed care for low-income seniors.

The Medicare bill would take important steps to shore up our health care system in rural areas. It includes provisions from the Craig Thomas Rural Hospital and Provider Equity Act. We included that in this bill.

The bill includes important relief for ambulance providers, community health centers, and primary care physicians. They need some additional help. Primary care doctors represent the backbone of our health care system. This legislation, the House-passed bill and the Senate bill, does make those provisions.

This Medicare bill would make important improvements in pharmacy payments. It would make payments under the Part D drug benefit fairer and more timely, especially to those who dispense drugs to our Nation's senior citizens.

This bill would save valuable Medicare dollars by providing a single bundled payment for all the services related to treating end-stage renal disease. That is a reform. And for the first time, dialysis facilities would receive a permanent, market-based update to their payments each year, something they have been asking for and deserve. This would make sure Medicare payments keep up with their costs.

I wrote the legislation on which this Medicare bill was based to make sure the seniors in my home State of Montana and everywhere in our country can get quality, affordable health care. This Medicare bill would do right by low-income and rural seniors.

This bill would expand emergency health care for veterans in rural areas. We all talk about helping our veterans who are coming home. This helps do that, particularly in rural areas where the networks are not there. It needed special attention. It is there in the urban areas on the margin but even less in rural areas. It would increase payments for doctors who work in rural areas. It would stop payment cuts to providers, and it would give them a decent increase in reimbursement. All of this would ensure that seniors will be able to keep seeing the doctors they need to see.

I have worked for months to write a strong Medicare bill that could pass both Chambers with wide support. Tuesday's overwhelming House vote makes clear that this bill can be that bipartisan vehicle. In a sense, it is being taken up just in time, just before July 1. The House will not take up another vehicle. This is it. The House has gone home for its Fourth of July recess. There is not time left to craft a viable alternative. Even if there were, the House cannot pass it in time. The clock is ticking. This Medicare bill can be a slam dunk at the buzzer for 44 million American seniors who depend on Medicare. Let's do what is right. Let's ensure that seniors have access to doctors. Let's avert the impending payment cut to doctors, and let's pass this bipartisan Medicare bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I have been talking to the physicians in my State who take Medicare patients, and frankly, this is a terrible way for Congress to do business. We see a 6-month patch on the physician reimbursement formula that will expire July 1, and unfortunately we are looking at what amounts to a partisan proposal here that we are basically being told to take or leave.

As all of our colleagues know, the ranking member on the Finance Committee, Senator GRASSLEY, got together with Senator BAUCUS after cloture was denied previously and pretty well had things worked out in a bipartisan way until the House passed their version, and then, of course, those negotiations broke down, leading us to this cloture vote we are going to have here in just a few minutes. But I have to say that in 1996 when Congress passed the Balanced Budget Act and contemplated these Draconian cuts in the physician reimbursement payments, Congress should have known and should have told the truth that it never intended that any of those cuts would ever take place—and for good reason they should never take place, because even under the current Medicare reimbursement rates, doctors—for example, in Travis County where Austin, TX, is located, only about 18 percent of the physicians in that county will actually take new Medicare patients because the reimbursement rates are already so low.

Then we have this unbelievably bad way of doing business. I don't know anybody else who could get away with—other than the Congress—passing temporary patches on the reimbursements that are paid to physicians. They last for a year, they last for 6 months, such as this last one that leads us up to the edge of a cliff here on July 1, and then we are told by the distinguished chairman of the Finance Committee that we have to take it or leave it or the cuts will occur. Well, frankly, no one believes the cuts will actually occur because Congress will act.

I suggest that rather than this terrible way of doing business that nobody else could ever get by with and rather than frightening the Medicare beneficiaries who need access to the doctors who are paid using this Medicare reimbursement formula, we ought to scrap the entire method of reimbursing doctors for Medicare and start over again, recognizing that we are not going to allow these Draconian cuts to occur, this 10-percent-plus cut that goes into effect July 1 and the 20-percent-plus cut that will occur 18 months from now. I think we ought to acknowledge that we are not going to let those cuts go into effect and scrap the sustainable growth rate formula by which those Medicare reimbursements are calculated because it is just not honest. It is not honest. It is scaring not only the Medicare beneficiaries, it is impairing access to health care for those to whom we promised the Medicare Program would actually work.

So I don't know what is going to happen on this vote on cloture. I suspect cloture may not be invoked. My hope is that there would be a bipartisan way to find our way forward. I believe it already exists in the form of a negotiation that Senator GRASSLEY and Senator BAUCUS have undertaken here in the Senate and that we shouldn't use this kind of brinkmanship to scare not only the Medicare beneficiaries—the seniors who depend on this health care—but also the physicians who are reimbursed under this formula.

#### GASOLINE PRICES

Mr. CORNYN. I wish to talk just a minute about gasoline prices. I don't know of any subject I hear more about and more concern about from my constituents in Texas than high gasoline prices, whether it is parents driving their children to school or their after-school activities or truckers who have to buy diesel, which is breaking the bank and which they are finding it harder and harder to pay for, or whether it is the airlines—Continental Airlines and American Airlines and Southwest Airlines, all three of which are located in the State of Texas. The price of aviation fuel made from petroleum products is making it almost impossible for them to do business under their current model, and prices are going up. It is becoming harder and harder for consumers to deal with.

There is a way Congress could act to help bring down prices at the pump on a temporary basis, and it involves exploring for and producing more American energy. That is important from a number of perspectives.

First of all, it is important from a national security perspective because right now we depend on 60 percent of our energy needs, our oil and gas needs, from foreign sources. What would happen if something were to occur that were to blockade the tankers that would prevent that oil from being transported? Well, it would mean in Iraq and Afghanistan that the Department of Defense vehicles owned by the Army, Marines, and others wouldn't have the petroleum products they need in order to function. It would exact a crippling blow against our economy. So why in the world would we continue to allow 60 percent of our dependency for oil to come from foreign sources when we have here in America enough oil under our own Outer Continental Shelf, in the oil shale in the West, and in the Arctic that could produce as much as 3 million additional barrels of oil a day? That is more than 10 percent of our current use here in the United States. As a matter of fact, it is a substantial amount—more than 10 percent, closer to 12 percent of what we use right here in the United States.

We know the money we are paying—\$135 a barrel—is enriching people such as Hugo Chavez of Venezuela, and he is using that money to buy weapons from Russia and to arm himself as he continues to take in and protect the FARC, a narcoterrorist organization, to the detriment of our friends in Colombia and stability in South America.

But it is absolutely crazy for this Congress to have in place, as it does—and it has since 1981 or 1982—a moratorium or ban on developing more of our own natural resources and becoming more self-reliant rather than more dependent on foreign sources of oil. It is up to Congress to get out of the way and to allow America to become more energy self-sufficient. We can do it, and only Congress can get that done. It is completely inexcusable when gasoline is at \$4 a gallon on average to do that, to be the impediment, to be the blockade, to be the cause of so much pain at the pump and so much sacrifice and hardship among hard-working American families.

We understand it is more than just a matter of producing oil, but that is a first and necessary step because we know when it comes to transportation fuel, we depend upon petroleum products right now to get that job done.

But we also know we need to be more fuel efficient and we need to conserve. Indeed, that is one area where Congress has acted by passing corporate fuel efficiency standards for our cars. But we know that is a long-term effort because the average age of a car in America—of the 250 million cars in America—is about 9 years. So let's assume that, in 2010, everybody started buying a new



car. It would take a long time, an average of 9 years, before that entire fleet of cars would be replaced with these new more fuel-efficient cars. So that is a long-term solution but a necessary and important one for us to take.

We also need to make sure we use good old-fashioned American ingenuity and technology to help us as we transition from this petroleum dependence we have now. It is not going to happen overnight. But for our friends who say that if we started pumping oil out of ANWR or the Outer Continental Shelf or from the oil shale in the West today, it would be years before that oil would get online. Unfortunately, that is where we put ourselves, as a result of the irrational moratoria on the development of American natural resources. It is going to take some time to transition into greater energy independence.

But for those of us who are concerned about the environment, we know we are going to have to continue to look for cleaner ways to drive and to fly and in terms of our energy needs. That is why it is so important that we use good old-fashioned American ingenuity and technology to help us find a way—development of things such as plug-in hybrid cars that can be plugged in and would charge a battery that could drive 40 miles or so before it would need to be recharged. That would help a lot of people who would only need such a vehicle, with a plug-in, to avoid petroleum products altogether. Then we would need to worry about the electricity, which is another story altogether.

There are some who have said that abusive speculation in the commodities futures markets is the cause of the problem. That is something we need to look at very closely. As a matter of fact, today, a number of us—43 Senators—have introduced legislation that we believe will create greater transparency and will finance more “cops on the beat,” so to speak, when it comes to the commodity futures market, to make sure that doesn’t contribute to the reason for prices going through the roof.

So we need to produce more energy right here at home so we don’t have to depend so much on those who wish us harm or those who would use the money from oil to buy weapons to kill us or our troops in Iraq or Afghanistan or elsewhere—or in the case of Iran, which we know is supplying troops and training to special forces in Iraq and Afghanistan and has threatened and, in some cases, is responsible for killing troops. We find ourselves dependent, in part, on countries such as Iran for the very oil we use to refine into gasoline to drive our cars. Does that make sense to anybody? It doesn’t make any sense to me.

I think what we need to do is produce more and use less oil as we transition into a cleaner, more independent energy economy. It would be better for our national security, better for our economy, and it will actually help us

control prices so hard-working American families will not be spending all the money they may have, which they would like to spend on other things, or which they need to spend on other things but cannot because of the increases in the high price of gasoline and oil, and they have to spend on those.

In conclusion—and I see the Senator from Utah, my friend, Mr. HATCH, who wishes to speak—if we will not do this when gasoline is \$4 a gallon, will we do this when gasoline is \$5 a gallon? If we will not do it when oil is \$135 a barrel, will we do it when oil is \$150 a barrel, or even higher?

The solution is not to sue OPEC to get them to open the spigot even wider to increase our dependency on foreign oil. The solution is not to raise taxes, which we know will reduce American production, while allowing foreign oil sources, such as Saudi Arabia, Venezuela, and Iran, to continue to operate without those taxes. The solution is not to increase taxes and costs on the consumer, who is already paying too much. We have it within our power to do something that will actually help the American people when it comes to the thing that most of them care a lot about today and that is the high price of gasoline.

Congress is the problem. It is high time our friends on the other side of the aisle, who control the agenda because they are in the majority, work with us to bring realistic solutions to this problem. We can do it but not if people play partisan games and refuse to cooperate on something that causes a lot of hardship to the average American family.

The PRESIDING OFFICER. The Senator from Utah is recognized.

#### TAX EXTENDERS

Mr. HATCH. Mr. President, I rise to discuss a very important issue. First, I compliment the Senator from Texas. I agree with virtually everything he said. There are so many things we need to do around here, and we are not doing them.

I will discuss an issue that each day becomes more troubling to me and also to many businesses and individuals in my home State of Utah—and I am sure yours as well—the fact that this Congress has not yet acted to extend the tax provisions that expired at the end of last year and those that are set to expire at the end of 2008. This failure to act is rapidly reaching a state of crisis in some industries, and our continuing inability to take care of this basic problem only reinforces the public’s low opinion of this institution.

I believe that every member of this Senate recognizes the importance of the expired and expiring tax provisions. While there may be some items on the growing list of extenders that do not enjoy universal support, there are clearly plenty of votes to easily provide a majority or even a super-major-

ity to pass them all, if it were not for the divisive question of offsetting the revenue loss.

The list includes some important items for individuals and businesses in every State. For families, there is the election to deduct State and local sales taxes, the deduction for higher education expenses, and the deduction for the out-of-pocket expenses of school teachers.

For businesses, expired or expiring provisions include those allowing faster depreciation write-offs for retail stores, restaurants, and other investment properties, a variety of important incentives that address our energy crisis, and the vital research credit, which I have championed here for many years.

The expiration of the energy provisions and the research credit are particularly troubling, for they signal the loss of economic growth and jobs at the worst possible time. As with many of my colleagues and their constituents, I have Utahns telling me that important research and energy-related projects are going to be cancelled if these provisions are not quickly extended.

Well, here we have a group of tax provisions that enjoys wide bipartisan support, and an economy that really needs to have access to these provisions at a time of slowdown and job loss. Many of my constituents do not get it. They are asking, why can’t Congress just get it done? What is the problem?

The problem is, as we all recognize, that my colleagues on the other side insist on attaching to the bill tax-raising measures in order to offset the revenue loss of the expiring provisions. And most Senators on my side of the aisle believe that tax increases are unnecessary and, in fact, ill-advised and harmful to our economy, both today and in the future. Unfortunately, we appear to have reached an impasse on this point.

Contrary to what some proponents of offsets are saying about Republican motives in this matter, our stance is not about trying to protect a few wealthy hedge fund managers who are parking billions of dollars offshore in deferred compensation. Rather, we believe that this debate is about America’s future prosperity.

Democrats are saying that in order to be fiscally responsible, taxes need to go up to pay for the loss in revenue from keeping these tax provisions in place. Their so-called “pay-as-you-go” or “pay-go,” rules call for all revenue losses to be matched with revenue increases, or spending decreases, from somewhere else. Forget spending decreases; it just means tax increases.

In theory, this sounds pretty good, and quite responsible. I am a strong believer in being fiscally responsible, and I am as loathe to pass on our huge national debt to our children as anyone in the history of the Congress.

The problem is that to most Democrats, the word PAYGO is nothing

more than a synonym for more taxes. We seldom, if ever, see the idea of reducing spending brought up by the other side as a way of offsetting the loss of revenue from extending these important tax provisions.

In fact, there is a major flaw in the Democrats' pay-go requirement that you never hear them mention. Pay-go applies only to the revenue loss from extending the tax cuts, but not to the revenue loss from extending spending programs that expire. You might never know it from listening to the debate around here, but it is not just tax provisions that expire. Extending both tax benefits and spending programs costs Federal revenue. Why should not both be offset?

However, the budget rules assume that the expiring spending provisions are automatically renewed as a matter of course, with absolutely no requirement that the lost revenue be offset. This mismatch in budget policy produces a huge bias toward bigger Government and more taxes—something my colleagues on the other side just love.

Some may well ask, why shouldn't we pay for the lost revenue from extending the expired and expiring tax provisions?

My answer to Utahns who ask me this question comes in three parts:

First, it is wrong to raise taxes on one group of taxpayers in order to prevent another group of taxpayers from suffering an increase in taxes. Democrats and Republicans alike have resoundingly agreed with this principle in connection with the alternative minimum tax. Both parties in both Houses last year overwhelmingly passed the so-called "AMT patch" without offsets, and it is widely expected that we will do the same thing again this year.

Second, it is wrong to offset temporary extensions of current law with permanent tax increases. The fact that this has been done year after year does not make this practice a sound one. In fact, using permanent tax increases to offset temporary extensions simply means that, in the long run, the extenders have been paid for again and again.

Finally, why should we increase taxes when we are already collecting more taxes as a percentage of gross domestic product than the historical average? Despite the large tax cuts passed by Congress and signed by the President in the early part of this decade, the amount of tax collected as compared to the size of the economy just keeps increasing; yet, the majority insists on expanding the Government's pocketbook even further. At a time when gas prices have increased by 10 cents over the past two weeks to a national average of \$4.07 and home foreclosures are on the rise, I believe we need to put money back in the taxpayer's pockets, not take more out.

According to the other side, the pay-go rules require us to provide tax in-

creases in order to keep the deficit from increasing. Time and again, however, the Democrats themselves admit that the pay-go rules are not practical. We all know that.

For example, it was not deemed necessary to offset the revenue loss of the economic stimulus package we passed early this year. We did not offset the package of tax benefits for military personnel that was recently enacted. And there has been a long internal debate on the other side about whether unemployment benefits need to be offset. It appears to me that the Democratic pay-go requirement is more a slogan of convenience than a bedrock principle.

Many in the business community are frustrated by our lack of action in extending the expired tax provisions. I understand and share this frustration with them. I have fought for years to improve, extend, and expand many of these provisions, such as the research credit.

However, I believe those in the business community who are encouraging us to simply go along with the flawed bill the House of Representatives has sent us are being very shortsighted. Many in the business lobbies have looked at the offsets in that bill and have said that since they do not affect them very much, that we should go ahead and approve them.

If we go along with these offsets to extend the expired provisions until the end of this year, what are we going to use to pay for next year's extension? Sure, the business community might be fine with these offsets now, but how long until we get to the offsets that really hit them hard? All of us, including the business community, need to take a longer view of this and examine the principles involved.

We cannot drive our economy into the ground in the name of false fiscal responsibility. Tax increases are not the prescription to what ails our economy, particularly during this downturn and especially when revenue is already higher than the historical average. Yes, we should pass the extenders, but let us not sacrifice jobs on the altar of a flawed pay-go requirement in the process.

The cost of living for Americans is becoming unbearable. In my home State of Utah, the average price of gas is \$4.07, construction of new homes has ceased, and unemployment is on the rise. We should be spending less and lowering taxes, not holding back tax incentives that are vital to economic growth and job creation while raising taxes.

If my colleagues on the other side want to be fiscally responsible, then I am all for it. Let us work together to identify enough spending cuts to offset the cost of extenders. But if we cannot do that, let us not hold these important tax provisions hostage to a false sense of fiscal responsibility.

I notice the distinguished majority whip is here, so I will try to finish as quickly as I can.

## MEDICARE IMPROVEMENTS

Mr. HATCH. I wish to say a few words about why I oppose the cloture motion on the motion to proceed on H.R. 6331, the Medicare Improvements for Patients and Providers Act. As I said last week when we were considering the cloture motion on the Baucus Medicare bill, my goal is to have bipartisan legislation signed into law by the President on July 1. Let me be clear, I wish to continue to work with my colleagues on the other side of the aisle in order to get this done. We were so close to an agreement in the Senate earlier in the week, but after the House voted on Tuesday, those discussions basically stopped, although we can put this together in 10 minutes if we work in a bipartisan way.

To be honest, the House Medicare bill, H.R. 6331, contains many provisions that both sides strongly support. These provisions include restoring Medicare reimbursement rates for physicians so their Medicare payments are not reduced by 10.6 percent on July 1.

Let me be clear, no one wants to cut Medicare reimbursements for doctors. We want Medicare beneficiaries to continue to have access to high-quality health care and the ability to see their own doctors.

There is not just one Medicare bill. The Baucus Medicare bill; the Grassley Medicare bill, which I cosponsored; and H.R. 6331 all include provisions to restore physician payments. All three bills include provisions on e-prescribing. Mandatory e-prescribing will significantly reduce medical errors, thus protecting beneficiaries.

Another issue that has overwhelming support is the delay of the competitive bidding program. I was a member of the House-Senate conference committee on the Medicare Modernization Act of 2003. Even back then, Senator GRASSLEY and I expressed grave concerns about the inclusion of the Medicare competitive bidding program. I worried about the impact it would have on small durable medical equipment companies, particularly those in rural areas. I am still concerned because there are many unanswered questions about the bidding process and how the winning bids were selected. If we do not come to an agreement by July 1, this program will go into effect.

A related issue that is included in all three Medicare bills is the elimination of the clinical lab competitive bidding program. There was broad support to repeal the clinical lab competitive bidding program as well.

There are rural provisions included in all three bills that are very important to my home State of Utah, which has many rural areas.

These provisions improve payments for sole community hospitals, critical access hospitals, and increase ambulance reimbursement rates in both rural and urban areas.

All three bills include a policy to create a bundle payment system for end-stage renal disease, or ESRD, services

provided to kidney dialysis patients. They also provide positive composite rate updates for 2 years until the bundled payment system is created.

All three bills include Medicare reimbursement for six kidney disease education sessions.

All versions of the Medicare legislation also include an expansion of telehealth services to skilled nursing facilities, hospital-based renal dialysis, and mental health centers.

So as one can see, we agree on most all the issues. Unfortunately, there is one issue where we do not agree, and it is standing in the way of getting this legislation signed into law.

H.R. 6331, the House Medicare bill, and the Baucus Medicare bill, include provisions that would reform the Medicare Advantage Program in a way that is unacceptable to both the White House and many of us who support the Medicare Advantage Program and I believe 90 percent of the people who do support that program.

In 2003, I sat through hours of negotiations with administration officials, House Members, and Senate colleagues for days, weeks, and months, including Finance Committee Chairman BAUCUS, to create the Medicare Advantage Program to the Medicare Modernization Act of 2003. Let me remind my colleagues, before 2003, the Medicare Advantage Program, then known as Medicare+Choice, was not working very well, especially in rural parts of our country because the Medicare payments were too low. The Medicare+Choice plans serving Utah simply left because they were in the red. They were not making money and, as a result, Utah Medicare beneficiaries could only be covered by traditional Medicare.

Through the MMA, we finally figured out how to provide choice to Medicare beneficiaries in both rural and urban areas. Medicare beneficiaries in Utah now have a choice in Medicare coverage they did not have before the MMA was implemented.

The biggest difference between the bill before us today and the Grassley Medicare bill is the House Medicare bill, if signed into law, will no longer allow private fee-for-service plans to deem. You are probably asking: What on Earth is deeming? It is quite simple.

Deeming allows beneficiaries who have opted for private fee-for-service plans the ability to see any Medicare provider because these plans do not have to establish networks.

Private fee-for-service plans have provided coverage options to Medicare beneficiaries living in rural areas who previously did not have choice. In other words, the ability to deem has been especially important in rural areas, where it is difficult for network-based plans to persuade providers to contract with them and for employer groups that provide coverage for retirees living in areas across the country.

The elimination of deeming could be the elimination of health care coverage

choices for beneficiaries living in rural areas.

It could also cause certain retirees to lose their health care coverage because employer health plans that provide coverage in all 50 States will cease to exist because they cannot establish networks.

My friends who support this bill will argue they are not cutting the Medicare Advantage Program by eliminating deeming. They also will try to say that the elimination of deeming will not have an impact on health care choices offered to beneficiaries living in rural areas.

I have already been told by one employer in Utah that this provision will force them to stop offering health care coverage to almost 12,000 retirees—12,000 retirees. I am worried it could hurt coverage for beneficiaries in rural areas as well. Quite honestly, we do not know the full impact of this specific policy.

Therefore, I simply cannot support a provision that eliminates deeming for private fee-for-service plans, and that is one of the reasons I am going to vote against cloture.

We must vote against cloture in order to ensure we can begin work on a bipartisan bill that will be signed by the President. We do not need to be wasting our time going back and forth on bills that do not have a chance of becoming law.

Trust me, this bill will not be signed into law because, while the take-it-or-leave-it attitude may work over in the House, it does not work in the Senate.

I urge my colleagues to vote against cloture so we may begin work on a bipartisan bill that will continue to protect choice of coverage for all beneficiaries—and I think that work would take all of 10 minutes—including those living in urban and rural areas and those who are covered through an employer retirement plan.

This motion must be defeated so we can prove to Medicare beneficiaries, Medicare providers, and our House colleagues that bipartisanship is alive and well in the Senate and that we are willing to keep working on this bill until we get it right.

The PRESIDING OFFICER (Mr. SANDERS). The majority leader.

#### UNANIMOUS-CONSENT AGREEMENT—H.R. 6331 AND H.R. 2642

Mr. REID. Mr. President, I ask unanimous consent, notwithstanding rule XXII, and the pendency of a motion, that a motion to proceed to Calendar No. 836, H.R. 6331, the Medicare Improvements for Patients and Providers Act, be considered made by virtue of this agreement and there be 60 minutes of debate on the motion, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on a motion to invoke cloture on the motion to proceed, with the mandatory quorum

waived; that if cloture is invoked on the motion to proceed, then all postcloture time be yielded back, the motion to proceed be agreed to, and the Senate proceed to the consideration of the bill; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, without further intervening action or debate; that if cloture is not invoked, then the motion to proceed be withdrawn and the bill returned to the calendar; that upon the disposition of H.R. 6331, the Senate then consider the message from the House with respect to H.R. 2642, the Supplemental Appropriations Act; that by virtue of this consent being agreed to, the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to the bill be considered made; that Senator COBURN be recognized to raise a point of order and that there be 15 minutes of debate, with 5 minutes each for COBURN and the majority leader and the Republican leader, or their designees; that upon the use of that time, a motion to waive the Budget Act be considered made and the Senate then vote on the motion to waive; that if the waiver is successful, the Senate proceed to vote on the motion to concur; that upon disposition of the motion to concur, the motion to reconsider be laid upon the table, en bloc, with no further motions in order; provided further, that if the motion to waive fails, then this agreement be null and void.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. I, obviously, am not going to. I ask my good friend, the majority leader, if he thinks we need 60 minutes of debate. Is there some chance time will be yielded back?

Mr. REID. We would be happy to limit that—the supplemental appropriations bill we are talking about?

Mr. McCONNELL. No.

Mr. REID. On Medicare. I say to my friend, I think Senator HATCH wants to finish his statement, Senator DURBIN is here. I think we should do the 60 minutes.

The PRESIDING OFFICER. The majority leader.

Mr. REID. There was no objection to the request; is that right?

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

#### MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT—MOTION TO PROCEED

##### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 6331, the Medicare Improvements for Patients and Providers Act.

Harry Reid, Max Baucus, Debbie Stabenow, Jeff Bingaman, Patty Murray, John D. Rockefeller, IV, Thomas R. Carper, Mark L. Pryor, John F. Kerry, Dianne Feinstein, Richard Durbin, Daniel K. Inouye, Bill Nelson, Bernard Sanders, Jon Tester, Jim Webb, Frank R. Lautenberg.

UNANIMOUS CONSENT  
AGREEMENT—H.R. 6304

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, July 8, at a time to be determined by the majority leader, following consultation with Senator MCCONNELL, all postcloture time be yielded back and the motion to proceed to Calendar No. 827, H.R. 6304, be agreed to, the motion to reconsider be laid upon the table, and the Senate then proceed to the consideration of the bill; that once the bill is reported, the only amendments in order be the following: Dodd-Feingold-Leahy amendment to strike immunity; a Specter amendment which is relevant; a Bingaman amendment re: staying court cases against telecom companies; that no other amendments be in order; that debate time on the Bingaman amendment be limited to 60 minutes, equally divided and controlled in the usual form, and 2 hours each with respect to the Dodd and Specter amendments, equally divided and controlled, with 10 minutes of the Dodd time under the control of Senator LEAHY; that upon the use or yielding back of all time, the Senate proceed to vote on the pending amendments; there be 2 minutes of debate equally divided and controlled in the usual form prior to each vote; that after the first vote in the sequence, succeeding votes be limited to 10 minutes each; that upon the disposition of all amendments, the bill, as amended, if amended, be read a third time and the Senate then proceed to vote on a motion to invoke cloture on the bill, with the mandatory quorum waived; that prior to the cloture vote, there be 60 minutes plus the time specified below for debate time, equally divided and controlled between the two leaders or their designees, with 10 minutes under the control of Senator LEAHY, with an additional 30 minutes under the control of Senator FEINGOLD, with an additional 15 minutes under the control of Senator DODD; further, that if cloture is invoked on H.R. 6304, then all postcloture time be yielded back, and without further intervening action or debate, the Senate proceed to vote on passage of the bill, as amended, if amended; further, that it be in order to file the cloture motion on the bill at any time prior to the cloture vote, with the mandatory quorum waived, notwithstanding rule XXII, if applicable, and that if applicable,

postcloture time be charged during this agreement.

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

FISA AMENDMENTS ACT OF 2008—  
MOTION TO PROCEED

## CLOTURE MOTION

Mr. REID. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read 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. 6304, the FISA Amendments Act of 2008.

E. Benjamin Nelson, John D. Rockefeller, IV, Thomas R. Carper, Mark L. Pryor, Bill Nelson, Dianne Feinstein, Robert P. Casey, Jr., Barbara A. Mikulski, Claire McCaskill, Kent Conrad, Daniel K. Inouye, Mary L. Landrieu, Joseph I. Lieberman, Sheldon Whitehouse, Evan Bayh, Ken Salazar.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FORECLOSURE PREVENTION ACT  
OF 2008

Mr. REID. Mr. President, notwithstanding rule XXII, I ask that the Chair lay before the Senate a message from the House of Representatives with respect to H.R. 3221.

The PRESIDING OFFICER. The clerk will report the message with respect to H.R. 3221.

The legislative clerk read as follows:

A message from the House of Representatives to accompany H.R. 3221, to provide needed housing reform and for other purposes.

Mr. REID. Mr. President, I move that the Senate concur in the amendments of the House striking titles VI through XI to H.R. 3221, and I send a cloture motion to the desk.

## CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The legislative clerk read as follows:

## CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the amendments of the House, striking title VI through XI, to the Senate amendment to H.R. 3221, the Foreclosure Prevention Act.

Harry Reid, Christopher J. Dodd, John D. Rockefeller, IV, Debbie Stabenow, Jeff Bingaman, Ken Salazar, Joseph R. Biden, Jr., Max Baucus, Patty Murray, Barbara A. Mikulski, Charles E. Schumer, Sheldon Whitehouse, Sherrod Brown, Bill Nelson, John F. Kerry, Robert P. Casey, Jr., Benjamin L. Cardin, Frank R. Lautenberg.

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

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote occur at 5 p.m., Monday, July 7, with the hour prior to the cloture vote equally divided and controlled between the chair and ranking member of the Banking Committee, and that no other motions be in order.

The PRESIDING OFFICER. Is there objection?

The Chairs hears none, and it is so ordered.

Mr. REID. Mr. President, let me say this. I had one Senator come to me today and say: You know, why don't we spend more time here? We set out to accomplish certain things. We haven't been able to accomplish everything we wanted, but I say to everyone here, the procedures we just now went through would take, if we followed every step of the procedure of this body, well into late next week. So people should just be satisfied that we are going to be able to have whatever the action is on Medicare, whether it passes or doesn't. At least we are going to have final action on that now, we are going to be able to complete the supplemental, and we have a time set to complete FISA early next week, with people having all the opportunity they want to talk about how great it is and how horrible that bill is.

We also have a pathway so that Senators SHELBY and DODD can complete the housing bill. I think it is a good piece of work. Was it as smooth as I would like? No. As I said when I came here this morning, when I gave the example of going out with my dad as a boy and gathering wood, and we would get stuck in those washes and those back tires would spin and spin, that vehicle was going a thousand miles an hour but going nowhere; it was stuck in sand and nothing would happen, and we would work and put stuff under the tires and push it, and it took a long time but we always got it unstuck. Well, we would have gotten unstuck here; it is just a question of when, and the "when" is now.

So I say to the individual who asked me about this, is this something that is real pleasant to watch? Probably not. But for this country, the Senate has been doing this for 230-some-odd years, and that is how it works. We have heard a lot of times, as we watch the legislative process in action, that it is like watching the stuff they put into the hot dog: it is probably not too pleasant to watch, but it tastes pretty good when you chomp on it. That is what this legislation is all about.

I think we are going to have the ability to work on issues important to the

country. We know how important this supplemental is to lots of people in this country. We know how important the FISA legislation is. We know how important the housing bill is. And, of course, we know how important the Medicare bill is. Will they all wind up at a point where everyone in the Senate wants them? Probably not. But at least we have the opportunity to have finality on all of these.

So I extend my appreciation to the people on my side who have agreed to drop amendments and work toward a common goal. As Senator McCONNELL and I have said here on the floor on a number of occasions, these are difficult times. The Senate is divided 51 to 49. Although we are in the majority, it is a slim majority. And our will has been tested this past year and a half. As we remember very clearly, one of our Senators got very ill before we were even able to swear in the Presiding Officer and others of the nine Democratic Senators and one Republican Senator. But we worked our way through that.

We have worked our way through a lot of difficult issues, and I say to my friend the Republican leader, I know, frankly, that I get upset at him sometimes, but I always try to do it in a way that I hope brings dignity to this body. He has a job to do, I have a job to do, and we will continue to do that. I am happy we have been able to get to the point where we are today.

Mr. McCONNELL. Mr. President, let me add briefly that we are on a glidepath to completion here of a number of extremely important measures to our country, from the supplemental, which will fund the war in Iraq and Afghanistan, which also includes an important new veterans benefit program; to the Foreign Intelligence Surveillance Act, which has helped protect us against attacks since 9/11; to an important Medicare bill, which will be resolved in one way or another in the next few weeks; to an important housing bill. In each of these instances, we will end up getting a bipartisan result at some point in the very near future on very important issues for the American people. So I think today has been very successful in crafting a pathway—a glidepath, if you will—to completion. I share the majority leader's view that this was a day of considerable accomplishment on major issues for the American people.

I yield the floor.

Mr. REID. Mr. President, if the Republican leader has completed his statement, I would ask unanimous consent that the final 20 minutes—10 minutes for Senator McCONNELL and 10 minutes for me—be reserved for us. If other people want to come and use that time, we will use leader time, but prior to the vote we would ask for the opportunity to speak.

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

#### MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008—MOTION TO PROCEED

The PRESIDING OFFICER. The motion to proceed to H.R. 6331 is considered to have been made under the previous order.

The clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 836 (H.R. 6331) an act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

The PRESIDING OFFICER. There are now 60 minutes for debate on that motion.

The Senator from Illinois.

Mr. DURBIN. Mr. President, when we finally vote on the floor, it is on the Medicare Program. The Medicare Program is literally a life-and-death program for 40 million Americans. For 40 million Americans who are either over the age of 65 or disabled, this is their health insurance program.

It was created back in the 1960s. When it was created by President Lyndon Baines Johnson, its critics said: This is too big. This is too much government. This is socialized medicine, they said. And many voted against it, saying it was a mistake. Well, after 40 or more years, we know it wasn't a mistake. It may be one of the most thoughtful and important programs enacted since Social Security because it gave peace of mind to senior citizens. They knew when they reached that moment in life when they were likely to be more vulnerable to illness and disease, they would have health insurance. They could go to a hospital or doctor and get basic care and not worry about whether they were wealthy enough to have health insurance or enough savings to cover a medical catastrophe. So this program, which was derided and criticized for being too much government, has been one of the great success stories of this country, and the seniors value it. Every one of them values it.

My brother, who retired from the private sector in his early sixties—a pretty conservative fellow when it comes right down to it, politically—turned out to have had some heart problems. And it turned out he also didn't have any health insurance after he retired. He was really waiting and hoping he could make it to the age of 65 before something else would happen because a few more trips to the hospital and a few more surgeries might have really hurt his retirement plans. He made it. He is covered by Medicare and doing well. And that is just one example of thousands that can be given.

So we have a vote today which should be a pretty simple vote. It was a very simple vote in the House of Representatives. There is a proposal to cut

the reimbursement, the compensation, for doctors under Medicare by about 10 percent on July 1. I think that is a bad idea. These providers don't get paid a lot of money for treating Medicare patients, and to cut their reimbursement may force many doctors to say: We just can't see as many Medicare patients or maybe none at all. So fewer doctors, if this pay cut goes through, are likely to treat Medicare patients. That is not a good outcome. It means that many of the Medicare patients won't be able to go to the doctors who have been treating them for long periods of time and there will be real uncertainty about their future. So we wanted to make sure this pay cut did not go into effect July 1.

The House of Representatives considered this, and in an overwhelming bipartisan vote they voted not to cut the pay for doctors treating Medicare patients. The vote was 355 to 59. That is a 6-to-1 margin in the House of Representatives—totally bipartisan. You would think a bill with that kind of vote would come over here without much controversy. But, of course, those people don't know how to measure the Senate.

In the Senate, there have been those on the other side of the aisle, the Republican side, who have found reason to object to this effort to make sure Medicare doctors get fair pay. It comes down to a lot of reasons they have given, but as they say in politics—or as one old fellow I used to work for by the name of Cecil Partee, a State senate president in Illinois, used to say—for every vote, there is a good reason and a real reason. Well, they are using as a good reason here to vote against this protection of Medicare doctors that, unfortunately, it might involve some increase in taxes or changes in private health insurance. The real reason? The real reason is that this bill goes after—in a small way—private health insurance companies that are selling Medicare coverage, the so-called Medicare Advantage companies.

You see, there are many on the Republican side who haven't gotten over the debate in the 1960s. They still think Medicare is socialism. They still think this is too much government. They want to privatize this. They believe we could rest easy every night if we were in the loving arms of a health insurance company. They obviously haven't had to pick up the phone and talk to some clerk in the middle of nowhere who is denying your claim because of something in the policy you didn't know existed—which has happened to many people across America. No, on the Republican side, they are afraid that any cutback in the profit taking by these private health insurance companies will be uncomfortable for some of their friends. So they are prepared to allow this cut in pay for doctors under Medicare to go through to protect the private health insurance companies offering Medicare coverage.

So I guess the honest question is, Are the private health insurance companies

doing a better job than the Medicare Program? The honest answer is no. Do you know how much more they charge than the Government's Medicare Program? About 17 percent more. They will throw in a few bells and whistles, but about 17 percent more. So it isn't as if they are cheaper. They are not.

Secondly, it turns out they are using bullying and strong-arm tactics to convince a lot of senior citizens to sign up for those so-called Medicare Advantage Programs, so much so that we have had to investigate this, and we are going to have to do everything we can to stop this from continuing.

Third, we just had a report from the General Accounting Office. These so-called private health insurance companies—it turns out the medical care they were reporting for seniors was overstated. They weren't giving them the care that was promised. Instead, they were taking more profit out of the system.

If you are a free market advocate who believes that it is caveat emptor—let the buyer beware—you can buy into this idea of private health insurance companies doing so well, making so much money, bullying seniors, and not giving them medical care promised. I don't buy it and I think they ought to be held accountable. If there is one thing we ought to protect, it is the seniors in America, who have done so much for this country and now need our help in their retirement years. That is what Medicare is all about.

We are going to have a vote in about 45 or 50 minutes. We need 60 votes to protect these doctors who are providing help under Medicare. We only have 51 on our side of the aisle, the Democratic side. We need nine Republicans to cross the aisle to join us in this effort to do the right thing for Medicare.

I don't think it is an unreasonable idea that 9 out of the 49 Republicans would join us when in the House of Representatives the same measure passed by a vote of almost 6 to 1 in favor of it.

This is a good bill, not only because it helps Medicare to continue to thrive because it helps beneficiaries pay their premiums if they are in a low-income category, it helps pharmacists, it helps many others. It has been endorsed by virtually every major organization of physicians, seniors, pharmacists, and hospitals. They know this bill is critically important.

If the Republicans fail to give us the votes necessary to reach 60 votes on the next rollcall, doctors across America treating Medicare patients will take a 10-percent cut in pay in a few days. That is the reality. Those who have voted that way are doing it in order to protect private health insurance companies who are trying to compete with Medicare. Those private health insurance companies have plenty of lobbyists. They are politically articulate. They can be found in the corridors of the Capitol day in and day

out. But those folks are not speaking for the seniors. The seniors want us to stand up and make sure we keep Medicare strong and Medicare providers are there to make sure they get the very best care.

I hope my Republican colleagues will not go in lockstep with the private health insurance companies but will, in fact, stand for the Medicare Program, join the overwhelming bipartisan majority in the House of Representatives who supported this bill. If it costs these private health insurance companies 1 or 2 percent, is that the end of the world, that they would have to give back a little bit of the money they are taking out of our Federal Treasury? I do not think it is. I think they have been shown to charge more than the Medicare Program, to provide less than they publicly disclose in terms of medical benefits, and to engage in marketing tactics which should not be condoned by the Senate.

I hope we will have a good bipartisan rollcall here. It will be a great way to end the session as we break for the Fourth of July recess.

I yield.

THE PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I don't understand why this has to be characterized as a partisan issue as my colleague from Illinois has done. He said there is a proposal to cut doctors' pay. There is no such proposal. Nobody wants to cut physicians' pay. In fact, I daresay all 100 Senators here are in support of ensuring that physicians get paid an increase in the pay next year from what they are paid this year. What happens is that the law provides an automatic pay cut so we have to pass a bill to prevent that automatic pay cut from taking effect.

I am on the Finance Committee. A few weeks ago Senator BAUCUS, the chairman of that committee, who has a long history of working with Senator GRASSLEY regardless of which party is in the majority, proposed that we work in a bipartisan way to draft a bill to ensure the physicians would be paid. Those discussions commenced. They produced a bipartisan agreement. Then, before that agreement was brought to the Senate floor, the majority announced it wanted instead to substitute a partisan bill that we would seek to consider on the Senate floor. We had a cloture vote on that bill and it failed to get cloture.

My colleague says he hopes Republicans will not vote in lockstep. I can assure my colleagues here Republicans will not vote in lockstep. Democrats will vote in lockstep. There will not be a single Democrat who votes differently. Republicans will be divided.

If this is a partisan issue, it is only a partisan issue because Democrats will vote in lockstep and because the Democrats insisted on bringing a partisan bill to the floor. That was rejected, so Senators BAUCUS and GRASSLEY returned to their negotiations. Again

they were about done with those negotiations 2 days ago when the House scheduled a vote on its own bill and that bill passed. Again that upset the bipartisan discussions that were occurring here in the Senate. As a result, the majority leader decided to bring the House bill to the Senate and ask us to support the House bill. Again, the negotiations stopped.

The vote we are going to have today will either allow the Baucus-Grassley negotiations, bipartisan negotiations, to be completed or send a bill to the President which he will veto—meaning a great deal of time will be lost by the time that bill gets to the President, he ends up vetoing it, he sends it back to the Congress and we presumably sustain the veto. Then what happens after that? Bipartisan negotiations resume.

We can cut out all of that political folderol by simply returning this bill to the people who were negotiating it in the first place. Either way, July 1 will come with no solution. That is a problem for the physicians. The veto route virtually assures that physicians will feel the impact of a 10.6 percent cut in payment because of the amount of time it will take for us to complete our work.

On the other hand, if cloture is defeated and the bipartisan negotiations can quickly resume, then, depending upon when we could pass something after July 4, it is possible that the reimbursement checks could reflect the new rates without the cuts ever being applied.

If you are interested in a truly bipartisan solution in a body that is 51 to 49, if you are interested in minimizing the potential impact on physicians, do not vote for the House bill that we know will never become law.

Let me conclude with this point. The House bill makes some radical changes in Medicare. It doesn't just reimburse physicians; it increases Medicare spending by \$17 billion over 10 years. It makes larger cuts to Medicare Advantage, the highly successful insurance program for America's seniors. This will minimize patient choice in both rural and urban areas and, according to the Congressional Budget Office, 2 million seniors would lose their fee-for-service plans by the year 2013 under the House bill. It would significantly restrict Part D plans' ability to negotiate prescription drug prices.

We can do better than this. We should return to the bipartisan negotiations and pass a truly bipartisan bill which will ensure that physicians will be paid and Medicare patients will be served.

THE PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, here we are again. Once again the Senate is being asked to vote to proceed to a bill that is written on a partisan basis. As everybody knows who knows how the Senate functions, anything that is on a partisan basis does not get done.

Once again we are being asked if we want to agree to a process where no



amendments will be allowed. Once again we are being told to take it or leave it. The damage that is being done to the ability of this body to function is extraordinary. It should not be this way and it doesn't have to be this way.

I say this from a lot of experience I have had on the Finance Committee and, most importantly, my experience working with Senator BAUCUS, the chairman of the committee. During the last several years, the Finance Committee has produced numerous bipartisan health care products.

In 2003, Senator BAUCUS and I joined together, defied the long odds against it and produced a Medicare Prescription Drug bill.

In 2005, we worked together on a relief package in the aftermath of Hurricane Katrina.

In 2006, we passed the Tax Relief and Health Care Act.

In 2007, we worked together on a bipartisan Children's Health Insurance Program Reauthorization Bill. We also passed the Medicare, Medicaid, and Children's Health Insurance Program Extension Act of 2007.

I could go on and on. For years the Finance Committee has been the model of how a committee can work on a cooperative—and that basically means on a bipartisan—basis. I think we work best when we work together. For some reason that has not seemed to be the case this year and that is not Senator BAUCUS's fault.

I have tried to work this year to get a bill that could get signed into law. I personally think the White House is drawing lines in the sand that are unreasonable. However, there is a fact of our Constitution: The President holds the veto pen and if this bill passes today, we will see it used, and that is regardless of this Senator's position that maybe the White House has been too strict.

I tried to work toward a bill that can be signed by the President, because those are the facts of life. Obviously that was not the path the majority of the Senate—meaning the majority party—could follow. Even after the first cloture vote, even after it failed in the Senate, I tried to get a bipartisan compromise that could be signed into law. That effort was abandoned when the House voted to support the bill on which the Senate couldn't get cloture. That is not a realistic position for the other body to take but it doesn't matter; they took it, so we are here.

When we were in charge around here, I can say we certainly didn't appreciate it when, under Republican control in the House of Representatives, the Ways and Means Committee tried to dictate terms to this body. When Ways and Means Chairman Thomas tried to roll the Senate, I think I successfully defended the bipartisan Senate position. When I was chairman of the Finance Committee, I don't recall our bipartisan efforts being determined by House votes. To the contrary, I think we worked together in spite of House

votes. In fact, the House budget—or the congressional budget adopted in the year 2003 that had provisions in it for taxes when the President of the United States wanted a \$700 billion tax cut—I told enough Republicans in the Senate that I would not bring out of conference a tax bill that had more than half that amount, \$350 billion.

I didn't tell the House of Representatives that before they voted on their budget, but they passed a budget that we could get enough votes to pass in the Senate because of the promise I made to some Republicans that we were not going to be dictated to by the White House or by the House of Representatives. And we didn't do more than a \$350 billion package. Was there an uproar among House Republicans against me, when I had told enough Republicans in the House what we would do on that tax bill. So I think I have defended our position.

But let's be clear about another thing. That House vote I referred to went the way it did because Members were assured that the Senate was going to fix the problem in this bill. But we are in a process where we cannot fix that problem. They are counting on us to fix it so we would have a bill the President would sign. They are right about one thing: This bill does need to be improved. The bill the Democrats are trying to pass is woefully lacking in what it provides for rural America as opposed to what Senator BAUCUS and I were agreeing to by 11 o'clock Tuesday of this week.

I wish to call out one specific provision. Senator HARKIN and I have worked extensively on a provision for so-called "tweener" hospitals. These are hospitals which are too large to be critical access hospitals but too small to do well under the current Medicare payment systems. We had a provision to improve payments to these hospitals. It is not in the House Democrats bill, so a vote for cloture misses an opportunity to provide critical assistance to rural hospitals all over the country. I am sure Senator HARKIN and others are disappointed, as I am, with this omission. This is not something just for Iowa and for Senator HARKIN and for Senator GRASSLEY; this is something that affects 181 hospitals in 31 different States in this country. But that was left out in the House of Representatives. Why? Because the House of Representatives is controlled by the big States, by the big cities, and they don't care about rural America.

Voting for this bill accomplishes nothing. It will not become law. How much more clear can we be about that? To keep the pay cut of doctors from happening, we have to defeat this motion so we can sit down and finally produce a bill that can become law.

To improve Medicare, we have to produce a bill that can become law, and that means being signed by the President of the United States. To make sure that beneficiaries continue to have access to essential therapy serv-

ices, we have to produce a bill that can become law. To help beneficiaries, we have to produce a bill that can become law. How many times do I have to say that?

To preserve access for durable medical equipment for seniors, we have to produce a bill that can become law. We have to be allowed to do our work in the Senate. And that work only gets done if we have bipartisanship.

We have to be allowed to produce the best bill possible through bipartisan compromise. Let's show that we can work on a cooperative basis. We have to defeat this motion so that we preserve the right of the Senate to have input on legislation, that we are not simply a rubberstamp for the House.

We should defeat this motion so that we can show that bipartisanship is not dead on important health care issues that matter to millions of people who depend on us as stewards of Medicare. Let's do the right thing and vote no. Vote no so this body does not abdicate its duties under the Constitution. Vote no so that we can get a bill done this week that can become law. Vote no so that we can get the job done.

A "yes" vote accomplishes nothing because it is going to delay for 2 weeks everything to be considered because of the President vetoing this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The majority has 20 minutes, of which 10 minutes are reserved for the majority leader.

Mr. BINGAMAN. Mr. President, I will use a maximum of 5 minutes to respond to some of the points that were made.

First, let me say how much respect I have for Senator GRASSLEY. He is the ranking member on our Finance Committee. He is a very conscientious and fair individual with whom I have enjoyed working on many matters.

On this particular issue, I disagree with him. Let me point out there were three arguments made: First, that this is not bipartisan; it is clearly not the bipartisan agreement he and Senator BAUCUS were working to develop, but it is clearly a bipartisan agreement.

I am informed that 129 Republicans in the House voted for this bill. That is two-thirds of the Republicans who serve in the House. The vote in the House was 355 in favor. So this is a bipartisan bill by any definition. The fact that it has come from the House of Representatives rather than originating in the Senate, of course, is another matter. But it is bipartisan.

The second point, of course, is that there are important things that have been left out. I do not doubt that there are important things that have been left out and that I would like to see included. But the reality is, we have a bill that does important things; particularly, it heads off the expected cut in physician payments that is scheduled to occur next Tuesday. That is a

very important provision. And I think it makes all the sense in the world for us to pass what we have in front of us, pass what the House of Representatives has passed, fix the problems that legislation fixes, and then come back at a future time and try to solve these other problems, many of which I am sure I would wind up agreeing with my colleague from Iowa.

The third point is that we should oppose this because the President has said he would veto it. Frankly, I am not clear as to the substantive reason the President thinks this bill should be vetoed.

I believe strongly that the way the system is intended to operate is, Congress sends bills to the President. If he vetoes them, then Congress sees whether it has got enough votes to override the veto. If we do not, of course we have to take a different course.

In this circumstance, it looks to me like at least the House of Representatives has enough votes to override a Presidential veto, if the President were to take that course. I do not know what we would have in the Senate. I hope very much we would have the necessary 67 votes. I think it would certainly be in the interests of the people I represent in New Mexico to see this legislation enacted and enacted quickly.

So I urge my colleagues to support it and hope that colleagues on both sides of the aisle will support the legislation.

Mr. LEVIN. Mr. President, I support the Medicare Improvements for Patients and Providers Act, H.R.6331, which makes a number of needed changes related to Medicare reimbursement, including reimbursement for physicians' services.

Medicare physician fee schedule payments are updated each year according to a complex formula based on a sustainable growth rate, SGR. Unfortunately, because of the way the formula is calculated, even if Congress prevents the cuts in a given year, scheduled reimbursements cuts are likely to increase in subsequent years unless Congress takes additional action, such as developing a permanent alternative to the SGR formula.

I support efforts to ensure that physicians receive adequate reimbursement for their services. It could be financially unsound for physicians to continue to provide services to Medicare beneficiaries if reimbursement is inadequate. As a result, allowing reimbursement cuts to enter into effect could pose significant access problems as physician's are unable to afford providing services to Medicare beneficiaries in need of medical attention.

While I believe past measures to alleviate this burden on physicians have been helpful, I know from my discussions with health care providers throughout Michigan that more needs to be done. For the long term, Congress must find an alternative to the SGR. The SGR is linked not to the cost of providing health services, but to the

performance of the overall economy. The cost of health care has been rising much faster than inflation. Our Nation should address the rising costs of health care as part of a larger discussion on health care reform. Reimbursement should more accurately represent the cost of providing services.

In the meantime, I support this legislation, which includes a delay on Medicare reimbursement cuts for physicians' services and replaces the cut with a 1.1-percent increase for 2009. I am hopeful that the Senate will pass this legislation and that the President will heed the will of Congress and the American people and sign this bill into law before the cuts enter into effect on July 1.

Mr. GRAHAM. Mr. President, today I wish to express my disappointment in the straight extension of the current temporary assistance for needy families, TANF, supplemental grant program, which is included in the Medicare bill. I oppose the extension of this program without updating the 10-year-old statistics that qualify States for participation in the program, and without the appropriate reauthorization and consideration of changes necessary to ensure that this assistance is being afforded to the States that need it most.

The TANF Supplemental Grant program was created in 1996 to provide additional assistance to States that spend less money per poor person on TANF services. Seventeen States qualified for additional TANF benefits under this program based on certain statistics collected at or around that time. More than 10 years later, these States are still receiving supplemental grant benefits based on the same 10-year-old statistics. A straight extension of this program does not award this assistance based on current conditions in States.

There is no doubt that our nation is facing challenging economic times. Rising gas prices, rising unemployment States, the housing crisis and rising food prices all place a particularly significant burden on less fortunate families. Some state TANF programs are seeing increased caseload pressure.

South Carolina can only afford to spend 29 percent of the national average per poor child on TANF services compared to some States that spend well over the national average. To make matters worse, South Carolina did not and has not qualified for the supplemental grant program due to an old statistic that has since changed.

Senator ROCKEFELLER and I introduced a proposal to allow States that spend below the national average on TANF services to participate in the supplemental grant program. Using updated statistics, our legislation would ensure that the dollars spent on this program are appropriately directed to States that need it most so that they can help struggling families get on their feet and back to work.

Unfortunately, the Senate Finance Committee chose to quickly pass this

extension as a part of a larger bill in order to avoid the discussion of reauthorization and changes necessary to update the supplemental grant program. I am disappointed some States, like South Carolina, and families that might otherwise receive this additional assistance will not have the opportunity to benefit from a mere update of the current program, or from the consideration of Senator ROCKEFELLER's and my proposal.

I am committed to ensuring that Federal dollars spent on welfare services and benefits are spent efficiently. I am disappointed that the reauthorization of the supplemental grant program did not receive the attention it deserves, and I am hopeful that this can be addressed in the future.

Mr. AKAKA. Mr. President, I support the Medicare Improvement for Patients and Providers Act of 2008. We must quickly enact this legislation in order to ensure that Medicare beneficiaries continue to have access to health care, enhance Medicare benefits, and extend Medicaid disproportionate share, DSH, allotments for Hawaii.

This essential legislation will maintain Medicare physician payment rates for 2008 and provides a slight increase in 2009. If this legislation fails to pass, doctors will be faced with a 10.6-percent cut in Medicare reimbursements. Rising costs, difficulty in recruiting and retaining staff members, and declining reimbursement rates make it necessary to make improvements in Medicare reimbursements to ensure that Medicare beneficiaries have access to health care services.

The bill will enhance Medicare benefits. It will increase coverage for preventive health care services and make mental health care more affordable. In addition, the Act will help low-income seniors access health care services that they need.

In addition, this legislation includes a provision that extends Medicaid DSH allotments for Hawaii and Tennessee for another 18 months. Medicaid DSH resources support hospitals that care for Medicaid and uninsured patients.

Hawaii and Tennessee are the only two States that do not have permanent DSH allotments. The Balanced Budget Act of 1997 created specific DSH allotments for each State based on their actual DSH expenditures for fiscal year 1995. In 1994, Hawaii implemented the QUEST demonstration program that was designed to reduce the number of uninsured and improve access to health care. The prior Medicaid DSH program was incorporated into QUEST. As a result of the demonstration program, Hawaii did not have DSH expenditures in 1995 and was not provided a DSH allotment.

The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 made further changes to the DSH program, which included the establishment of a floor for DSH allotments. States without allotments were again left out.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 made additional changes in the DSH program. This included an increase in DSH allotments for low DSH States. States without allotments were again left out.

In the Tax Relief and Health Care Act of 2006, DSH allotments were finally provided for Hawaii and Tennessee for 2007. The act included a \$10 million Medicaid DSH allotment for Hawaii for 2007. The Medicare, Medicaid, and SCHIP Extension Act of 2007 extended the DSH allotments for Hawaii and Tennessee until June 30, 2008.

This extension authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals which is consistent with the requirements of existing law relating to DSH payments. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services, CMS, or to reduce in any way the level of Federal funding for Hawaii's QUEST program.

I look forward to continuing to work with Chairman BAUCUS, Ranking Member GRASSLEY, and Senators ALEXANDER, CORKER, and INOUE to permanently restore allotments for Hawaii and Tennessee. I thank the chairman and ranking member of the Finance Committee for all of their efforts on this issue of great importance to my home State of Hawaii.

Mr. President, Hawaii's health care providers continue to struggle to care for our growing number of individuals that are uninsured. These DSH resources will strengthen the ability of our providers to meet the increasing health care needs of our communities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I ask unanimous consent that any time under a quorum call on this bill be equally divided.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, under the consent agreement that was entered, I have 10 minutes?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. I will yield back the remainder of my time, and then am I correct that the only remaining speaker is the majority leader?

The PRESIDING OFFICER. That is correct.

Mr. MCCONNELL. Mr. President, let me be clear, my side, led by Senator GRASSLEY, has been willing to compromise to get a bill that could become law. Everyone agrees we need to fix the physician payment system. There is no disagreement on that. As Senator GRASSLEY has pointed out, we have offered to negotiate. We have offered to extend current law. We have tried to find a way to solve the problem. Unfortunately, the majority apparently is not interested. The bill we are voting on would cause 2 million seniors to lose the extra benefits they currently get in their Medicare Advantage plans. It would rob millions of rural seniors of the ability to choose a private fee-for-service plan. I worry about the impact that it would have on the Kentucky teacher retirement system.

We have a solution that would protect seniors' access to care, that would prevent a 10.6-percent cut in physician payments in Medicare, that would provide billions of dollars to help rural beneficiaries access care. This is a solution that could become law right away. I hope the majority can find a way to take one of the solutions we are offering so that physician payments are not cut and seniors' Medicare benefits are not put in jeopardy.

I yield back the remainder of my time.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, these are some of the organizations that support the Medicare bill now before the Senate. We have the American Association of Retired Persons, the AARP; Alzheimer's Association; the American Academy of Oncology; the American Academy of Audiology; the American Academy of Family Physicians; the American Academy of Ophthalmology; American Ambulance Association; American Association of Nurses Anesthetists; American Cancer Society; American College of Cardiology; American Heart Association; American Hospital Association; American Kidney Fund; American Lung Association; American Medical Association (AMA); American Medical Technologists; American Optometric Association; the American Osteopathic Association; American Psychological Association; American Society of Plastic Surgeons; Campaign for Tobacco Free Kids; Cleveland Clinic—to name a few institutions—National Osteoporosis Foundation; National Renal Administrators Association; National Rural Health Association; Parkinson's Action Network; Schizophrenia and Related Disorders Alliance of America; Society for Thoracic Sur-

geons; Suicide Prevention Action Network; Medical Rights Center; National Community Pharmacists Association.

I ask unanimous consent to print in the RECORD more than 200 organizations that want every Senator to vote to finish this legislation, to complete this legislation, to pass this legislation.

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

H.R. 6331, "MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008" LIST OF SUPPORTING ORGANIZATIONS

Alliance for Aging Research; Alliance for Retired Americans; Alzheimer's Association; AMAG Pharmaceuticals, Inc.; American Academy of Audiology; American Academy of Dermatology; American Academy of Family Physicians; American Academy of Ophthalmology; American Academy of Otolaryngology; American Academy of Physical Medicine and Rehabilitation; American Ambulance Association; American Association of Bioanalysts; American Association of Cardiovascular and Pulmonary Rehabilitation; American Association for Clinical Chemistry; American Association for Geriatric Psychiatry; American Association for Homecare; American Association of Homes and Services; American Association of Medical Colleges; American Association of Nurse Anesthetists; American Association of Retired Persons (AARP).

American Cancer Society Cancer Action Network (ACS CAN); American Clinical Laboratory Association; American College of Cardiology; American College of Emergency Physicians (ACEP); American College of Nurse Midwives; American College of Obstetricians and Gynecologists; American College of Osteopathic Internists; American College of Physicians; American College for Preventive Medicine; American College of Radiology; American College of Surgeons; American Counseling Association; American Diabetes Association; American Federation of Labor & Congress of Industrial Organizations (AFL-CIO); American Federation of State, County and Municipal Employees; American Geriatrics Society; American Health Care Association; American Heart Association; American Hospital Association; American Kidney Fund; American Lung Association; American Medical Association (AMA); American Medical Group Association.

American Medical Technologists; American Mental Health Counselors' Association; American Nephrology Nurses' Association; American Occupational Therapy Association; American Optometric Association; American Osteopathic Association; American Pharmacists' Association; American Physical Therapy Association; American Podiatric Medical Association; American Psychiatric Association; American Psychological Association; American Public Health Association; American Regent, Inc.; American Renal Associates, Inc.; American Society of Anesthesiologists; American Society of Cataract and Refractive Surgery; American Society for Clinical Laboratory Science.

American Society for Clinical Pathology; American Society for Microbiology; American Society of Nephrology; American Society for Nutrition; American Society of Pediatric Nephrology; American Society of Plastic Surgeons; American Speech-Language-Hearing Association; American Stroke Association; American Telemedicine Association; American Thoracic Society; American Osteopathic Association; American Urological Association; Amgen; Association of American Medical Colleges (AAMC); Association for Community Affiliated Plans; Board of

Nephrology Examiners and Technology; California Dialysis Council; California Medical Association; Campaign for Tobacco Free Kids; Center for Clinical Social Work.

Center for Medicare Advocacy; Centers for Dialysis Care; Cleveland Clinic; Clinical Laboratory Coalition; Clinical Laboratory Management Association; Clinical Social Work Association; Coalition of State Rheumatology Organizations; College of American Pathologists; Colorectal Cancer Coalition; National Osteoporosis Foundation; National Partnership for Women and Families; National Patient Advocate Foundation; National Renal Administrators Association; National Rural Health Association; Northwest Kidney Centers; Parkinson's Action Network; Partnership for Prevention; Prevent Cancer Foundation; Prostrate Cancer Coalition; Quest Diagnostics.

Renal Advantage, Inc.; Renal Physicians Association; Renal Support Network; Renal Ventures Management, LLC; Roche Diagnostics; Satellite Healthcare; Schizophrenia and Related Disorders Alliance of America; Society of Gynecologic Oncologists; Society of Hospital Medicine; Society of Thoracic Surgeons; Society for Vascular Surgery; Suicide Prevention Action Network USA (SPAN USA); Susan G. Komen for the Cure Advocacy Alliance; U.S. Renal Care; Watson Pharma, Inc.; Y-ME National Breast Cancer Organization.

Consortium for Citizens with Disabilities Health Task Force, The Council for Quality Respiratory Care; Da Vita, Inc.; Diabetes Access to Care Coalition; Dialysis Patient Citizens; DSI, Inc.; Easter Seals; Emergency Department Practice Management Association; Families USA; Federation of American Hospitals; Food Marketing Institute; Fresenius Medical Care North America; Fresenius Medical Care Renal Therapies Group; Genzyme; Health Industry Distributors Association; ITEM Coalition; Kidney Care Council; Kidney Care Partners; Laboratory Corporation of America; Lance Armstrong Foundation; Leadership Council of Aging Organizations.

Lutheran Services in America; Marshfield Clinic; Mayo Clinic; Medical Group Management Association; Medicare Rights Center; Mental Health America; National Alliance on Mental Illness; National Association of Anorexia Nervosa and Associated Disorders; National Association of Chain Drug Stores; National Association of Community Health Centers; National Association for Medical Direction of Respiratory Care; National Association of Nephrology Technicians and Technologists; National Association of Social Workers; National Association of State Long-Term Care Ombudsmen Programs; National Association of State Mental Health Program Directors; National Association for the Support of Long-term Care.

National Committee to Preserve Social Security and Medicare; National Committee for Quality Assurance; National Community Pharmacists Association; National Council on Aging; National Council for Community Behavioral Healthcare; National Home Oxygen Patients Association; National Independent Laboratory Association; National Kidney Foundation; National MS Society.

Mr. REID. Mr. President, this bill has many items in it, one of which we call the doctors' fix, which prevents a 10.6-percent pay cut for physicians who participate in Medicare. It provides a payment freeze for 2008 and a 1.1-percent update for 2009. These are very important to the medical community.

The reason this legislation is important is, sure, the doctors should not have to take a pay cut. But the main thing is, this bill does not protect phy-

sicians; it protects patients because doctors have been dropping out of Medicare for a long number of years. There are many physicians in America today who will not treat Medicare patients because the payments are too low. But it is a spiraling effect. It is a snowballing effect. Many reimbursements through insurance companies and other organizations are based on what the Medicare reimbursement is. If this is low, then doctors all over the country will be affected. Patients will be affected. People, I repeat, will no longer be able to be treated by their physicians.

We know all these doctors' organizations that are part of this 200-plus organizations I submitted, the reason they are in favor of it is they want their physicians to treat Medicare patients. This will drive people out of Medicare.

We all recognize that President Bush does not like Social Security. He does not like Medicare. He wants them to go away. He wants to privatize Social Security, and he wants to do away with Medicare. This is his effort to do so. But it is the wrong thing to do. It is certainly the wrong thing to do.

This legislation will provide help for rural health care deliverers. Beneficiary investments are significant. Yet there are additional provisions in this legislation for pharmacies, dialysis patients, community health centers, ambulances, rural providers, e-prescribing, psychologist, social workers, and many others.

This is a fine piece of legislation. Remember, we already over here had an opportunity to do work on this bill. Every Democrat voted for it, and nine Republicans. Here is where we find ourselves tonight. Earlier this week, the House passed this identical legislation by a vote of 355 to 59. The Presiding Officer and I served in the House of Representatives. That is an overwhelming vote. It was a bipartisan vote. Democrats and Republicans voted for it. The legislation they passed would help, as I have stated, Medicare beneficiaries and head off looming cuts facing doctors.

Why is Medicare important? My first elective job was on a hospital board. We ran countywide in Clark County, Las Vegas. It was my first elective job. During the time that I was on that hospital board was a transition period. During the time I was there, Medicare passed back here and became the law all over the country. So for a part of my term, there was no Medicare for patients coming into Southern Nevada Memorial Hospital. The rest of the term, it was.

Prior to Medicare passing, 40 percent of the senior citizens who came to that hospital had no insurance. What happened is that wives, mothers, fathers, sons, daughters, neighbors, friends would have to sign that they would be responsible for their bill. If they didn't pay the bill, we had an extremely big collection department. It was a county hospital. It was an indigent facility.

We would go after those people who would sign that these people needed hospital care.

After Medicare came into being, 99-plus percent of the seniors who come into a hospital have health care through Medicare. It is a wonderful program. Is it a perfect program? No. But is it a program worth following President Bush over the ledge to destroy it? That is what is going to happen tonight, Mr. President. If the Republicans do not support this legislation, they are having Medicare go over the cliff. People will be devastated by what is happening.

We have all had people visit our offices, I hope, this week. They visited mine, talking about how devastating this would be—not to the doctors. The doctors are going to survive with a 10-percent pay cut, most of them. But they are going to drop out of the system. It hurts the patients, and that is what this is all about.

Medicare is an important program. It is part of the legacy of our country, and we know our health care delivery system is in trouble. Medicare is one of the strong parts of it. We should continue it, not destroy it. A "no" vote on this legislation tonight is destroying Medicare.

The House bill was very similar to a bill drafted by Senator BAUCUS and supported by every Senate Democrat and many Senate Republicans earlier this month. We all know the issue must be resolved by July 1. It must be resolved by July 1. Our Republican colleagues argue, there will be other opportunities to address this issue. That, using a term of the marketplace, is a "loss leader." There is no other way to do this. We have to do it tonight or it won't be done. July 1 comes next week. We are out of session next week. The House is out of session now. If not, they will be shortly. There are no other opportunities to address this issue. Some ask for a 30-day extension. A 30-day extension requires passage by this body and the House. The House, if they are not adjourned, soon will be. Both Speaker PELOSI and the House majority leader have issued statements that could not be more clear.

Quoting Speaker PELOSI:

The House will not consider any further Medicare legislation.

This means that the 30-day extension is not an option, a week extension is not an option, a 10-minute extension is not an option.

The bill we seek to proceed to represents the only chance for Congress to head off the cuts that doctors will face at the end of this month. This is a good piece of legislation.

Some Republicans also say the Senate should have more time to speak on the bill and debate it. Yet the same Senators who make those claims are the ones who voted against proceeding it 2 weeks ago. You can't have it both ways. We asked to proceed to this 2 weeks ago. It was objected to.

We have had an interesting situation in the Senate.

I have a chart I have asked to be brought out here. Obviously, no one is running very hard to bring it, but it should be here quickly.

We have had an unusual situation. This is, it appears, the 79th filibuster. That is too bad: to filibuster something to preserve Medicare? That is what this is all about. It is too bad. This is legislation that is important.

I say to everyone within the sound of my voice, there are no excuses. This is it. You go home and explain to your family physician: Well, I wanted to talk about it more or I wanted a 20-day extension; they would not give it to me.

We have had 79 Republican filibusters, and the sad part about it is, we are still counting. Remember, this is our Velcro chart. Remember, a short time ago, it was 78. We stuck on a "9" back there, and I guess when we come back after the recess we will have to peel that off and put on an "8" and a "0." Seventy-nine filibusters: untoward. And people who refuse to vote to let this legislation pass are destroying Medicare in the near future—certainly during the next 6 months.

Senate Republicans are playing a dangerous game of chicken, I guess. They have the audacity to say there are other ways of doing this. But in this game of chicken, the only losers will be Medicare patients—old people. Doctors will lose.

The Republicans who choose to block this important bipartisan legislation are going to lose. If there was any doubt that Republicans will regret this path of blindly following on this legislation, one need only look at their own. One need only look at a Congressman by the name of WALLY HERGER. WALLY HERGER is a long-time experienced Congressman. He represents the Second District of California. Here is what he did when he realized how good this legislation was. He realized that by blindly following the Republicans—who he thought knew what they were doing in the House—he made a big mistake.

Congressman WALLY HERGER was one of 59 Members in the entire 435 Members of the House of Representatives—one of 59—to vote against this legislation. Now, this is not some new guy who made a mistake because he did not know what hole to punch in the deal over there. He voted, and as soon as dawn broke in the House, he was on the House floor saying: I made a big mistake. Help me out of the dilemma I am in.

In fact, he was so concerned about this, he sent a letter to all of his constituents in his congressional district. He said, among other things:

From my conversations with House Republican leaders, it was my understanding that the bill—

The bill we are debating right here tonight; this bill—voted on by the House was primarily a political exercise. . . .

It was "primarily a political exercise."

And he said:

Clearly, the outcome of today's vote changed the dynamics of the situation.

Now, this is a direct quote from someone in the House of Representatives, a couple days ago, who voted against this legislation. Here is what he said:

Clearly, the outcome of today's vote changed the dynamics of the situation. . . . Had I known the process would play out this way, I would have supported the House bill. And if the bill comes back to the House for final approval, I intend to fully support it.

Now, my friend, WALLY HERGER, whom I know—I used to see him in the House gym—recognizes he has made a big mistake, and he takes a full page and sends this letter to all his constituents saying: I made a big mistake. Forgive me.

So Senate Republicans do not have the luxury of changing their minds like Congressman HERGER did because right now you have to make a decision, and you know what the facts are. WALLY HERGER learned them later. And I am sure the other 58 who voted "no" feel the same way. This was an overwhelming vote in the House of Representatives on a totally bipartisan basis to do the right thing for the American people. We must decide now whether to stick with President Bush as lemmings going over the cliff, or should we do the right thing and pass this legislation?

A "no" vote will wreak havoc on our health care delivery system in America. And who will it hurt the most? It will hurt the most senior citizens. And it would be too bad as we leave here for 10 days that this legislation will, in the vernacular, go down. It should not. This is legislation that is meritorious. As WALLY HERGER said, if he had understood the dynamics of this legislation, he would not have voted "no."

Mr. President, I believe it is time for the vote.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 6331, the Medicare Improvements for Patients and Providers Act.

Harry Reid, Max Baucus, Debbie Stabenow, Jeff Bingaman, Patty Murray, John D. Rockefeller, IV, Thomas R. Carper, Mark L. Pryor, John F. Kerry, Dianne Feinstein, Richard Durbin, Daniel K. Inouye, Bill Nelson, Bernard Sanders, Jon Tester, Jim Webb, Frank R. Lautenberg.

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 the motion to proceed to H.R. 6331, the Medicare Im-

provements for Patients and Providers Act of 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 160 Leg.]

#### YEAS—58

Akaka	Feingold	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Harkin	Pryor
Biden	Inouye	Reed
Bingaman	Johnson	Roberts
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Smith
Carper	Leahy	Snowe
Casey	Levin	Stabenow
Clinton	Lieberman	Stevens
Coleman	Lincoln	Tester
Collins	McCaskill	Voinovich
Conrad	Menendez	Webb
Dodd	Mikulski	Whitehouse
Dole	Murkowski	Wyden
Dorgan	Murray	
Durbin	Nelson (FL)	

#### NAYS—40

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Domenici	McConnell
Bennett	Ensign	Reid
Bond	Enzi	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Specter
Burr	Gregg	Sununu
Chambliss	Hagel	Thune
Coburn	Hatch	Vitter
Cochran	Hutchison	Warner
Corker	Inhofe	Wicker
Cornyn	Isakson	
Craig	Kyl	

#### NOT VOTING—2

Kennedy McCain

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Mr. President, we have something that is long overdue. We have an agreement to take care of this. Nelson Mandela will soon be 90 years old, in a matter of days. The old organization he was a member of decades ago—and he is probably still a member, but I am not too sure—the African National Congress is still treated as a terrorist organization. This takes care of that. We will eliminate that. So the people coming here from that great country, which has done so well for so long now, will be able to come in without being considered terrorists.

#### REMOVING THE AFRICAN NATIONAL CONGRESS FROM TREATMENT AS A TERRORIST ORGANIZATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the consideration of Calendar No. 852, H.R. 5690.

The PRESIDING OFFICER. Is there objection?

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5690) to remove the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, with an amendment, as follows:

H.R. 5690

On page 2, strike line 12 through the end of line 21 and insert the following:

(a) EXEMPTION AUTHORITY.—*The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine, in such Secretary's sole and unreviewable discretion, that paragraphs (2)(A)(i)(I), (2)(B), and (3)(B) (other than clause (i)(II)) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply to an alien with respect to activities undertaken in association with the African National Congress in opposition to apartheid rule in South Africa.*

Mr. LEAHY. Mr. President, I am very pleased the Senate will pass this legislation to exempt the African National Congress from designation under the Immigration and Nationality Act as a "terrorist" organization.

The historic role that the African National Congress played in ending the era of Apartheid in South Africa is well known, and I suspect that its designation as a terrorist organization is a surprise to many Americans. That the organization Nelson Mandela helped create to fight against an official policy of racism is deemed a terrorist organization is wrong and should be corrected.

I commend Senator KERRY and Congressman BERMAN for their attention to this issue, and the Members of the Judiciary Committee—Senators BIDEN, SCHUMER, WHITEHOUSE, FEINGOLD, and CARDIN—who have lent their support to this effort.

The overly broad laws Congress passed in haste after September 11, 2001, continue to unnecessarily bar legitimate asylum seekers from the sanctuary of the United States. I worked to ensure that the administration has the authority to waive these laws for organizations and individuals, but the administration has been unwilling to exercise this authority of its own accord.

Secretary Rice quite rightly pointed out that her government counterpart in South Africa must apply for a waiver of the material support bar in order to enter the United States for an official visit, and that it is an embarrassment. I would hope and expect that this embarrassment is no less acute when victims of violent conflicts are denied asylum in the United States because of these same laws.

The Judiciary Committee's recent oversight hearing with Secretary Chertoff was an example of an administration that will only make the tough, but correct decisions when the scrutiny or public embarrassment becomes too much. At this hearing, Secretary Chertoff announced that the Department of Homeland Security (DHS) reversed its position on a green card denial for an Iraqi who had been admitted into the United States on a special visa from Iraq. Salam Kareem Ahmad entered the United States after working as a translator for U.S. Marines in Iraq, and after receiving commendation from General Petraeus, only to be denied a green card by the administration.

Despite all of the administration's rhetoric about its commitment to freedom and democracy, DHS determined that Mr. Ahmad's involvement with an anti-Saddam Hussein group, the Kurdish Democratic Party, amounted to involvement with a terrorist organization. It should not take political pressure and media scrutiny to do the right thing. But in light of the administration's inattention to resolving injustices created by the material support bars, Congress is once again compelled to do what the administration can and should be doing on its own.

There is much work to be done by Congress and the next administration to fully resolve the terrible consequences these laws have brought about. I intend to continue working toward ensuring that our immigration and asylum laws are not used in a manner to harm those who come to the United States seeking its refuge and assistance. Our policies concerning asylum seekers have demonstrated America's commitment to human rights. The material support and terrorism bars that have prevented so many from our protection are a blemish on this legacy.

Mr. KYL. Mr. President, I rise to say a few words about the impending passage of H.R. 5690 and my amendment to that bill. My amendment narrows the individualized waiver provisions in the bill by excluding from waiver eligibility persons who are convicted of controlled-substances offenses and those for whom there is reason to believe that they will engage in terrorist activity after entry into the United States. The amendment also requires that the activities for which waiver is sought have been conducted "in association with the African National Congress."

With my amendment, the bill's grant of authority does not exceed that created by section 691 of the Consolidated Appropriations Act, 2008, on which I commented on December 18 of last year. Separate legislation is not needed to exempt Class III groups that are eligible for a waiver under section 691, a class that surely includes the African National Congress. I hope that in the future such matters will be addressed administratively rather than legisla-

tively. Nevertheless, by enacting today's bill we impress upon the executive the importance of exercising that authority in a prompt and thorough manner. We trust, of course, that the executive will not use such authority to grant waivers to persons who, for example, engaged in violence that was deliberately targeted at innocent civilians. But we do expect the relevant agencies to act to avoid the diplomatic embarrassments of the past. With the changes made by my amendment, I commend H.R. 5690 to my colleagues.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

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

The committee amendment was agreed to.

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

The bill was read the third time.

The bill (H.R. 5690), as amended, was passed.

#### UNANIMOUS CONSENT REQUEST— H.R. 6331

Mr. MCCONNELL. Mr. President, with regard to the Medicare issue upon which we just voted, we have had a number of discussions in the course of the week about the way forward. Senator GRASSLEY has made it clear he would like to lead us in negotiations with the majority, represented by Senator BAUCUS, to bring us together to get this Medicare extension completed. The way to do it is on a bipartisan basis.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill, which I will send to the desk. It is a clean 30-day extension of the Medicare payments bill.

Mr. President, I ask unanimous consent that the bill be read the third time, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object. We are seeing another partisan game being played on something that affects the American people.

I have laid out in detail what this legislation does and what will happen to the American people if it doesn't pass. Obviously, the Republicans in the Senate have done what they feel is appropriate and that is to wipe out Medicare as we know it today.

People can chuckle all they want, but the senior citizens in America today and the health care delivery system are not chuckling. This is very important.



What has happened in this legislation tonight is detrimental to the health care delivery system, which is precarious at best even now.

There are no winners in their game—the game of the Republicans. It is noteworthy here—

Mr. MCCONNELL. Is my good friend objecting to my request?

Mr. REID. Mr. President, I am objecting, and I will use leader time to make a statement.

It is obvious that everybody can see there were 59 votes in favor of this. We needed 60. They have played this game before, going only to 59, and they are going to try to wiggle out of it some way. The only way to wiggle out of this is to accept this legislation.

My friend, the Republican leader, said he wants Ranking Member GRASSLEY to lead us to a bipartisan agreement. We have a leader. He is called the chairman of the committee. He is the chairman of the Finance Committee, MAX BAUCUS, one of the most experienced Members of this body. And he also has some experience in the other body. He led us to what is the right thing to do.

The majority of the Senate—in fact, 59 Senators—approved what we are trying to do today. I say to all my friends, even if this request were granted and I laid this out in some detail, the House would not be able to pass it.

I wish I could use a better term, but I did not graduate from Harvard, Yale, or Princeton. This is a phony excuse, this is a phony exercise and leads us only down one path—no help for patients and cuts for doctors.

By the way, I don't mean to disparage those schools. They are OK.

If my Republican friends truly wanted to prevent the physician fee cut from taking effect, they would have supported passage of this bill. In the record that is now before this body are more than 200 organizations that are begging that this legislation pass. This is the only bill we can send to the President in time to meet the deadline, the deadline that is established by law, July 1. The House did its work. They passed a bipartisan compromise by a 6-to-1 margin, 355 House Members to 59.

Moreover, even if the 31-day proposal could be passed, it does not solve any problems. It is an administrative nightmare. Medicare physicians and the beneficiaries they serve want the House-passed bill. They are not served by this false proposal.

I, of course, object, as I hope the record reflects, to this request and hope that my Republican colleagues will finally—one more, we only need one, one more Republican will do the right thing. I have said we are all here by virtue of being elected by our respective States. I had out here earlier today our Velcro chart, 79 filibusters. Is it any wonder that the House seats that came up during the off year—Hastert's went Republican, a Republican district that went Democratic; a seat in Louisiana that was a longtime

Republican seat went Democratic. Is it any wonder that the State of Mississippi sent us a Democratic House Member? It is no wonder because they see what is going on over here.

I am very sorry for the people of our country that this legislation did not pass. But I want the record spread—Democrats to the number, every one of us, except Senator KENNEDY, who is ill, voted for this legislation. If Senator KENNEDY was not ill, he would have been here to vote. He would have been the 60th vote. We understand they probably would have peeled off 1 and it would have been 59.

The record should reflect that Democrats support this legislation because it is good for the American people. A majority of the Senate, 59 Members of the Senate, voted for this legislation. We will be back, and my colleagues will have another opportunity to vote for this bill. It will be led by the chairman of the Finance Committee, Senator BAUCUS.

Mr. MCCONNELL. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. Objection is heard. The Republican leader.

Mr. MCCONNELL. I believe I have the floor.

The path the majority leader just recommended we go down leads to a Presidential veto and an expiration of this law at the end of the week and a certain doc fix rejection. In other words, the doctors cut is going to go into effect at the end of this month because of this recalcitrant view, this excessively partisan approach that refuses to accept any input from this side of the aisle.

We have all known the way forward. In fact, Senator GRASSLEY and Senator BAUCUS working together started the way forward months ago by working together to get a bipartisan agreement, which is the way we have typically done these periodic Medicare bills. But, no, my good friend the majority leader jerks him back in and says: We want to do this on a strictly partisan basis. We don't care whether the President will veto the bill.

Here we are a few days before the doctors receive this unconscionable cut, and the majority is saying it is more important to play politics with this issue, to brag about the fact there are 59 Democrats who voted to go forward, to talk, of all things, during the Medicare debate about who won special elections for the House of Representatives in Illinois, Mississippi, or Louisiana. What in the world does that have to do with the subject matter?

The subject matter before us is not playing political games not bragging about the fact that every Democrat voted to go forward. We ought to be talking about the reality of this situation. And the reality is that the refusal of the majority to approach this issue on a bipartisan basis, as has been typically done in the past, will lead to a Presidential veto, a reduction in the reimbursement rates for doctors, an ex-

piration at the end of the week. There is a way forward to get back together like we have typically done on this, and that is to approve a 30-day extension.

My good friend the majority leader has just objected to an opportunity to prevent the physicians' reduction we all agree should not occur. He is objecting to it. So even the most casual observer could not miss the point.

You have an opportunity to prevent the physicians' pay reimbursement reduction or let the law expire at the end of the week. That is the choice. It is perfectly clear.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am sure it was a Freudian slip—59 Democrats voted for this. But next year at this time, there will be 59 Democrats at least. We have a situation where we have a clear bipartisan piece of legislation. How bad could it be? Mr. President, 355 Members of the House of Representatives.

The Founding Fathers set up two equal branches within the legislative branch. The House is just as powerful as we are. They have every right to do what they think is right, as we do, and they, on a bipartisan basis, 6 to 1, passed this bill. We are not jamming anything down anyone's throat. The House of Representatives passed this on a bipartisan basis because it was the right thing to do. We have read into the RECORD the apology of one of the 59 who recognized he voted wrong, and he apologized.

Mr. MCCONNELL. Mr. President, will the majority leader yield for a question?

Mr. REID. In just a minute. A veto by the President? Gee whiz, who would be afraid of him? He has a 29-percent approval rating. How in the world could anybody be afraid of him vetoing a bill? I cannot imagine why anyone would care about that.

We have tried to pass tonight on the Senate floor a bill we received from the House of Representatives that was approved by Republicans and Democrats. It has been through the committee process over there and over here as a result of all the work that has been done. And to think at this late hour, recognizing the House is not going to do anything—the Speaker has told us that. They passed a bill 6 to 1. Why would we even think they would take anything? The Speaker and the majority leader of the House said: We are not going to deal with this anymore.

We are going to have another opportunity—I want everyone over here, all my friends to understand that during the next 10 days, think about how you are going to vote on this the next time because you are going to have that opportunity. You go home and explain to all the 200-plus organizations whose names are in this RECORD right now, explain to them how you were doing the right thing because you were afraid

President Bush was going to veto a bill.

I will be happy to yield for a question.

Mr. MCCONNELL. When the President of the United States vetoes a bill, it doesn't become law, right, unless it is overridden?

Mr. REID. Absolute truth.

Mr. MCCONNELL. So if the President vetoes this bill, it is not likely that the fix will be prevented at the end of the week; is that right?

Mr. REID. I say to my friend and I say I don't know how many people are up here for reelection, but I am watching a few of them pretty closely, I say to all these people who are up for reelection: If you think you can go home and say, I voted no because this weak President, the weakest political standing since they have done polling, I voted because I was afraid to override his veto—come on.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. We probably don't need to prolong it much further, but in spite of the political observations of my good friend, the fact is, the President, as a matter of principle, will not sign this bill. At the end of the week, the doctors' reduction in reimbursement will go into effect. There is a way to prevent that, and that is to do a short-term extension to give us an opportunity to do what we have done in the past on these measures, and that is negotiate a settlement. That has been prevented by my good friend.

I think we have discussed this issue long enough. We have others waiting to debate the supplemental.

The PRESIDING OFFICER. Under the previous order, the motion to proceed to H.R. 6331 is withdrawn, and the bill is returned to the calendar.

#### SUPPLEMENTAL APPROPRIATIONS ACT, 2008

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

*Resolved*, That the House agree to the amendments of the Senate to the amendments of the House to the amendment of the Senate to the bill (H.R. 2642) entitled "An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes," with amendments.

The PRESIDING OFFICER. Under the previous order, the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to the bill is considered made.

The Senator from Virginia is recognized.

Mr. WEBB. Are we in order to proceed on the supplemental?

The PRESIDING OFFICER. The Senator is recognized for up to 5 minutes.

Mr. WEBB. Mr. President, I don't expect very many people to vote against

this supplemental. It comes to us from the House with a vote, I recall, of 416 to 12. The President asked for most of the provisions in this bill. The one provision I would like to speak very briefly about tonight is the GI bill provision that is in this supplemental. This is not an expansion of veterans' benefits. This is a new program. This is the first wartime GI bill benefit since Vietnam.

I wish to thank very much people on both sides of the aisle for all the work we have been able to do. There were 11 Republicans who cosponsored this provision, in addition to others who voted for it the first time around. There were more than 300 sponsors in the House. Those sponsors in the House included 90 Republicans.

I especially express my appreciation to Senator HAGEL and Senator WARNER, as well as Senator LAUTENBERG, for being the principal cosponsors along with me on this measure, also Chairman AKAKA of the Veterans' Affairs Committee and the majority leader, who was with us early on.

There are people on my staff who were working on this every day for 18 months, it is a very complex bill: Paul Reagan, my chief of staff; Michael Sozan, my legislative director; William Edwards, my legislative assistant for veterans' affairs; Jacki Ball; Jessica Smith and Kimberly Hunter, who are on our communications staff; Phillip Thompson and Mac McGarvey, both former Marines, who worked hard early on. And those from the staff of the Committee on Veterans' Affairs: Bill Brew, staff director, and Babette Polzer.

This is a landmark piece of legislation that will be in this provision. There are going to be a lot of veterans in the United States who are going to be very happy with the Senate tonight.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I know the time is late. This is a very important bill. It is one that has many good features, and the good features certainly outweigh the bad features. I know we never get everything we want in Congress. We certainly heard a lot about that a few minutes ago. I wish to talk about a couple of very important parts of this bill.

Also in the GI bill is something I worked very hard to put in that bill, which is the transferability of the education benefits that a person in the military now is able to transfer to a spouse or children.

There are many people who don't want to leave the military to take that education opportunity, but they would love to give their spouse or their child that opportunity. It is now in this bill. Very important.

It also incorporates a bill that I introduced early this year, again, for veterans. Who would have thought, Mr. President, that someone who dies serving our country in Iraq and leaves be-

hind a \$300 bill due the Veterans' Administration for education benefits—that they were not able to finish because they gave their life in the war—would then get a bill from the Veterans' Administration for that \$385? In fact, Mr. President, that is what has been happening since we went into the war on terror.

The Secretary of Veterans Affairs asked me to introduce a bill so he would not have to do that because he knew it was wrong and that we wouldn't want it being done. This bill we are voting on tonight will go retroactive to 9/11, 2001, and it will assure that every family who has been sent a bill and paid that bill, after their loved one has died in service to their country, will be reimbursed, and no bill will ever go out again. That is in this bill, and I am very proud we finally passed it.

Also in this bill is the Merida Initiative, as part of the supplemental. In my home State, and all the border States with Mexico, we are seeing violence with drug cartels that are now targeting our law enforcement officers on our side of the border as well as those in Mexico. They are dying trying to stop the drug cartels that are importing drugs into our country. The Merida Initiative that President Bush and President Calderon have put together is a part of this supplemental. I had hoped that we could also help our local law enforcement officials who do not have the equipment they need to deal with these more violent, more sophisticated drug cartels, but I am telling you right now I am going to pursue that in the next bill we pass that is an appropriations bill because our local law enforcement officials are certainly in need of our help.

We didn't get that in this bill, and I am disappointed, but there will be another day. We have to do this together. We have to stop the drug infusion into our country and stop these heinous crimes that are being committed by the drug cartels in Mexico.

So I support this bill. I hope we will all support it. It is a supplemental. Most of it is what the President asked for. We didn't all get what we wanted, but it is a worthy bill to support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I plan to raise a point of order in a moment, but first I wish to make a statement.

The emergency spending bill being considered by the Senate would provide \$210 million for the 2010 Census. No strings are attached to the funding, giving the Census Bureau freedom to spend the money in any way it chooses. While the mission of the Census Bureau is vitally important because of its role in apportioning the House of Representatives and the distribution of billions of dollars in federal grants, the agency has proved to be notoriously bad at spending taxpayer money—and the last thing Congress should do is provide more.

Emergency spending bills should be reserved only for true emergencies, and the 2010 Census is not one of them. The Census Bureau has spent hundreds of millions of dollars over the past 8 years preparing for the 2010 Census. Yet, even that much time and that much money has not been enough to prevent the Bureau from being woefully underprepared.

One of the top priorities for the 2010 Census was modernizing the method for collecting census data so that technology would replace the traditional pen and paper method. One former Director of the Census Bureau called the modernization effort a "significant improvement" over the way data had been collected in the past.

Modernization of the census would take two forms:

First, allowing citizens to fill out census forms over the Internet, rather than on paper only.

Second, equipping census workers who go door-to-door to collect information with handheld computers instead of paper forms.

Two contracts were awarded to build the technology: one to Lockheed Martin for, among other things, the development of an online system and a second to the Harris Corporation for the development of the handheld computers. Unfortunately, mismanagement and incompetence forced the Census Bureau to abandon both the Internet in March 2006 and the handheld computers in April 2008 as a means of collecting data. In place of technology, the Bureau has decided to revert back to an entirely paper-based system—exactly the same way census data was collected 200 years ago.

According to the Census Bureau, the reason for abandoning technology and reverting to paper was its own failure to communicate what it wanted to the contractors. The result was a great deal of confusion, schedule delays and irreversible cost overruns. According to the Government Accountability Office, the Census Bureau was warned repeatedly that problems would mount if it failed to define what it wanted the contractor to do. Instead of taking action, the Bureau kept changing its mind about what it wanted. As recently as January 16, 2008—nearly 2 years after the contract was awarded—the Census Bureau made 400 changes to the contract for handheld computers. To this day, the Census Bureau has still not finalized the handheld computer contract with the Harris Corporation and may not do so until September.

The Census Bureau's mismanagement of the handheld computer contract has become the poster-child for how not to run a large information technology contract. Poor management by the Bureau has diminished the role that technology will play in the 2010 census to the point of embarrassment. Americans will take their Census by paper at the same time that more than 80 million people are filing their Federal taxes

online according to the Pew Internet and American Life Project, 75 percent of all adults are actively online. That percentage increases to between 85–90 percent for adults under the age of 50.

According to the Census Bureau, the impact of abandoning technology in the 2010 Census will be a \$3 billion overrun. This would bring the total price tag of the 2010 Census to roughly \$14.5 billion—or more than double the cost in 2000. Congress should not reward mismanagement at the Census Bureau with an additional \$210 million in emergency funding for FY 2008. It is unfair that Congress would ask taxpayers to bail out the Census Bureau for its incompetence in light of the repeated warnings that cost overruns would result from its poor management.

Because the problems of the Census Bureau are of its own making, any additional funding needs for fiscal year 2008 should come out of the budget of the Census Bureau or the Department of Commerce. The real "emergency" with the 2010 Census is the failure, mismanagement and incompetence of the Census Bureau.

According to Congress' own rules, emergency spending is only allowed for needs that truly cannot wait until the next spending cycle. These rules are not difficult to understand and lay out clearly what is and what is not an emergency.

There are many activities funded in the bill that are not actual emergencies according to the rules, but at the top of the list of non-emergencies is the \$210 million for the 2010 Census. The 2010 Census may go down in history as one of the worst managed and most expensive of all time, primarily because it saw enormous problems on the horizon and chose to ignore them—leading to the emergency today.

Problems at the Census Bureau have been obvious to auditors and to Congress for years, and the funding in this bill is nothing more than a taxpayer-subsidized bailout for a mismanaged and incompetent agency. The Senate should uphold a point of order against the \$210 million included in this bill for the 2010 Census because it violates every definition of emergency spending and provides no accountability for how the money will be spent by an agency that has proven that it desperately needs accountability.

According to the rules, spending can only qualify as an emergency if it meets all of the following criteria:

It is a necessary expenditure—an essential or vital expenditure, not one that is merely useful or beneficial;

It is sudden—coming into being quickly, not building up over time;

It is urgent—a pressing and compelling need requiring immediate action;

It is unforeseen—not predictable or seen beforehand as a coming need, although an emergency that is part of an overall level of anticipated emergencies, particularly when estimated in advance, would not be "unforeseen"; and

It is not permanent—the need is temporary in nature.

Not only does funding for the Census fall short of meeting all of the criteria for emergency spending, it actually fails to meet any of the criteria.

According to Senate Concurrent Resolution 21, any emergency funding for the Census would have to be "necessary, essential, or vital—not merely useful or beneficial." The purpose of this rule is to separate true emergencies from needs that can wait for the regular appropriations process. An accurate count of the population is important for apportioning the House of Representatives, but that alone does not qualify it for emergency funding.

One of the best ways to determine whether funding is "necessary" or "vital" is to ask the following basic question: "How does the Census Bureau plan to spend \$210 million?" If funding is truly necessary then there should be a clear answer to that question in the form of a specific plan stating the emergency and how the money would be spent. So, what is the money for? The answer is: no one knows.

The Census Bureau has not requested any emergency funding from the emergency supplemental appropriations bill, nor has it provided a plan for how the money would be spent if received. At a March 6, 2008, hearing of the Senate Appropriations Subcommittee on Commerce, Justice, and Science, Chairman BARBARA MIKULSKI directly asked both the Commerce Secretary, Carlos Gutierrez, and the Census Director, Steven Murdock, whether they needed emergency funding. Sen. MIKULSKI gave them a deadline of April 10 to make their request, but both the Secretary of Commerce and the Director of the Census Bureau declined to request any funding. In response, the Commerce Department stated that it did not need emergency money because plenty of funding was available within the department's existing budget. On April 3, 2008—a week ahead of Sen. MIKULSKI's deadline—Secretary of Commerce Gutierrez instead sent Congress a request to allow the Department to reprogram the department's existing funds to cover the cost overruns at the Census Bureau. Reprogramming existing funds would force the Department of Commerce to offset an increase in Census funding and to bear the burden of its own mistakes rather than placing the burden on taxpayers. On June 9, the President sent a letter to Congress asking for an increase to its fiscal year 2009 budget request for the Census, but also provides offsetting decreases to other programs. The Administration has stated that it would like for all Census money to come from non-emergency spending, which would ensure that the Census Bureau's needs are not paid for out of deficit spending.

Unfortunately, Congress has chosen deficit spending over fiscal responsibility by including \$210 million in this bill for the Census. Congress would rather spend additional taxpayer

money than cut existing program budgets within the Department of Commerce. Including money in this bill for the census shows little regard for taxpayers, viewing them as a source of easy money rather than as people who work hard for their income. Congress is simply playing games with the budget rules and driving up the deficit.

Senate rules require that emergency spending bills be reserved only for needs that are “sudden, urgent and unforeseen” in nature. The United States has been conducting a census every 10 years since 1790 as required by the Constitution and therefore is never unforeseen.

The Census Bureau is, however, currently facing a likely \$3 billion cost overrun for the 2010 Census because of its decision to abandon the use of handheld computers and rely exclusively on paper. Only by stretching the meaning of “sudden, urgent and unforeseen” beyond recognition can it be said that the Census Bureau did not see this problem coming. More than 18 months ago, the Census Bureau itself recognized that abandoning the handheld computers for paper would result in a cost increase for the 2010 Census of at least \$1 billion.

On August 31, 2006, Former Census Director Louis Kincannon wrote a letter to the Subcommittee on Federal Financial Management with the following warning about reverting to a paper-based census:

“In addition to significant cost increases to the 2010 Census, reverting to a paper-based operation will compromise efforts to improving coverage . . . and will significantly increase the risk of operational failure during the 2010 Census.”

Even as that letter was written, the Census Bureau was being warned that its poor management of the handheld computer project could force the Bureau to revert to an all-paper census. The problems and cost overruns that are materializing today were predicted publicly for a long time, but the Census Bureau ignored the warnings and took no action to prevent the problems.

Chairman HENRY WAXMAN, of the House Oversight and Government Reform Committee, has extensively documented the warnings that were given to the Census Bureau over several years. In addition, the Census Bureau was warned repeatedly by the Government Accountability Office, the Commerce Inspector General, the MITRE Corporation and Congress about its poor planning of the 2010 Census. Each step along the way, the Bureau systematically ignored every warning, leading to the schedule delays and cost overruns being experienced today. The following chronology shows clearly that the current problems being experienced by the Census Bureau are not “sudden, urgent or unforeseen.”

January 2004—GAG recommended that the Secretary of Commerce develop a “single integrated project plan” for executing the 2010 Census, in-

cluding how to incorporate technology. The Census Bureau ignored the recommendation and moved forward without a plan.

September 2004—The Commerce Inspector General warned that the Bureau should follow a number of key “software engineering practices” to avoid pitfalls with the handheld computers. These included doing a better job with “system requirements” and overseeing its contractor. The contract for the handhelds was awarded to the Harris Corporation with very few details about what should be produced—more than two years later the plans are still not finalized.

June 2005—GAG warned the Census Bureau that the agency was “at increased risk of not adequately managing major IT investments and is more likely to experience cost and schedule overruns and performance shortfalls.” GAO made several recommendations aimed at improving weaknesses in the Bureau’s management of information technology. The Census Bureau failed to adequately respond to these recommendations.

March 2006—As the Bureau was getting ready to award the contract to the Harris Corporation, GAO warned that the agency did not have a “full set of capabilities they need to effectively manage the acquisitions.” Unless the problem was to be addressed, GAO warned that technology problems could lead to “cost overruns, schedule delays, and performance shortfalls.” The Census Bureau ignored the warnings and still has not addressed them more than two years later.

June 2006—The Senate Subcommittee on Federal Financial Management held a hearing on the Census and then-Director Louis Kincannon was asked about whether there was a backup plan if the handheld computers did not work. Even as the GAO was raising concerns that technology for the 2010 Census was in jeopardy, the Director said that no backup plan was needed since the computers were guaranteed to work, and said the following:

“You might as well ask me what happens if the Postal Service refuses to deliver the census forms.”

July 2006—GAO issued a report stating that if the Census Bureau did not do more to ensure the success of the handheld computers, it would be faced with the “possibility of having to revert to the costly paper-based census used in 2000.”

April 2007—GAO testified before Congress that “uncertainty surrounded” the handheld computers because the devices were not being properly tested and The Census Bureau ignored the warnings.

June 2007—The Census Bureau’s private, independent consultant—the MITRE Corporation—sounded a loud alarm and warned that the Bureau’s continued refusal to make final specifications could put the entire census at risk of severe cost overruns. Census Bureau management dismissed the warning.

July 2007—GAO testified again before a Senate subcommittee that there were “technical problems with the handheld computing devices” and that “risk management activities” were “imperative.” Failure to address these concerns could threaten to overtake the handheld computer project.

October 2007—Once again GAO, with a rising sense of urgency, warned that the handheld contract faced “an increased probability that decennial systems will not be delivered on schedule and within budget.” The Census Bureau did not disagree with this assessment.

November 2007—MITRE Corporation executives called an emergency meeting with the Deputy Director of the Census to recommend that he develop a backup plan for paper because the problems with the handheld computers were so severe.

December 2007—In the last days of the year on December 11, the outgoing Director of the Census Bureau testified at a House hearing about the handheld computers and brushed off any concerns raised by Members. He denied that any serious problems existed or that there were any significant delays or cost overruns.

For years, there were warnings raised to the Census Bureau on nearly a monthly basis at times, but those warnings were patently ignored and disdained by Census management. Not until February 2008—when the media caught wind of the true situation—did the Census Bureau acknowledge publicly that there was a serious problem with the handheld computers and that large cost overruns were likely.

In testimony before the Senate Homeland Security Committee on March 5, 2008, the Secretary of Commerce, Carlos Gutierrez, took it one step further and accepted responsibility for failing to act earlier. He said: “Clearly the problem was more significant than had been conveyed in the December 11 hearing.

In testimony before the Committee on April 15, Secretary Gutierrez admitted that the Bureau was aware of problems by early 2007, when he said:

“Concerns about the [handheld computer] program grew over time and Census and Commerce officials became increasingly aware of the significance of the problems through GAO and Office of Inspector General reviews, the 2007 dress rehearsal and internal assessments.”

None of these concerns were relayed to Congress until it was too late and emergency funding was the only recourse. With this chronology of events, it is simply not possible to claim that any problems with the 2010 Census being seen today are “sudden, urgent and unforeseen.” They have been just the opposite: unsurprising, longstanding and predictable.

Without diminishing the importance of the 2010 Census, the funding in this bill does not meet the definition of an emergency by a long shot. The problems surfacing today were not only

predicted many times in the past few years, but were documented publicly in numerous congressional hearings. A vote to waive the rules on emergency spending in this situation is a vote to render the emergency spending rules meaningless. A vote to waive the rules is also a vote to reward incompetent management at the Census Bureau despite its ignoring years of repeated warnings that problems were on the horizon.

In order to qualify for emergency funding, it must be proved that funding for the 2010 Census is "temporary in nature." The rule is intended to ensure that needs that are long-standing or ongoing do not get funding under emergency rules. Rather, only those needs that are short-lived can qualify as an emergency.

No activity of the U.S. Government has existed for a longer period of time nor has an activity of the government been as predictable as the decennial census. Article 1, Section 2 of the Constitution states that "The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct." With these words, the Founding Fathers established that a census of the entire population would be taken every ten years in perpetuity. Since the birth of the Nation more than 230 years ago, a census has been taken every 10 years—few things in government are as permanent as the census.

It should come as a surprise to no one that there will be a census in 2010, least of all to Congress and to the Census Bureau. \$210 million in emergency spending should not be included in a bill that is intended only for measures that are "not permanent" or "temporary."

The Census Bureau finds itself today as the recipient of a bailout from Congress because it has been taught by past experience to expect a bailout whenever times get tough. The example of the 2000 Census provides an illustration of how the expectation of a congressional bailout drives up costs because it decreases concerns about getting the best price.

By the late 1990s, census planners were operating under the assumption that the 2000 Census would cost \$4 billion—then the most expensive of all time. At the time, the Census Bureau was planning to use a method of data collection known as "sampling" during the 2000 Census. On January 25, 1999, only 15 months before Census Day 2000, the Supreme Court ruled that sampling was not allowable, and that the Census Bureau would have to redesign the 2000 Census.

Although the issue was highly controversial, and subject to a ruling by the Supreme Court, the Census Bureau failed to make any plans whatsoever in the event that sampling would not be allowed. In September 1999, GAO re-

ported that: "The bureau did not begin detailed budgeting for a nonsampling-based census until after the Supreme Court ruled that the Census Act prohibited the use of statistical sampling." Thus, poor planning and mismanagement forced the Census Bureau to request an additional \$2.6 billion from Congress during the final year of preparations.

Congress was faced with the decision to either cut \$2.6 billion from existing programs or designate the new funding as an emergency. Not surprisingly, Congress chose to designate the \$2.6 billion as an emergency since it allowed the funding to get around the budget rules that would have otherwise required spending cuts. It is the worst kept secret in Washington that emergency spending is nothing more than a ploy by politicians to bust through the budget caps and spend more money. Although Members of Congress were spared from having to make any difficult choices, taxpayers were not so lucky.

Today, for the 2010 Census, Congress is once again facing a decision about how to come up with \$3 billion. And, once again it wants to pay for it on the backs of the American people. Management at the Census Bureau is smart enough to know that Congress will never hold the agency accountable for its mismanagement of taxpayer dollars, as evidenced by the \$210 million in this bill. Congress should begin holding the Census Bureau accountable today and sustain the point of order against emergency funding for the census in this bill.

MEMBERS OF CONGRESS HAVE REPEATEDLY NOTED THAT CENSUS PROBLEMS WERE A FAILURE OF MANAGEMENT, NOT THE RESULT OF AN EMERGENCY

By providing \$210 million to the Census Bureau, Congress is disregarding the findings of its own committees. There have been no fewer than five committee hearings in the past 3 months detailing the long-standing failures of the Census Bureau to properly manage the 2010 Census.

Several members of Congress from both parties and both houses have commented over the past several months about the poor management of the Census Bureau and the shocking indifference it showed towards those that tried to raise a warning. The following statements have been made in recent months by various Members of Congress.

On March 6, the Chairman of the Senate Commerce, Justice and State Appropriations Subcommittee, Senator BARBARA MIKULSKI, said that it was "shocking" that the 2010 Census will be done the same way "we've been doing censuses for 200 years." Senator MIKULSKI also stated that "a paper census in America borders on a scandal."

On June 18th, the ranking member of the CJS Subcommittee, Senator RICHARD SHELBY, said that the \$3 billion cost overrun is the result of "gross mismanagement of the Census Bureau in acquiring hand held computers."

In March 2008, Representative CAROLYN MALONEY called the management of the 2010 Census a "mess" and said that "what we're facing is a statistical Katrina." In April 2008, upon hearing that the Census Bureau decided to abandon the handheld computers, she said: "It brings little satisfaction to have been right about this, but we've said since last year the Census was in real peril."

Representative HENRY WAXMAN, Chairman of the House Oversight and Government Reform Committee, blamed the cost overruns on "serious mismanagement" and said that "the costly decision to return to a paper census was avoidable."

At a hearing in March, Senator TOM CARPER, Chairman of the subcommittee with jurisdiction over the Census Bureau, said that "the Census Bureau did not heed the warnings coming from GAO and others that their handheld project was troubled."

Representative LACY CLAY, who chairs the House Census Subcommittee said, "This appalling failure of management oversight by both the Census Bureau and Harris Interactive, combined with ridiculous cost overruns is totally unacceptable." Representative CLAY also said: "[Harris] is delivering half of the hand-held computers that the Census Bureau originally ordered. The machines can't do what we wanted them to do. And yet, Harris expects the taxpayers to provide more than \$700 million more to pay for their failures. That is outrageous."

Senator JOE LIEBERMAN said that "it is inexcusable that the Census Bureau must still rely on paper and pencils to perform its most important function."

Senator SUSAN COLLINS, in discussing the management of the census, said that "there is little to applaud and much to be concerned about." Senator COLLINS went to blame agency management for a "combination of wishful thinking, lax management, and tunnel vision."

Even the Secretary of Commerce, Carlos Gutierrez, who is ultimately responsible for the 2010 Census, said that the problems with the handheld computers are not the result of an unexpected emergency, but is "a management problem."

THE CENSUS BUREAU HAS A POOR TRACK RECORD OF USING TAXPAYER MONEY

The Census Bureau has one of the worst track records of any federal agency when it comes to spending taxpayer money. Numerous accounts can be given to highlight the way in which the Census Bureau wastes money through negligence, mismanagement and incompetence. The \$210 million in emergency funding in the bill is nothing more than rewarding bad behavior with more money and no accountability.

Consider the following ways in which the Census Bureau has done a poor job of controlling the cost of the census:

The cost of the census has doubled every time it has been taken since 1970.

In 1970, it cost only \$248 million to count 200,000 American citizens, but in 2010, it will cost nearly \$15 billion to count 300,000 citizens—that means it will cost 60 times more to count 1½ times as many people. In the 1990 Census it cost \$10 per person to count the population—in the 2010 Census, it will cost at least \$47 per person.

More recently, the Census Bureau awarded a \$600 million cost-plus contract to the Harris Corporation for the development of handheld computers, which has skyrocketed above the original plan. The handheld computers were supposed to perform a number of functions, including two functions called Address Canvassing and Non-Response Follow Up:

Address Canvassing is the process of plotting every American household with a GPS coordinate.

Non-Response Follow Up is the process of collecting information door-to-door from households that don't respond to the census by mail.

Due to mismanagement by the Census Bureau, the project has not only been severely scaled back but the cost of the contract will likely double. In April, the Secretary of Commerce decided to eliminate Non-Response Follow Up from the list of functions that the handheld computer would perform, leaving only Address Canvassing. The Harris Corporation estimated that the impact of that decision so close to the 2010 Census would increase the cost of the contract from approximately \$600 million to \$1.3 billion—an overrun of \$700 million to be funded by taxpayers.

According to estimates based on the new contract, the unit cost for each handheld computer would be \$600 for a device that can do nothing more than plot homes on a map using GPS coordinates. This means that the Census Bureau will pay \$600 for a custom-made handheld device that can do less than an off-the-shelf BlackBerry that costs \$200 or an iPhone that costs \$275.

One of the most glaring examples of wasted money at the Census Bureau is seen in the recent cost overrun for a technology help-desk planned for census takers going door-to-door in 2010. The original for the help desk—before the decision was made to abandon technology for a paper census—was \$36 million. After the decision to use paper only, the estimated cost of the technology help desk increased to \$217 million.

Some will argue that without immediate emergency funding, the Census Bureau will not be able to pull off the 2010 Census, putting apportionment and important programs in jeopardy.

This is not true. The next fiscal year is only 3 months away and any funding that the Census Bureau needs can be provided then. There is no compelling argument that emergency deficit spending on the 2010 Census is needed immediately. Perhaps the reason why \$210 million is being included is because the Congress—like the Census Bureau—is once again mismanaging its

constitutional duties to pass appropriations bills on time.

Also, as I already stated earlier, it is not clear what this money would actually be used for and so it is impossible to say it is essential. It is incomprehensible why the Census Bureau needs an extra \$210 million at this point when it is planning to spend an overall amount of \$14.5 billion on the 2010 Census. That is more than twice as much as the cost of the 2000 Census that was done the exact same way—by pencil and paper.

There are plenty of deficit-neutral options available to provide funding for the 2010 Census, including transferring money already available within the Department of Commerce. Or, Congress could cut or eliminate less important programs to free up money for the 2010 Census.

Furthermore, some may argue that the concerns about poor management at the Census Bureau can be dealt with another time—the most important thing is getting the 2010 Census done right and without delay.

I would respond by noting that this country is always in the middle of preparations for the next decennial census—if management concerns are always pushed back then they will never be addressed. Providing a bailout for the Census Bureau now is tantamount to excusing the poor management that has prevailed at the agency for the better part of a decade.

Report after report by the GAO and the Inspector General have called upon the Census Bureau to improve its poor management of the 2010 Census. Each of those reports and warnings were ignored because, ultimately, the agency knew that Congress didn't care about accountability. Congress should deal with the management concerns immediately and start by withholding the bailout money in this bill.

Mr. President, this is a simple point of order, but it has tremendous ramifications on whether we are going to effectively oversight the rest of the executive agencies.

Three and a half years ago, TOM CARPER and I started oversight hearings on the census. At that time, GAO said: They are not going to make it. They are not doing what they need to do. It was totally ignored, both by the Census Bureau as well as the Department of Commerce. Now we find that even though they have had two contracts—one with Lockheed and one with another company—to put the census online—we are going to be the only modern country that doesn't have the census online—they have totally withheld, totally canceled that contract, and totally didn't perform. The other, to do with electronic data collection, is now a flop, and they admit the reason it is a flop is because the Census Bureau did not communicate with the contractor.

In this bill is \$210 million to say: Oh, we are sorry. We are going to give you more money because you didn't do it well.

Secretary Gutierrez says there is plenty of money in the Commerce Department to cover this cost, and I am going to raise a point of order that it is not an emergency. There is plenty of money there, and we are sending exactly the wrong message to every other agency in this Government by allowing an agency that is going to do the census the same way it did 200 years ago because of incompetency. We are going to give them \$200 million on an emergency basis, and we are going to charge the next generation because we are not going to pay for it. We are going to borrow the money, and we are going to embrace and endorse incompetence.

So, Mr. President, I raise a point of order, pursuant to section 204(a)(5) of the fiscal year 2008 budget resolution, S. Con. Res. 21, against the emergency designation of \$200 million for the Census Bureau in the message in the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the Senator from Oklahoma has raised a point of order, and I want all our colleagues to know that his point of order lies against the emergency designations for the census funding, as he has just talked about, but in reality his point of order lies against all the emergency spending in this amendment, including the veterans education funding and the extension of unemployment benefits, and against the disaster relief.

So I urge our colleagues to vote with us on the point of order. It has already been part of the agreement. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Under the previous order, the motion to waive the Budget Act is considered made.

Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 161 Leg.]

#### YEAS—77

Akaka	Coleman	Lautenberg
Alexander	Collins	Leahy
Baucus	Cornyn	Levin
Bayh	Dodd	Lieberman
Bennett	Dole	Lincoln
Biden	Domenici	Lugar
Bingaman	Dorgan	Martinez
Bond	Durbin	McCaskill
Boxer	Feingold	McConnell
Brown	Feinstein	Menendez
Brownback	Hagel	Mikulski
Bunning	Harkin	Murkowski
Byrd	Hutchison	Murray
Cantwell	Inouye	Nelson (FL)
Cardin	Johnson	Nelson (NE)
Carper	Kerry	Obama
Casey	Klobuchar	Pryor
Clinton	Kohl	Reed (RI)
Cochran	Landrieu	Reid (NV)



Roberts	Snowe	Vitter
Rockefeller	Specter	Warner
Salazar	Stabenow	Webb
Sanders	Stevens	Whitehouse
Schumer	Sununu	Wicker
Shelby	Tester	Wyden
Smith	Thune	

## NAYS—21

Allard	Craig	Gregg
Barrasso	Crapo	Hatch
Burr	DeMint	Inhofe
Chambliss	Ensign	Isakson
Coburn	Enzi	Kyl
Conrad	Graham	Sessions
Corker	Grassley	Voinovich

## NOT VOTING—2

Kennedy	McCain
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The PRESIDING OFFICER. On this vote, the yeas are 77, the nays are 21. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, 1 year ago, Congress sent the President a war funding supplemental that included clear direction to bring our troops home by December of 2007. The President chose to veto that bill. If he had signed that bill, most of our troops would be home today.

Instead of bringing our troops home, the President decided to increase our commitment of U.S. troops and treasure to a war that has now entered its sixth year. Over 4,100 U.S. servicemembers have died. Over 30,000 U.S. servicemembers have been wounded. This year, the President asked Congress to approve another \$178 billion for this endless war. With enactment of this supplemental, Congress will have approved over \$656 billion for the war in Iraq.

Once again, the President threw down the gauntlet and said he would veto the supplemental bill if Congress added funding for anything other than the war. He made this demand at a time when the U.S. economy is in trouble.

Under the President's failed fiscal leadership, deficits and debt are on the rise. Unemployment is on the rise, with the largest 1 month increase in 20 years. Economic growth came to a virtual halt at the end of last year. Food and fuel costs are dramatically climbing. Mr. President, 8.8 million home owners have mortgages that exceed the value of their homes, and foreclosures have increased 57 percent.

While saying no to funds for America, the President wanted this Congress to approve more funding to reconstruct Iraq. We have already approved \$45 billion for reconstruction projects in Iraq. Despite the fact that the Iraqi government is running a huge surplus due to excess oil revenues, the President asked this Congress to spend another \$3 billion of American taxpayer dollars on reconstructing Iraq.

The President wants money to build schools in Sadr City but not in Seattle.

He wants money for roads in Ramadi but not Richmond. The President wants money for Mosul but not Minneapolis. He wants to reconstruct Baghdad but not Baltimore or Birmingham.

Congress listened to the President. We had hearings on his request, and we concluded that, notwithstanding his ill-considered veto threat, we would include funding to help our citizens here at home.

The amendment that is before the Senate extends unemployment benefits for 13 weeks. Over the past year, the number of unemployed workers in this country has grown by 1.6 million to a level of 8.5 million people.

I am pleased that the amendment includes critical funding for our veterans. I commend Senator WEBB and Senator WARNER for their leadership in drafting legislation that provides our veterans with an education benefit that they have earned.

We also have a moratorium on six burdensome Medicaid regulations. The President wanted to pass billions of dollars of expenses on to the States for rehabilitation services and school-based services for children with special needs. Congress said no.

We have included \$2.65 billion for disaster assistance to help the victims of the Midwest floods, as well as other disasters that have happened over the last year for which the President sought no additional funding. We have added funding for the Food and Drug Administration to help protect our food and drug supplies. We also modified the President's request for the war by adding \$160 million to his request for funding DOD efforts in Afghanistan. We must never forget that those who attacked us on 9/11 trained in Afghanistan, not Iraq. We also include language mandating that Iraq match, dollar for dollar, further U.S. contributions to reconstructing Iraq.

This year, the Appropriations Committee has held, and will continue to hold, oversight hearings looking at waste, fraud and corruption in Iraq. Unchecked corruption in Iraq is providing much of the funding for the very enemy our servicemen and women are fighting—and President Bush has demonstrated either unwillingness or an inability to check the flow of funds and weapons from these sources to the enemy. This amendment requires the Secretary of State to develop a comprehensive anticorruption strategy and submit to Congress the identities of Iraqi officials believed to have committed corrupt acts. I am also pleased that this legislation continues to provide funding, funding not requested by President Bush, for the Special Inspector General for Iraqi Reconstruction. As a result of our recent hearings on fraud and corruption in Iraq, we learned that there are only five FBI agents assigned to investigate fraud in Iraq and Afghanistan. For this administration, look no evil, see no evil. Well, it is time to take our blinders off.

This amendment includes \$5 million to increase FBI investigations, and the committee will continue to hold hearings on fraud and waste in Iraq.

Despite the positive measures for struggling Americans, our veterans, and their families included in this amendment, I deeply regret that this legislation will go to President Bush without the necessary checks to ensure that the war in Iraq is not open-ended. The majority of the American people have come to see this war as a costly mistake that needs to be brought to a close. This legislation brings us no closer to that goal.

However, with this legislation, we will once again take care of our troops. We also invest in America here at home.

There is more to do. I am disappointed that the White House blocked our efforts to add funding to help the Gulf States recover from Hurricane Katrina, to provide additional low-income home energy assistance, and to invest in our infrastructure. I have consulted with the leadership, and next month, the committee will consider a second supplemental to deal with the Midwest floods, Hurricane Katrina, and to make critical investments in America.

I urge adoption of the amendment.

I ask unanimous consent that an explanatory statement be printed in the RECORD.

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

EXPLANATORY STATEMENT SUBMITTED BY SENATOR ROBERT C. BYRD, CHAIRMAN OF THE SENATE COMMITTEE ON APPROPRIATIONS, REGARDING THE HOUSE AMENDMENT TO THE SENATE AMENDMENT TO HOUSE AMENDMENT NUMBER 2 TO THE SENATE AMENDMENT TO H.R. 2642

Following is an explanation of the fiscal year 2008 supplemental appropriations and fiscal year 2009 appropriations in the further amendment of the House to Senate amendment numbered 2 to House amendment numbered 2 to the amendment of the Senate to H.R. 2642, the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008, including disclosure of congressionally directed spending items as defined in rule XLIV of the Standing Rules of the Senate.

The further House amendment provides that, in lieu of the matter proposed to be inserted by the Senate, language be inserted providing supplemental appropriations for military construction, international affairs, disaster assistance, and other security-related and domestic needs, as well as language providing for accountability in contracting, improved veterans education benefits, temporary extended unemployment compensation, and a moratorium on certain Medicaid regulations. The amendment also strikes lines 1 through 3 on page 60 of the Senate engrossed amendment of September 6, 2007.

Unless otherwise noted, all appropriations in the amendment are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 and section 301(b)(2) of S. Con. Res. 70, the congressional budget resolutions for fiscal years 2008 and 2009.

## NOTIFICATION OF EMERGENCY LEGISLATION

The congressional budget resolution (S. Con. Res. 21) agreed to by Congress for fiscal

year 2008 includes a provision relating to the notification of emergency spending. This provision requires a statement of how the emergency provisions contained in the bill meet the criteria for emergency spending as identified in the budget resolution. The amendment contains emergency funding for fiscal year 2008 for overseas deployments and other activities, for hurricane recovery in the gulf coast region, for the 2008 Midwest floods, and other natural disasters, and for other needs. The funding is related to unanticipated needs and is for situations that are sudden, urgent, and unforeseen, specifically the global war on terror, the hurricanes of 2005, the ongoing floods in the Midwest and other natural disasters, and rising unemployment. The amendment also funds the costs of ongoing military deployments and other requirements through the beginning months of the next fiscal year. These needs meet the criteria for emergency funding.

TITLE I—MILITARY CONSTRUCTION, VETERANS AFFAIRS, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED MATTERS

CHAPTER 1—AGRICULTURE  
DEPARTMENT OF AGRICULTURE  
FOREIGN AGRICULTURAL SERVICE  
PUBLIC LAW 480 TITLE II GRANTS

The amended bill provides a total of \$850,000,000 to remain available until expended for Public Law 480 Title II Grants for fiscal year 2008. The amended bill provides \$350,000,000, as requested, for the urgent humanitarian needs identified by the administration. Further, the amended bill provides an additional \$500,000,000 for unanticipated cost increases for food and transportation to be made available immediately.

In addition, because the need for urgent humanitarian food assistance and continuing volatility of food and transportation costs are expected to continue into fiscal year 2009, the amended bill provides a total of \$395,000,000, as requested, to be made available beginning October 1, 2008.

CHAPTER 2—JUSTICE  
DEPARTMENT OF JUSTICE  
OFFICE OF INSPECTOR GENERAL

The amended bill includes \$4,000,000 for the Office of Inspector General. The Inspector General is directed to continue its audit and oversight activities of the Federal Bureau of Investigation's use of National Security Letters (NSLs) and orders for business records, pursuant to Section 215 of the USA PATRIOT Act.

LEGAL ACTIVITIES  
SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

The amended bill includes \$1,648,000 for General Legal Activities for the Criminal Division to provide litigation support services to the Special Inspector General for Iraq Reconstruction for its ongoing investigations and cases involving corruption in the reconstruction of Iraq. The amended bill does not include funding requested to create Iraq and Afghanistan support units within General Legal Activities, Criminal Division. These worthy activities should be supported

through funds made available to the Department of State or Defense.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The amended bill includes \$5,000,000 for the U.S. Attorneys for extraordinary litigation expenses associated with terrorism prosecutions in the United States.

UNITED STATES MARSHALS SERVICE  
SALARIES AND EXPENSES

The amended bill includes \$28,621,000 for the U.S. Marshals Service. Within this funding level is \$7,951,000 to provide security at high-threat terrorist trials in the United States and \$3,700,000 to improve court and witness security in Afghanistan.

FEDERAL BUREAU OF INVESTIGATION  
SALARIES AND EXPENSES

The amended bill provides \$106,122,000 for the Federal Bureau of Investigation (FBI). This funding level includes \$101,122,000 for operations in Iraq and Afghanistan and for enhanced counterterrorism activities and \$5,000,000 to increase the FBI's capacity to investigate fraudulent contracts in Iraq and Afghanistan. The FBI is directed to provide the House and Senate Committees on Appropriations with a detailed plan for the obligation of these funds no later than 30 days after the enactment of this Act and to update this plan on a quarterly basis with actual obligations.

The amended bill also provides \$82,600,000 in bridge funding for the FBI to maintain the operations described above into fiscal year 2009.

DRUG ENFORCEMENT ADMINISTRATION  
SALARIES AND EXPENSES

The amended bill includes \$29,861,000 for the Drug Enforcement Administration to further its narco-terrorism initiative and Operation Breakthrough; to conduct financial investigations and to support intelligence activities, such as signals intelligence, to assist the Government of Afghanistan's counter-narcotics and narco-terrorism programs; and to purchase a helicopter for Foreign-deployed Advisory Support Team transportation.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES  
SALARIES AND EXPENSES

The amended bill includes \$4,000,000 for the Bureau of Alcohol, Tobacco, Firearms and Explosives for necessary costs of operations in Iraq.

FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

The amended bill provides \$9,100,000 for the Bureau of Prisons to monitor communications of incarcerated terrorists, collect intelligence, and disseminate relevant information to other Federal law enforcement agencies.

GENERAL PROVISION, THIS CHAPTER

The amended bill includes a provision authorizing the use of funds appropriated in this chapter, or available by the transfer of funds in this chapter, for activities pursuant to section 504 of the National Security Act of 1947.

CHAPTER 3—MILITARY CONSTRUCTION AND VETERANS AFFAIRS

DEPARTMENT OF DEFENSE

*Iraq.*—The Administration's request has been reviewed for military construction in Iraq to ensure that the recommended projects are consistent with contingency construction standards. The establishment of permanent bases in Iraq is not supported, and the amended bill does not include any funds to establish any such base, or convert any base in Iraq from a temporary to permanent status. The amended bill includes language prohibiting the obligation or expenditure of funds for Iraq construction projects provided under Military Construction, Army, and Military Construction, Air Force, until the Secretary of Defense certifies that none of the funds are to be used for the purpose of providing facilities for permanent basing of U.S. military personnel in Iraq. The Secretary of Defense is further directed to provide to the Committees on Appropriations of both Houses of Congress, no later than 30 days after enactment of this act, an updated Master Plan for U.S. basing in Iraq, including an inventory of installations that have been closed; those that are scheduled to close, and the timeline for their closure; and a finite list of potential enduring locations describing the mission, military construction requirements, and projected population of these locations.

*Child Development Centers.*—The amended bill recommends a total of \$210,258,000 to design and build twenty new child development centers for the Army, Navy, Marine Corps, and Air Force. The Department should be commended for following the lead of Congress by requesting funds for additional child development centers.

*Army Barracks Improvements.*—The deplorable conditions that have recently been uncovered in some permanent party Army barracks, including those which house soldiers returning from the wars in Iraq and Afghanistan, have raised numerous concerns about the adequacy of living conditions for military personnel. The Army created a permanent party barracks modernization program in 1994 to eliminate inadequate barracks. However, this program is not projected to be completely funded until 2013. Given this timeline, it is unacceptable that the Army has allowed some of its existing permanent party barracks to fall into disrepair. While many of the repairs and upgrades to existing barracks can be accomplished with Sustainment, Restoration, and Modernization (SRM) funds, there is a need for additional military construction funds to expedite barracks replacements. The amended bill includes a total of \$200,000,000 for the Army to accelerate the construction of new barracks, or to provide major renovations to existing barracks. The funding is provided subject to the development of an expenditure plan to be submitted to the Committees on Appropriations of both Houses of Congress.

MILITARY CONSTRUCTION, ARMY

The amended bill recommends \$1,108,200,000 for Military Construction, Army. The funds are provided as follows:

(In thousands of dollars)

Location	Project description	Request	Recommendation
AK: Fort Wainwright .....	Child Development Center 1 .....	17,000	17,000
CA: Fort Irwin .....	Child Development Center 1 .....	11,800	11,800
CO: Fort Carson .....	Child Development Center 1 .....	8,400	8,400
CO: Fort Carson .....	Soldier Family Assistance Center .....	8,100	8,100
GA: Fort Gordon .....	Child Development Center 1 .....	7,800	7,800
GA: Fort Stewart .....	Soldier Family Assistance Center .....	6,000	6,000
HI: Schofield Barracks .....	Child Development Center .....	12,500	12,500
KS: Fort Riley .....	Transitioning Warrior Support Complex .....	50,000	50,000
KY: Fort Campbell .....	Child Development Center 1 .....	9,900	9,900
KY: Fort Campbell .....	Soldier Family Assistance Center .....	7,400	7,400
KY: Fort Campbell .....	Knox Child Development Center .....	7,400	7,400

[In thousands of dollars]

Location	Project description	Request	Recommendation
LA: Fort Polk .....	Soldier Family Assistance Center .....	4,900	4,900
MO: Fort Leonard Wood .....	Starbase Complex 6, Phase 1 .....		50,000
NC: Fort Bragg .....	Child Development Center <sup>1</sup> .....	8,500	8,500
NY: Fort Drum .....	Warrior in Transition Facilities .....	38,000	38,000
OK: Fort Sill .....	Child Development Center <sup>1</sup> .....	9,000	9,000
TX: Fort Bliss .....	Child Development Center <sup>1</sup> .....	5,700	5,700
TX: Fort Bliss .....	Child Development Center <sup>1</sup> .....	5,900	5,900
TX: Fort Bliss .....	Child Development Center <sup>1</sup> .....	5,700	5,700
TX: Fort Hood .....	Child Development Center <sup>1</sup> .....	7,200	7,200
TX: Fort Hood .....	Warrior In Transition Unit Ops Facilities .....	9,100	9,100
TX: Fort Sam Houston .....	Child Development Center <sup>1</sup> .....	7,000	7,000
VA: Fort Lee .....	Child Development Center <sup>1</sup> .....	7,400	7,400
Afghanistan: Bagram AB .....	Administrative Building <sup>1</sup> .....	13,800	13,800
Afghanistan: Bagram AB .....	Aircraft Maintenance Hangar .....	5,100	5,100
Afghanistan: Bagram AB .....	Ammunition Supply Point .....	62,000	62,000
Afghanistan: Bagram AB .....	Bulk Fuel Storage and Supply, Phase 3 .....	23,000	23,000
Afghanistan: Bagram AB .....	Bulk Fuel Storage and Supply, Phase 4 .....	21,000	21,000
Afghanistan: Bagram AB .....	New Roads .....	27,000	27,000
Afghanistan: Bagram AB .....	Power Plant .....	41,000	41,000
Afghanistan: Ghazni .....	Rotary Wing Parking .....	5,000	5,000
Afghanistan: Kabul .....	Consolidated Compound .....	36,000	36,000
Afghanistan: Various Locations .....	Counter IED Road—Route Alaska .....	16,500	16,500
Afghanistan: Various Locations .....	Counter IED Road—Route Connecticut .....	54,000	54,000
Iraq: Al Asad AB .....	Hot Cargo Ramp .....	18,500	18,500
Iraq: Al Asad AB .....	Landfill .....	3,100	3,100
Iraq: Al Asad AB .....	Power Plant .....	40,000	
Iraq: Al Asad AB .....	South Airfield Apron (India Ramp) .....	28,000	28,000
Iraq: Al Asad AB .....	Urban Bypass Road .....	43,000	
Iraq: Baghdad IAP .....	Water Supply, Treatment & Storage Ph III .....	13,000	13,000
Iraq: Camp Adder .....	Convoy Support Center Relocation, Phase II .....	39,000	39,000
Iraq: Camp Adder .....	Multi-Class Storage Warehouse .....	17,000	
Iraq: Camp Adder .....	POL Storage Area .....	10,000	10,000
Iraq: Camp Adder .....	Power Plant .....	39,000	
Iraq: Camp Adder .....	Wastewater Treatment & Collection System .....	9,800	9,800
Iraq: Camp Anaconda .....	Hazardous Waste Incinerator .....	4,300	4,300
Iraq: Camp Anaconda .....	Landfill .....	6,200	6,200
Iraq: Camp Anaconda .....	Power Plant .....	39,000	
Iraq: Camp Constitution .....	Juvenile TIFRIC .....	11,700	11,700
Iraq: Camp Cropper .....	Brick Factory .....	9,500	
Iraq: Camp Marez .....	Landfill .....	880	880
Iraq: Camp Ramadi .....	Landfill .....	880	880
Iraq: Camp Speicher .....	Aviation Navigation Facilities .....	13,400	13,400
Iraq: Camp Speicher .....	Landfill .....	5,900	5,900
Iraq: Camp Speicher .....	Military Control Point .....	5,800	5,800
Iraq: Camp Speicher .....	Power Plant .....	39,000	
Iraq: Camp Speicher .....	Rotary Wing Parking Apron .....	49,000	
Iraq: Camp Taqqadum .....	Landfill .....	880	880
Iraq: Camp Warrior .....	Landfill .....	880	880
Iraq: Fallujah .....	Landfill .....	880	880
Iraq: Mosul .....	Urban Bypass Road .....	43,000	
Iraq: Qayyarah West .....	North Entry Control Point .....	11,400	11,400
Iraq: Qayyarah West .....	Perimeter Security Upgrade .....	14,600	14,600
Iraq: Qayyarah West .....	Power Plant .....	26,000	
Iraq: Scania .....	Entry Control Point .....	5,000	5,000
Iraq: Scania .....	Water Storage Tanks .....	9,200	9,200
Iraq: Victory Base .....	Landfill .....	6,200	6,000
Iraq: Victory Base .....	Level 3 Hospital .....	13,400	13,400
Iraq: Victory Base .....	Wastewater Treatment & Collection System .....	9,800	9,800
Iraq: Victory Base .....	Water Treatment & Storage Phase II .....	18,000	18,000
Iraq: Various Locations .....	Facilities Replacement .....	72,000	
Iraq: Various Locations .....	Overhead Cover—eGlass .....	135,000	135,000
Kuwait: Camp Arifjan .....	Communication Center .....	30,000	30,000
Worldwide: Unspecified .....	Planning and Design (GWOT) .....	64,200	52,800
Worldwide: Unspecified .....	Planning and Design (WIT) .....	14,600	14,600
Worldwide: Unspecified .....	Planning and Design (COG) <sup>1</sup> .....	6,000	6,000
Total .....		1,486,100	1,108,200

<sup>1</sup> Requested by the Department of Defense in fiscal year 2008 and/or the March 2008 Adjustments package.

## MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

The amended bill recommends \$355,907,000 for Military Construction, Navy and Marine Corps. The funds are provided as follows:

[In thousands of dollars]

Location	Project description	Request	Recommendation
CA: Camp Pendleton .....	11th Marine Regiment HQ, Armory, BEQ .....	34,970	34,970
CA: Camp Pendleton .....	5th Marine Regiment Addition, San Mateo .....	10,890	10,890
CA: Camp Pendleton .....	Armory Intelligence Battalion, 16 Area .....	4,180	4,180
CA: Camp Pendleton .....	Armory, Regiment & Battalion HQ, 53 Area .....	5,160	5,160
CA: Camp Pendleton .....	BEQ & Mess Hall HQ (13) Area .....	24,390	24,390
CA: Camp Pendleton .....	EOD Operations Facility .....	13,090	13,090
CA: Camp Pendleton .....	ISR Camp—Intelligence Battalion .....	1,114	1,114
CA: Camp Pendleton .....	JIEDDO Battle Courses <sup>1</sup> .....	9,270	9,270
CA: Camp Pendleton .....	Military Police Company Facilities .....	8,240	8,240
CA: Twentynine Palms .....	Regimental Combat Team HQ Facility .....	4,440	4,440
CA: China Lake NAWS .....	JIEDDO Battle Courses <sup>1</sup> .....	7,210	7,210
CA: Point Mugu .....	JIEDDO Battle Courses <sup>1</sup> .....	7,250	7,250
CA: San Diego .....	Child Development Center <sup>1</sup> .....	17,930	17,930
CA: Twentynine Palms .....	JIEDDO Battle Courses <sup>1</sup> .....	11,250	11,250
FL: Whiting Field NAS .....	JIEDDO Battle Courses <sup>1</sup> .....	780	780
MS: Gulfport NCBC .....	JIEDDO Battle Courses <sup>1</sup> .....	6,570	6,570
NC: Camp Lejeune .....	Child Development Center <sup>1</sup> .....	16,000	16,000
NC: Camp Lejeune .....	JIEDDO Battle Courses <sup>1</sup> .....	11,980	11,980
NC: Camp Lejeune .....	Maintenance/Operations Complex 2/9 .....	43,340	43,340
SC: Parris Island MCRD .....	Recruit Barracks .....		25,360
VA: Yorktown NWS .....	JIEDDO Battle Courses <sup>1</sup> .....	8,070	8,070
Djibouti: Camp Lemonier .....	CJTF—HQA HQ Facility .....	29,710	
Djibouti: Camp Lemonier .....	Dining Facility .....	20,780	20,780
Djibouti: Camp Lemonier .....	Fuel Farm <sup>1</sup> .....	4,000	4,000
Djibouti: Camp Lemonier .....	Full Length Taxiway <sup>1</sup> .....	15,490	15,490
Djibouti: Camp Lemonier .....	Network Infrastructure Expansion .....	6,270	6,270
Djibouti: Camp Lemonier .....	Water Production .....	19,140	19,140
Djibouti: Camp Lemonier .....	Western Taxiway <sup>1</sup> .....	2,900	2,900
Worldwide: Unspecified .....	Planning and Design (GTF) .....	7,491	7,491
Worldwide: Unspecified .....	Planning and Design (GWOT) .....	4,300	4,300
Worldwide: Unspecified .....	Planning and Design (CDC) <sup>1</sup> .....	1,101	1,101
Worldwide: Unspecified .....	Planning and Design (JIEDDO) <sup>1</sup> .....	2,951	2,951
Total .....		360,257	355,907

<sup>1</sup> Requested by the Department of Defense in fiscal year 2008 and/or the March 2008 Adjustments package.

*Joint IED Defeat Organization (JIEDDO) Battle Courses.*—The amended bill recommends \$65,331,000 to construct facilities for enhanced counter-improvised explosive device training in furtherance of the goals of the Joint IED Defeat Organization. These funds address a technical correction in the Administration’s fiscal year 2008 Global War on Terror budget request and are offset by a rescission in title IX.

MILITARY CONSTRUCTION, AIR FORCE

The amended bill recommends \$399,627,000 for Military Construction, Air Force. The funds are provided as follows:

(In thousands of dollars)

Location	Project description	Request	Recommendation
CA: Beale AFB .....	Child Development Center <sup>1</sup> .....	17,600	17,600
FL: Eglin AFB .....	Child Development Center <sup>1</sup> .....	11,000	11,000
NJ: McGuire AFB .....	JIEDDO Battle Courses <sup>1</sup> .....	6,200	6,200
NM: Cannon AFB .....	Child Development Center <sup>1</sup> .....	8,000	8,000
Afghanistan: Bagram AB .....	East Side Helo Ramp .....	44,400	44,400
Afghanistan: Bagram AB .....	ISR Ramp .....	26,300	26,300
Afghanistan: Bagram AB .....	Parallel Taxiway Phase 2 .....	21,400	21,400
Afghanistan: Bagram AB .....	Strategic Ramp .....	43,000	43,000
Iraq: Balad AB .....	Fighter Ramp .....	11,000	11,000
Iraq: Balad AB .....	Foxrot Taxiway .....	12,700	12,700
Iraq: Balad AB .....	Helicopter Maintenance Facilities .....	34,600	34,600
Kyrgyzstan: Manas AB .....	Strategic Ramp .....	30,300	30,300
Oman: Masirah AB .....	Expeditionary Beddown Site .....	6,300	6,300
Qatar: Al Udeid AB .....	Facility Replacements .....	40,000	30,000
Qatar: Al Udeid AB .....	Northwest (CAS) Ramp <sup>1</sup> .....	60,400	60,400
Worldwide: Unspecified .....	Planning and Design (GWOT) .....	35,000	35,000
Worldwide: Unspecified .....	Planning and Design (CDC) <sup>1</sup> .....	1,427	1,427
Total .....	.....	409,627	399,627

<sup>1</sup> Requested by the Department of Defense in fiscal year 2008 and/or the March 2008 Adjustments package.

*Joint IED Defeat Organization (JIEDDO) Battle Courses.*—The amended bill recommends \$6,200,000 to construct facilities for enhanced counter-improvised explosive device training in furtherance of the goals of the Joint IED Defeat Organization. These funds address a technical correction in the Administration’s fiscal year 2008 Global War on Terror budget request and are offset by a rescission in title IX.

MILITARY CONSTRUCTION, DEFENSE-WIDE

The amended bill recommends \$890,921,000 for Military Construction, Defense-Wide. The funds are provided as follows:

(In thousands of dollars)

Location	Project description	Request	Recommendation
GA: Fort Benning .....	Hospital Replacement .....	.....	350,000
KS: Fort Riley .....	Hospital Replacement .....	.....	404,000
NC: Camp Lejeune .....	Hospital Addition .....	.....	64,300
TX: Fort Sam Houston .....	Burn Rehabilitation Center .....	21,000	21,000
Qatar: Al Udeid AB .....	Logistics Storage Warehouse .....	6,600	6,600
Worldwide: Unspecified .....	Planning and Design (MTF) .....	.....	45,021
Total .....	.....	27,600	890,921

*Medical Treatment Facilities Construction.*—There is a great concern with the large backlog of needed recapitalization for medical treatment facilities for military service members and their families. The current Future Years Defense Plan (FYDP) for Tricare Management Activity military construction averages \$412,000,000 per year for fiscal years 2009 through 2013, and much of this amount is accounted for by medical research facilities. With the services identifying recapitalization requirements ranging in the several billions of dollars, the current FYDP for medical construction is obviously and severely insufficient. The Department’s inventory of medical treatment facilities is riddled with aging hospitals, clinics, and other facilities that do not meet current standards for medical care. Adding to this problem is

the fact that several installations are adding thousands of personnel and dependents due to Base Realignment and Closure, the relocation of units from Europe and Korea to the United States, and the Growing the Force initiative that will add 92,000 active duty personnel to the Army and Marine Corps. The amended bill therefore recommends \$863,321,000 for additional medical treatment facility construction. These funds will provide for the Army’s top two priority hospital replacement projects in the United States as well as a top priority hospital addition for the Marine Corps.

The Department of Defense is also directed to develop a comprehensive master plan for medical treatment facilities construction, to include both recapitalization and new requirements. This plan shall include a comprehensive priority list of projects for all

services, provide a cost estimate for each project, supply data on the current state of facilities and the projected change in demand for services due to growth for each location on the list, indicate the extent to which identified construction requirements are programmed in the FYDP, and indicate the resources required for associated planning and design work. This report shall be submitted to the Committees on Appropriations of both Houses of Congress no later than December 31, 2008.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

The amended bill recommends \$11,766,000 for Family Housing Construction, Navy and Marine Corps. The funds are provided as follows:

(In thousands of dollars)

Location	Project description	Request	Recommendation
CA: Camp Pendleton .....	Public-Private Venture, Phase 6B .....	10,692	10,692
CA: Twentynine Palms .....	Public-Private Venture, Phase 2A .....	1,074	1,074
Total .....	.....	11,766	11,766

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

The amended bill recommends \$1,278,886,000 for Department of Defense Base Closure Account 2005 instead of \$1,202,886,000 as requested by the Administration. The amount provided fully funds the Administration’s request to expedite medical facility construction at Bethesda and Fort Belvoir, and provides an additional \$862,976,000 for BRAC 2005 implementation.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

The amended bill recommends \$100,000,000 for General Operating Expenses to implement the provisions of title V of this Act.

INFORMATION TECHNOLOGY SYSTEMS

The amended bill recommends \$20,000,000 for Information Technology Systems to implement the provisions of title V of this Act, including support for any personnel increases within the Veterans Benefits Administration.

CONSTRUCTION, MAJOR PROJECTS

The amended bill recommends \$396,377,000 for Construction, Major Projects to accelerate and complete planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs’ Five Year Capital Plan.

*Polytrauma Center Initiative.*—The nature of combat in Iraq and Afghanistan has resulted in new patterns of polytraumatic injuries and disabilities requiring specialized intensive rehabilitation and high coordination of care. Operating under a national Memorandum of Agreement with the Department of Defense (DOD), the Department of Veterans Affairs (VA) polytrauma rehabilitation

centers continue to provide treatment and care to severely injured combat personnel requiring polytrauma inpatient rehabilitation. The medical care the VA is providing to military personnel is exceptional. However, space in the existing polytrauma facilities is dated, with cramped quarters and treatment facilities scattered throughout hospital campuses. These inefficiencies prove to be difficult for patients with mobility issues, compromised immune systems, and those suffering from psychological wounds. In an effort to accelerate the VA's planned expansion and consolidation of polytrauma rehabilitation centers on existing hospital campuses as outlined in the Department's February 2008 Five Year Capital Plan, the amended bill recommends providing \$396,377,000 to fully fund the design and construction of these crucial projects.

#### GENERAL PROVISIONS, THIS CHAPTER

The amended bill includes the following general provisions for this chapter:

Section 1301 provides an additional appropriation for Military Construction, Army for the acceleration of barracks improvements at Army installations.

Section 1302 relates to the Armed Forces Institute of Pathology.

Section 1303 relates to the collection of certain debts owed to the Department of Veterans Affairs by service members killed in a combat zone.

#### CHAPTER 4—DEPARTMENT OF STATE AND FOREIGN OPERATIONS

##### SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

###### INTRODUCTION

The budget request totals \$5,073,608,000 in emergency supplemental funds for fiscal year 2008, and the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) provided \$1,473,800,000 for immediate requirements. The amended bill provides for Department of State, Foreign Operations and Re-

lated Programs a total of \$5,164,108,000, which is \$90,500,000 above the pending budget request.

#### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

The budget request included \$2,283,008,000 for Diplomatic and Consular Programs, of which \$575,000,000 was appropriated in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) for operations and security at the United States Embassy in Iraq.

The amended bill includes an additional \$1,465,700,000 for Diplomatic and Consular Programs, which is \$242,308,000 below the pending request. Within the amount provided, \$210,400,000 is for worldwide security protection. Funds for diplomatic and consular programs are to be allocated as follows:

#### DIPLOMATIC AND CONSULAR PROGRAMS

(In thousands of dollars)

Activity	Pending request	Amended bill	Change from request
Iraq Diplomatic Operations .....	1,545,608	1,150,000	-395,608
Afghanistan—Operations and Worldwide Security Protection .....	162,400	200,200	+37,800
Pakistan—Operations .....		7,500	+7,500
Western Hemisphere Travel Initiative .....		1,000	+1,000
Worldwide Security Protection .....		48,000	+48,000
Civilian Workforce Initiative .....		55,000	+55,000
Public Diplomacy .....		4,000	+4,000
Total, Diplomatic and Consular Programs .....	1,708,008	1,465,700	-242,308

*Afghanistan.*—Within the total, the amended bill includes \$200,200,000, which is \$37,800,000 above the request, for necessary expenses for diplomatic and security operations in Afghanistan. Of this amount, \$162,400,000 is for enhanced security operations, including additional high threat protection teams, increased overhead cover and physical security measures, replacement of armored vehicles, and local guard service. In addition, \$19,000,000 is for the establishment of a Department of State-managed air transport capability in Afghanistan for Department of State and United States Agency for International Development (USAID) personnel to manage country programs, provide support for medical evacuation, and other security-related operations. Finally, \$18,800,000 is for support of operations and personnel for Provincial Reconstruction Teams (PRTs) in Afghanistan.

*Iraq.*—Within the total, \$1,150,000,000 is for the diplomatic and security operations of the United States Mission in Iraq, which is \$395,608,000 below the pending request. The cost of operations of the United States Mission in Iraq totals \$2,141,000,000 for fiscal year 2008, including \$1,150,000,000 provided in this Act, \$575,000,000 provided as bridge funding in Public Law 110-161 and \$416,000,000 in funds carried over from prior year appropriations. Nearly \$900,000,000 is requested for supporting security requirements for diplomatic and development personnel in Iraq.

The amended bill includes funding for mission operations, security, logistics support, information technology, and operations of PRTs. Congress has provided an additional \$196,543,000 since fiscal year 2006 for follow-on facilities requirements identified by the Department of State, as follows: extend the perimeter wall; construct a dining facility; construct additional housing; construct a tactical operations center for Diplomatic Security; construct a static guard camp; and construct overhead cover. The actual cost of building the New Embassy Compound (NEC) has reached a total of \$788,543,000 to date.

The number of permanent and temporary personnel assigned to Iraq, with the excep-

tion of USAID, should be decreased to accommodate all personnel within the NEC and any improvements can be made with previously appropriated funds. USAID will play a critical role in assisting the Government of Iraq in effectively allocating its budgetary resources.

The additional \$43,804,000 requested for follow-on projects for the NEC in Baghdad is not included. At least \$77,027,000 in prior year funding programmed for follow-on projects is available for obligation and these funds should be used to provide additional secure housing for a smaller number of personnel.

None of the funds provided under this heading in this Act shall be made available for follow-on projects, other than the proposed funding for overhead cover. The Department of State should include a detailed plan for the use of funds for follow-on projects as part of the spending plan required by this Act.

Due to an extended accreditation and verification process and the addition of follow-on projects, occupancy of the NEC offices and housing has been delayed. This rigorous process to address and validate whether the NEC was constructed to code and contract specifications was supported. Now that the process is complete, occupancy of the offices and housing should proceed without delay in order to provide the maximum protection to United States personnel.

The rationale for co-location of the Departments of State and Defense in the NEC is recognized. However, the proposed New Office Building and the Interim Office Building reconfigurations are projected to delay occupancy of NEC offices by up to one year. Given the difficult security environment in Baghdad, this lengthy delay is not acceptable. The Departments of State and Defense are expected to consult with the Committees on Appropriations on options for moving forward with limited co-location plans in the most accelerated, secure, and cost-effective manner. Any future construction in Iraq shall be subject to the Capital Security Cost Sharing Program, in the same manner as all

other embassy construction projects worldwide.

There is a concern that private security contractors have been utilized without the necessary authority, oversight, or accountability. The Department of State is directed to provide a report to the Committees on Appropriations not later than 45 days after enactment of this Act on the implementation status of each of the recommendations of the October 2007 report of the Secretary of State's Panel on Personal Protective Services. The Department of State is encouraged to aggressively review security procedures and seek the necessary authority to ensure that increased security is achieved with effective oversight and accountability.

The Secretary of State should take appropriate steps to ensure that assistance for Iraq is not provided to or through any individual, private entity or educational institution that the Secretary knows or has reason to believe advocates, plans, sponsors, or engages in, terrorist activities.

*Pakistan.*—The amended bill includes \$7,500,000 for operations, security, and personnel engaged in diplomatic activities to promote economic and political development in the Federally Administered Tribal Areas along the Pakistan and Afghanistan border.

*Sudan.*—The amended bill includes resources to support the diplomatic mission in Sudan including the United States Special Envoy for Sudan.

*Buying Power Maintenance Account.*—The amended bill provides authority to transfer funds available in this Act, and in a prior Act, to the Buying Power Maintenance Account in accordance with section 24 of the State Department Basic Authorities Act, to manage exchange rate losses in fiscal year 2008.

*Civilian Workforce Initiative.*—The amended bill provides \$55,000,000 to increase the civilian diplomatic capacity of the Department of State to meet the increasing and complex demands of diplomacy in the 21st century. Within the total, \$30,000,000 is for the initial development and deployment of a civilian

capacity to respond to post-conflict stabilization and reconstruction challenges and \$25,000,000 is to strengthen capabilities of the United States diplomatic corps and promote broader engagement with the rest of the world, including expanding training and enhanced interagency collaboration.

The amended bill includes funds to replace Foreign Service positions worldwide, which were previously moved to Iraq and to increase the number of positions participating in critical needs foreign language training. The Department of State has transferred approximately 300 Foreign Service positions from embassies around the world to Iraq and to associated language training, leaving key posts understaffed. These funds are to be used to support United States foreign policy in priority, understaffed regions, particularly South and East Asia, the Western Hemisphere, and Africa.

Funds made available for the civilian stabilization initiative are for the Active and Standby Response Corps portion of the initiative and to enhance operations of the Office of the Coordinator for Reconstruction and Stabilization. In addition to the funds provided to the Department of State, \$25,000,000 is appropriated in this Act under the heading "Operating Expenses of the United States Agency for International Development" to implement the USAID portion of the civilian stabilization initiative. The funding request for the Civilian Response Corps will be considered as part of the fiscal year 2009 appropriations process and none of the funds provided in this Act are to be used to implement the Civilian Response Corps portion of the initiative.

*Diplomatic Security-Worldwide Security Protection.*—The amended bill also includes \$48,000,000 above the request for worldwide security protection. The amount provided is available to restore 100 positions in the diplomatic security personnel that were redirected to Iraq to address urgent security requirements for United States personnel elsewhere in the world.

*Directorate of Defense Trade Controls.*—Increased demands on the Directorate of Defense Trade Controls' Office of Defense Trade Controls Licensing have led to delays in license processing. The Secretary of State is directed to review the workload demands and staffing needs of the office and report any recommendations to the Committees on Appropriations not later than 45 days after enactment of this Act.

*Middle East Peace Process.*—The security and support requirements for the personnel and operations that accompany the Middle East peace process have been, and should continue to be, supported through the operations funds available in fiscal year 2008. Any additional requirements associated with these activities will be considered during the fiscal year 2009 appropriations process.

*Public Diplomacy.*—The amended bill includes \$4,000,000 for the Office of Public Diplomacy and Public Affairs to expand new media for targeted Arabic language television programs for the purpose of fostering cultural, educational, and professional dialogues through indigenous Arabic language satellite media.

*Western Hemisphere Travel Initiative.*—The amended bill recommends not less than \$1,000,000 to expand public outreach efforts related to implementation of the Western Hemisphere Travel Initiative (WHTI). With WHTI implementation occurring as early as June 2009, there is concern about the lack of a comprehensive, coordinated plan between the Department of State, the Department of Homeland Security, and the United States Postal Service to broadly disseminate information to the traveling public concerning the final WHTI implementation require-

ments at the Nation's land and sea ports. The Department of State is encouraged to provide significantly increased outreach to border communities, including through radio, print media, and additional passport fairs.

#### OFFICE OF INSPECTOR GENERAL (INCLUDING TRANSFER OF FUNDS)

The amended bill includes an additional \$9,500,000 for Office of Inspector General (OIG) at the Department of State, which is \$9,500,000 above the pending request. Of the total, \$5,000,000 is to enhance the Department of State Inspector General's oversight of programs in Iraq and Afghanistan, \$2,500,000 is for operations of the Special Inspector General for Iraq Reconstruction (SIGIR), and \$2,000,000 is for operations of the Special Inspector General for Afghanistan Reconstruction (SIGAR).

The Department of State OIG, USAID OIG, SIGIR, and SIGAR each have independent oversight responsibilities in Iraq and Afghanistan. The inspectors general should, to the maximum extent practicable, coordinate, and de-conflict all activities related to oversight of assistance programs for the reconstruction of Iraq and Afghanistan to ensure that oversight resources are used effectively and are not unnecessarily duplicative.

To ensure continuity of oversight of permanent United States Missions, the USAID OIG and the Department of State OIG are expected to actively participate in oversight of all programs funded by this Act and prior Acts making appropriations for the Department of State and foreign operations, in particular oversight of diplomatic and development operations and facilities. Joint oversight with SIGIR or SIGAR is strongly encouraged; however once fully staffed, the Department of State OIG or the USAID OIG should, to the maximum extent practicable, be designated as the lead for any joint oversight conducted with SIGIR or SIGAR of funds involving diplomatic operations and facilities in Iraq and Afghanistan.

#### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The amended bill includes an additional \$76,700,000 for urgent embassy security, construction, and maintenance costs, which is \$83,300,000 below the request. The funds are to construct 300 secure apartments and a secure office building, including the necessary perimeter security, utility, and dining facilities, for United States Mission staff in Afghanistan. Currently, there are a small number of permanent construction apartments and the majority of diplomatic and Mission personnel live in structures with limited protection. Additional funds for this purpose are provided in subchapter B.

#### INTERNATIONAL ORGANIZATIONS CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The amended bill includes \$66,000,000 for Contributions to International Organizations, which is for United States contributions to the U.N. Assistance Mission in Afghanistan and the U.N. Assistance Mission in Iraq. Funding is also provided to meet fiscal year 2008 assessed dues to organizations whose missions are critical to protecting United States national security interests, including the North Atlantic Treaty Organization, the International Atomic Energy Agency, and the Organization for the Prohibition of Chemical Weapons.

The Department of State is directed not later than 45 days after enactment of this Act, to provide a report to the Committees on Appropriations detailing total United States-assessed contributions, any arrears from prior years and potential arrears for fiscal years 2008 and 2009 for each of the organizations funded under this heading.

#### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The budget request included \$723,600,000 for Contributions for International Peacekeeping Activities, of which \$390,000,000 of funds designated as an emergency was provided in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) for the United States contribution to the United Nations/African Union (UN/AU) hybrid peacekeeping mission to Darfur (UNAMID).

The amended bill includes an additional \$373,708,000 for assessed costs to U.N. peacekeeping operations. Within the total under this heading, not less than \$333,600,000 is provided for UNAMID, which is the same as the request. Additionally, the amended bill includes \$40,108,000 to meet unmet fiscal year 2008 assessed dues for the international peacekeeping missions to countries such as the Democratic Republic of the Congo, Côte d'Ivoire, Haiti, Liberia, and Sudan.

#### RELATED AGENCY

##### BROADCASTING BOARD OF GOVERNORS

##### INTERNATIONAL BROADCASTING OPERATIONS

The amended bill includes an additional \$2,000,000 for International Broadcasting Operations to continue increased broadcasting to Tibet.

##### BILATERAL ECONOMIC ASSISTANCE FUNDS APPROPRIATED TO THE PRESIDENT

##### INTERNATIONAL DISASTER ASSISTANCE

The budget request included \$80,000,000 for International Disaster Assistance. The Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) provided \$110,000,000 for emergency humanitarian requirements.

The amended bill includes \$220,000,000 for International Disaster Assistance, which is \$220,000,000 above the pending request. These funds should be used to respond to urgent humanitarian requirements worldwide, including in Burma, Bangladesh, the People's Republic of China, and countries severely affected by the international food crisis.

USAID is directed to substantially increase food assistance for Haiti to address critical food shortages and malnutrition. Preventing hunger and combating poverty in Haiti should be a USAID priority.

As the State Peace and Development Council (SPDC) has compounded the humanitarian crisis in Burma by failing to respond to the needs of the Burmese people in the wake of Cyclone Nargis and by refusing offers of assistance from the international community, the Department of State and USAID should seek to avoid providing assistance to or through the SPDC.

The amended bill also includes funds under this heading and the heading "Development Assistance" in subchapter B to help address the international food crisis. Programs should address both rural and urban food requirements.

##### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The budget request included \$61,800,000 for Operating Expenses of the United States Agency for International Development, of which \$20,800,000 was provided in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) for operations in Iraq.

The amended bill includes \$150,500,000 for Operating Expenses of the United States Agency for International Development.

Of the funds provided under this heading, the amended bill includes \$41,000,000 to continue support for security needs in Iraq and Afghanistan, which is the same as the request. In addition, \$30,000,000 is included to increase support for staffing, security, and



operating needs in Afghanistan and Sudan, and \$19,500,000 in Pakistan.

The amended bill also includes \$25,000,000 to support the development and deployment of a civilian capacity to respond to post-conflict stabilization and reconstruction needs. Funds made available for the civilian stabilization initiative are for the Active and Standby Response Corps portion of the initiative and none of the funds provided in this Act may be used to develop the Civilian Response Corps. Additional funding for this initiative is provided in the "Diplomatic and Consular Programs" account for the Department of State portion of the initiative.

In addition, the amended bill includes \$35,000,000 to enable USAID to hire above attrition in fiscal year 2008. The Administration's request for fiscal year 2009 includes \$92,000,000 for hiring 300 USAID foreign service officers as part of a three-year initiative. Funding provided in this Act is intended to support the hiring of additional Foreign Service officers in fiscal year 2008 in order to begin rebuilding the capacity of the Agency to carry out its mission. USAID is directed to consult with the Committees on Appropriations on the use of these funds and to recruit mid-career personnel. As USAID seeks to strengthen its workforce, USAID is encouraged to consult with the Department of Defense on ways to benefit from the experience of retiring officers, including establishment of a transition program.

OPERATING EXPENSES OF THE UNITED STATES  
AGENCY FOR INTERNATIONAL DEVELOPMENT  
OFFICE OF INSPECTOR GENERAL

The amended bill includes an additional \$4,000,000 for the United States Agency for International Development Office of Inspector General to support increased oversight of programs in Iraq and Afghanistan.

OTHER BILATERAL ECONOMIC  
ASSISTANCE

ECONOMIC SUPPORT FUND

The budget request included \$2,217,000,000 for Economic Support Fund (ESF), of which \$208,000,000 was provided in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) for emergency requirements in the West Bank and in North Korea, as requested.

The amended bill includes \$1,882,500,000 for ESF, which is \$126,500,000 below the request. An additional \$75,000,000 is provided under the heading Democracy Fund for political development programs for Iraq. Funds are to be allocated as follows:

ECONOMIC SUPPORT FUND

(In thousands of dollars)

Country and region	Amended bill
Afghanistan .....	859,000
Bangladesh .....	25,000
Central America .....	25,000
Central African Republic .....	1,000

IRAQ PROGRAMS

(In thousands of dollars)

ECONOMIC SUPPORT FUND—Continued

(In thousands of dollars)

Country and region	Amended bill
Chad .....	2,000
Democratic Republic of the Congo .....	12,500
Iraq .....	424,000
Jordan .....	175,000
Kenya .....	12,000
Mexico .....	20,000
Nepal .....	7,000
North Korea .....	53,000
Philippines .....	15,000
Sri Lanka .....	6,000
Sudan .....	45,000
Thailand .....	2,500
Uganda .....	17,500
West Bank and Gaza .....	171,000
Zimbabwe .....	5,000
Exchanges Africa .....	5,000
Total .....	1,882,500

*Iraq.*—The amended bill includes \$424,000,000 for Iraq, which is \$373,000,000 below the request. The sums provided enable the Department of State and USAID to continue programs in Iraq through the end of fiscal year 2008 and into the first two quarters of fiscal year 2009. After providing more than \$45,000,000,000 to help rebuild Iraq, the United States should reduce bilateral assistance levels and reduce the number of Department of State personnel involved in the reconstruction effort who are located in Iraq. Funds provided for Iraq are to be allocated as follows:

Activity	Pending request	Amended bill	Change from request
Provincial Reconstruction Teams (PRTs) .....	165,000	139,000	−26,000
Provincial Reconstruction Development Councils .....	100,000	85,000	−15,000
Local Governance Program .....	65,000	54,000	−11,000
Community Stabilization Program (CSP) .....	155,000	100,000	−55,000
Community Action Program (CAP) .....	.....	75,000	+75,000
Infrastructure Security Protection for Oil, Water and Electricity .....	70,000	.....	−70,000
Operations and Maintenance of Key USG-Funded Infrastructure .....	134,000	10,000	−124,000
Iraqi-American Enterprise Fund .....	25,000	.....	−25,000
Provincial Economic Growth (including Agriculture and Microfinance) .....	.....	25,000	+25,000
National Capacity Development .....	248,000	70,000	−178,000
Marla Fund .....	.....	5,000	+5,000
Total .....	797,000	424,000	−373,000

*Community Action Program (CAP).*—The amended bill includes \$75,000,000 for continued support for the Community Action Program.

*Community Stabilization Program (CSP).*—The amended bill includes \$100,000,000 for the CSP, which is \$55,000,000 below the request. Recent findings of a March 18, 2008 USAID Inspector General audit (E-267-08-001-P) of possible fraud and misuse of some CSP funds are of concern. Therefore the amended bill withholds 50 percent of funding until the Secretary of State certifies and reports that USAID is implementing recommendations contained in the audit to ensure proper use of funds.

*Enterprise Fund.*—The amended bill does not include any funding for the creation, capitalization, operation, or support of any enterprise fund in Iraq. The Department of State is directed not to reprogram any funds made available by this or prior Acts for an enterprise or enterprise-related fund in Iraq.

*Infrastructure Security Protection for Oil, Water, and Electricity.*—The amended bill does not include funding for these functions, which should be supported by the Government of Iraq.

*Marla Ruzicka Iraqi War Victims Fund.*—The amended bill includes \$5,000,000 for the Marla Ruzicka Iraqi War Victims Fund for continued assistance for Iraqi civilians who suffer losses as a result of the military operations.

*National Capacity Development (NCD).*—Within the amount provided in ESF for Iraq, \$70,000,000 is provided for NCD, which is \$178,000,000 below the request. The Government of Iraq should assume increasing responsibility for the cost of these activities.

*Operations and Maintenance of Key U.S. Government-Funded Infrastructure.*—The

amended bill includes \$10,000,000 for operations and maintenance of key United States government-funded infrastructure, which is \$124,000,000 below the request. These functions should be funded by the Government of Iraq and this Act includes sufficient funding to allow the United States to provide technical assistance and training. In addition, the amended bill conditions the funds on the signing and implementation of an asset transfer agreement between the United States and Iraq.

*Provincial Economic Growth.*—The amended bill includes \$25,000,000 for provincial economic growth activities.

*Vulnerable Groups.*—Up to \$10,000,000 of funds made available for Iraq in this chapter, including from the Migration and Refugee Assistance and International Disaster Assistance accounts, should be made available for programs to assist vulnerable Iraqi religious and ethnic minority groups, including Christians. The Secretary of State should designate staff at United States Embassy Baghdad to oversee and coordinate such assistance.

*Afghanistan.*—The amended bill includes \$859,000,000 in ESF for Afghanistan, which is \$25,000,000 above the request. USAID is directed to review its reconstruction efforts in Afghanistan; focus its assistance, including capacity building, through local Afghan entities; give greater attention to accountability and monitoring to minimize corruption; and emphasize programs which directly improve the economic, social, and political status of Afghan women and girls. Funds provided for Afghanistan are to be allocated as follows:

## AFGHANISTAN PROGRAMS

[In thousands of dollars]

Activity	Pending request	Amended bill	Change from request
Civilian Assistance Program .....		10,000	+ 10,000
Governance and Capacity Building .....	135,000	165,000	+ 30,000
2009 Elections .....	100,000	70,000	- 30,000
National Solidarity Program .....	40,000	65,000	+ 25,000
Health and Education .....	50,000	75,000	+ 25,000
North Atlantic Treaty Organization POHRF .....		2,000	+ 2,000
Power .....	175,000	150,000	- 25,000
Provincial Reconstruction Teams (PRTs)/Provincial Governance .....		50,000	+ 50,000
Roads .....	329,000	200,000	- 129,000
Rural Development/Alternative Livelihoods .....		65,000	+ 65,000
Trade and Investment .....	5,000	7,000	+ 2,000
Total .....	834,000	859,000	+ 25,000

**Civilian Assistance.**—The amended bill includes \$10,000,000 for USAID's Afghan Civilian Assistance Program to continue assistance for civilians who have suffered losses as a result of the military operations, and \$2,000,000 for the NATO/ISAF Post-Operations Humanitarian Relief Fund.

**Governance and Capacity Building.**—The amended bill provides \$165,000,000 for governance and capacity building programs, which is \$30,000,000 above the request, to fund rule of law, human rights, and local and national capacity building.

**National Solidarity Program.**—The amended bill includes \$65,000,000 for the National Solidarity Program to support small-scale development initiatives. The funding shall be programmed in a manner consistent with the Afghan National Development Strategy.

**Power.**—The amended bill includes \$150,000,000 for power, which is \$25,000,000 below the request. The request includes funding for gas and diesel power projects and there is a concern that diesel generators are costly to maintain and will exacerbate Kabul's already heavily polluted air. The completion of the north-south transmission line to enable Afghanistan to purchase electricity from its northern neighbors for distribution to other areas of the country is supported. Funding for the Northern Electrical Power System or the Sheberghan Gas-Fired Plant is not included. The World Bank should play a larger role in financing such infrastructure projects.

It is noted that Afghanistan has considerable potential for small hydro and solar power development to service Afghanistan's many remote communities that have no other access to electricity, and not less than \$15,000,000 of the funds shall be used for renewable energy projects in rural areas.

**Provincial Reconstruction Teams.**—The amended bill provides \$50,000,000 for PRTs in Afghanistan.

**Roads.**—The amended bill includes \$200,000,000 for roads, which is \$129,000,000 below the request.

**Rural Development and Alternative Livelihoods.**—The amended bill includes \$65,000,000 for rural development and alternative livelihood programs and an additional \$35,000,000 for counternarcotics under the "International Narcotics Control and Law Enforcement" account to expand counternarcotics programs in Afghanistan. The Secretary of State is directed to consult with the Committees on Appropriations on the use of these funds.

**2009 Elections.**—The amended bill includes \$70,000,000 for preparations for the 2009 elections.

**Bangladesh.**—The amended bill includes \$25,000,000 for assistance for Bangladesh for cyclone recovery and reconstruction assistance.

**Central America.**—The amended bill includes \$25,000,000 for the countries of Central America in fiscal year 2008, in addition to funds otherwise made available for assist-

ance for these countries, for a program to be called the "Economic and Social Development Fund for Central America", of which \$20,000,000 is to be administered by USAID, in consultation with the Department of State. The purpose of the program is to promote economic and social development and good governance in targeted, low-income areas, including rural communities that are particularly vulnerable to drug trafficking and related violence and organized crime. These funds should support programs that emphasize community initiatives and public-private partnerships. United States funds should be matched with contributions from public and private sources to the maximum extent practicable. USAID is directed to consult with the Committees on Appropriations prior to the obligation of these funds. Of the funds available, \$5,000,000 shall be administered by the Bureau of Educational and Cultural Affairs for educational exchanges with the countries of Central America.

**Democratic Republic of the Congo.**—The amended bill includes \$12,500,000 for assistance for eastern Democratic Republic of the Congo for urgent conflict mitigation and recovery programs and for programs relating to sexual violence against women and girls. Of this amount, not less than \$1,000,000 is to establish and support a training center for health workers who provide care and treatment for victims of sexual violence, and not less than \$2,000,000 is for training military and civilian investigators, prosecutors, and judges to bring the perpetrators of such crimes to justice.

**Exchanges with Africa.**—The amended bill includes \$5,000,000 for educational exchanges with countries in Africa, specifically to counter extremism. These funds should be administered by the Bureau of Educational and Cultural Affairs.

**Jordan.**—The amended bill includes a total of \$200,000,000 for economic assistance for Jordan, of which \$175,000,000 is appropriated under this heading, and \$25,000,000 is appropriated through a general provision. The Government of Jordan remains a key ally and has played a leading role in supporting peace initiatives in the Middle East. Programming of these resources should be done in consultation with the Government of Jordan and refugee relief organizations and funds should be used to meet the needs of Iraqi refugees. The Secretary of State, after consultation with the Government of Jordan, the United Nations, and international organizations and non-governmental organizations with a presence in Iraq, is directed to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act detailing (1) short- and medium-term options the United States and other countries and organizations could pursue to assist Iraqis in Jordan to maintain their educational and vocational skills and earn income; and (2) longer term options that the United States and the Government of Jordan can take to address the economic,

social and health needs of refugees from Iraq, including the feasibility of extending temporary residence status for Iraqis registered with the United Nations High Commissioner for Refugees.

**Kenya.**—The amended bill includes \$12,000,000 for assistance for Kenya for political, ethnic and tribal reconciliation activities.

**Mexico.**—The amended bill includes \$20,000,000 for assistance for Mexico for institution building and support of civil society. Funding for these purposes was requested through the International Narcotics and Law Enforcement (INCLE) account. The amended bill includes \$5,000,000 for human rights training for police, prosecutors, and prison officials; \$3,000,000 for victim and witness protection; and \$3,000,000 to support NGOs and civil society. The amended bill also includes \$5,000,000 for a literacy program for local police. USAID is encouraged to work with non-governmental organizations, civil society, and local police to replicate the literacy program being implemented in Nezahualcoyotl, Mexico. The amended bill also includes funding for the Office of the UN High Commissioner for Human Rights in Mexico (OHCHR). The Department of State is directed to work with the Mexican Government, the OHCHR, and civil society organizations in Mexico to promote respect for human rights by Mexican police and military forces.

**Nepal.**—The amended bill includes \$7,000,000 for assistance for Nepal to strengthen democracy and support the peace process, including the demobilization and reintegration of ex-combatants, and for economic development programs in rural communities affected by conflict.

**North Korea.**—The amended bill includes up to \$53,000,000 for energy-related assistance for North Korea in support of the goals of the Six-Party Talks Agreement, in addition to the \$53,000,000 appropriated in division J of Public Law 110-161, which is the same as the total amount requested. Prior to the obligation of assistance for North Korea, the Secretary of State is directed to report to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under the Six-Party Talks Agreement.

**Pakistan.**—The amended bill does not include funding for assistance for Pakistan in this subchapter. These needs are addressed in funding appropriated in the fiscal year 2009 bridge.

**Philippines.**—The amended bill includes \$15,000,000 for assistance for the Philippines for programs to further peace and reconciliation in the southern Philippines, and recognizes the shared interest between the United States and the Philippines in combating terrorism in this region.

**Sri Lanka.**—The amended bill includes \$6,000,000 for assistance for Sri Lanka to be provided through USAID to support economic development programs in the eastern region of Sri Lanka to solidify recent gains

against the Liberation Tigers of Tamil Eelam. These funds should be used to assist Tamil and Muslim minorities in Sri Lanka.

*Sudan.*—The amended bill includes \$45,000,000 for assistance for Sudan to support election-related activities.

*Thailand.*—The amended bill includes \$2,500,000 for assistance for Thailand to address economic and social development needs in southern Thailand. The Department of State is directed to consult with the Committees on Appropriations prior to the obligation of these funds.

*Uganda.*—The amended bill includes \$17,500,000 for assistance for northern Uganda. These funds should be used to support economic development, governance, assistance for war victims, and reintegration of ex-combatants.

*West Bank and Gaza.*—The amended bill includes not more than \$171,000,000 for economic assistance for the West Bank and Gaza, which is \$24,000,000 below the request. The Department of State is directed to provide a report to the Committees on Appropriations not later than 90 days after the enactment of this Act on how United States economic assistance for the West Bank supports the larger Palestinian Reform and Development Plan as well as a description of other donor support of this plan. The report should describe how assistance from the United States and other donors will improve conditions in the West Bank, including through job creation and housing programs.

*Zimbabwe.*—The amended bill includes \$5,000,000 for assistance for Zimbabwe to support political reconciliation activities.

#### DEPARTMENT OF STATE

##### DEMOCRACY FUND

The amended bill includes \$76,000,000 for Democracy Fund programs, requested under the heading "Economic Support Fund", to be made available as follows:

*Chad.*—The amended bill includes \$1,000,000 for democracy activities in Chad.

*Iraq.*—The amended bill includes \$75,000,000 for democracy activities in Iraq. These funds are intended to be available through non-governmental organizations, including the National Endowment for Democracy, and not less than \$8,000,000 for the United States Institute of Peace. These funds should be awarded expeditiously to prevent interruption of current operations.

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The amended bill includes \$390,300,000 for International Narcotics Control and Law Enforcement (INCLE) activities in Afghanistan, Iraq, Mexico, Central America, Haiti, the Dominican Republic, and the West Bank, which is \$343,700,000 below the request. The Secretary of State is directed to consult with the Committees on Appropriations on the use of these funds.

*Iraq.*—The amended bill includes \$85,000,000 for Iraq for justice and rule of law programs, which is \$74,000,000 below the request. Funding for prison construction is not included.

*Afghanistan.*—The amended bill includes \$35,000,000, which is \$35,000,000 above the request, to support programs to strengthen counternarcotics efforts, to improve the training of the Afghan police, including border police, to advance the development of institutional capacity professionalism of the justice sector, and to help facilitate cooperation between the police and the judiciary at both the national and regional levels. The Department of State is directed to report to the Committees on Appropriations not later than 180 days after enactment of this Act on the level of counternarcotics cooperation by the Government of Afghanistan at the national and regional level and should detail,

nationally and by province, the steps that the Government of Afghanistan is taking to arrest and prosecute leaders of Afghan drug cartels; disarm and disband private militias; and end corruption among national and provincial police forces.

*Central America.*—The amended bill includes \$24,800,000 for assistance for Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama, and an additional \$5,000,000 for Haiti and the Dominican Republic under the Merida Initiative. Although funding was requested only through the INCLE account, funding for the Merida Initiative is provided in the accounts from which such activities are traditionally funded. The amended bill provides funding for specialized police training and non-lethal equipment to strengthen the law enforcement and criminal justice institutions for the purpose of combating drug trafficking and related violent crime and increasing the capacity and professionalism of Central American police forces.

Impunity within the military and police forces of several of these countries and corruption within their justice systems is of concern. The Secretary of State is directed to submit a report in writing on mechanisms in place to ensure eligibility of recipients of United States assistance.

The omission of Haiti and the Dominican Republic from the request for the Merida Initiative makes it more likely that these vulnerable countries would become increasingly favored transit routes for drug traffickers. The amended bill includes \$2,500,000 for Haiti and \$2,500,000 for the Dominican Republic as part of the Merida Initiative to support counternarcotics and border security programs, anti-corruption, judicial reform, institution-building, and rule of law programs.

*Mexico.*—There is a shared responsibility between the United States and Mexico to combat drug trafficking and related violence and organized crime. The amended bill includes \$215,500,000 to support programs to enable the Government of Mexico to respond to these threats in accordance with the rule of law. The amended bill includes \$10,000,000 for demand reduction and drug rehabilitation activities; \$3,000,000 to provide technical and other assistance to enable the Government of Mexico to put into service a unified national police registry; and not more than \$24,000,000 for program development and support. To the extent possible, any equipment and technology purchases should be interoperable based on open standards with the equipment and technology being used by their United States Government counterparts.

Corruption and impunity within Mexico's military and police forces are of concern. Recommendations of the National Human Rights Commission have been ignored and investigations of violations of human rights by Mexican military and police forces rarely result in convictions. The Secretary of State, in consultation with relevant Mexican Government authorities, is directed to report to the Committees on Appropriations that mechanisms are in place to ensure eligibility of recipients of United States assistance.

There is concern with the failure to investigate and prosecute the police officers responsible for human rights violations, including rape and sexual violence against women, at San Salvador Atenco on May 3-4, 2006, and in Oaxaca between June and December 2006. These and other such violations by members of the Mexican military and police forces have been documented and require thorough, credible and transparent investigation and prosecution by the Mexican Attorney General.

The state and Federal investigations into the October 27, 2006, killing in Oaxaca of

American citizen Bradley Will have been flawed and the Secretary of State is directed, not later than 45 days after enactment of this Act and 120 days thereafter, to submit a report to the Committees on Appropriations detailing progress in conducting a thorough, credible, and transparent investigation to identify the perpetrators of this crime and bring them to justice. The Department of State should work with Mexican Government authorities and relevant Federal government agencies of the United States to assist in the investigation of this case.

*West Bank.*—The amended bill includes \$25,000,000 for ongoing training of vetted units of the Palestinian National Security Forces, which is the same as the request.

##### MIGRATION AND REFUGEE ASSISTANCE

The budget request included \$230,000,000 for Migration and Refugee Assistance, of which \$200,000,000 was provided in the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) for emergency refugee requirements in Iraq and the West Bank and Gaza.

The amended bill includes \$315,000,000 for Migration and Refugee Assistance, which is \$285,000,000 above the pending request. Funds should be made available to meet unmet global refugee needs, including to assist Iraqi refugees in Jordan, Syria, Lebanon, Turkey, Egypt, and the surrounding region, as well as internally displaced persons in Iraq. Funds may also be used, if necessary, for the admissions costs of Iraqis granted special immigrant status under the Special Immigrant Visa program authorized by the National Defense Authorization Act of 2008. In addition, funds may be used to offset administrative costs associated with the expanded requirements of the Iraqi refugee program, in consultation with the Committees on Appropriations.

The humanitarian crisis involving Iraqi refugees and internally displaced persons is of concern and the Government of Iraq has dedicated insufficient resources to assist this most vulnerable segment of the Iraqi population. The Department of State shall urge the Government of Iraq to provide a substantial increase in funding for humanitarian assistance to the Iraqi refugee population residing in the region and within the country. In addition, the Secretary of State should ensure that the Senior Coordinator for Iraqi Refugee Issues gives particular attention to the needs of vulnerable minority groups, including ethnic and religious minorities.

The welfare and security of the 7,900 Lao Hmong in the Thai military camp in Petchaboon, northern Thailand is of concern and the Department of State is directed to urge the Government of Thailand to support a transparent screening process to identify those who have a legitimate fear of return to Laos. Any attempt to force the return of Hmong refugees to Laos is strongly opposed.

##### UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

The amended bill includes \$31,000,000 for the United States Emergency Refugee and Migration Assistance Fund to prevent depletion of this emergency fund.

##### NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

The amended bill includes \$13,700,000 for Nonproliferation, Anti-terrorism, Demining and Related Programs (NADR), which is \$8,700,000 above the request.

Of these funds, \$5,000,000 is for presidential protective service support in Afghanistan, which is the same as the request, and \$2,500,000 is for a United States contribution to the Comprehensive Test Ban Treaty International Monitoring System.

*Central America.*—The amended bill also includes \$6,200,000 for the Merida Initiative for

the countries of Central America, which is \$6,200,000 above the request. Although funding for these purposes was requested only through the INCLE account, funding has been provided in the NADR account, from which such activities are traditionally funded.

#### MILITARY ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### FOREIGN MILITARY FINANCING PROGRAM

The amended bill includes \$137,500,000 for Foreign Military Financing Program, which is \$137,500,000 above the request.

*Central America.*—The amended bill includes \$4,000,000 to augment the ongoing naval cooperation program and maritime security assistance to strengthen the ability of the countries of Central America to improve maritime security and interdiction capabilities, including to complement existing regional systems and programs.

*Jordan.*—The amended bill includes a total of \$50,000,000 for military assistance for Jordan, of which \$17,000,000 is appropriated under this heading and \$33,000,000 is appropriated through a general provision.

*Mexico.*—The amended bill includes \$116,500,000 in support of military-to-military cooperation between the United States and Mexico.

#### SUBCHAPTER B—BRIDGE FUND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2009

The budget request totals \$3,605,000,000 in emergency supplemental funds for fiscal year 2009. The amended bill provides a total of \$3,679,500,000 for the Department of State, Foreign Operations and Related Programs for fiscal year 2009 emergency supplemental requirements, which is \$74,500,000 above the request.

#### DEPARTMENT OF STATE

##### ADMINISTRATION OF FOREIGN AFFAIRS

##### DIPLOMATIC AND CONSULAR PROGRAMS

The amended bill includes \$704,900,000 for Diplomatic and Consular Programs. Within this amount, \$78,400,000 is available for worldwide security protection and not more than \$550,500,000 is available as a bridge fund for Iraq operations.

To meet increased security and personnel requirements, the amended bill includes \$89,400,000 for Afghanistan, \$7,000,000 for Pakistan, \$3,000,000 for Somalia, and \$15,000,000 for Sudan. In addition, the amended bill includes \$40,000,000 to continue the support of new positions to develop language and other critical skills of the diplomatic corps and for civilian post-conflict stabilization initiatives.

##### OFFICE OF INSPECTOR GENERAL

##### (INCLUDING TRANSFER OF FUNDS)

The amended bill includes \$57,000,000 for Office of Inspector General at the Department of State, of which \$15,500,000 is to continue oversight of programs in Iraq and Afghanistan, and the Middle East.

*Special Inspector General for Iraq Reconstruction (SIGIR).*—The amended bill includes \$36,500,000 for SIGIR for continued oversight of United States reconstruction programs in Iraq, as authorized by section 3001 of Public Law 108-106.

*Special Inspector General for Afghanistan Reconstruction (SIGAR).*—The amended bill includes \$5,000,000 for SIGAR, which is \$5,000,000 above the request, and which is authorized by section 1229 of Public Law 110-181. Such funds shall be used for oversight of United States reconstruction programs in Afghanistan. None of the funds shall be used to duplicate investigations that have been conducted or to support offices or systems of inspectors general at the Department of

State or USAID. SIGAR should co-locate staff and “back office” support systems with other inspectors general to the extent feasible.

##### EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

The amended bill includes \$41,300,000 for urgent embassy security, construction, and maintenance costs. Funds should be used to construct safe and secure office space for the increasing number of diplomatic and development personnel living and working in Kabul, Afghanistan.

##### INTERNATIONAL ORGANIZATIONS

##### CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The amended bill includes \$75,000,000 for Contributions to International Organizations.

##### CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The amended bill includes \$150,500,000 for Contributions for International Peacekeeping Activities to fund the Administration's revised estimate of the United States-assessed contribution to international peacekeeping.

##### RELATED AGENCY

##### BROADCASTING BOARD OF GOVERNORS

##### INTERNATIONAL BROADCASTING OPERATIONS

The amended bill includes \$6,000,000 for International Broadcasting Operations.

##### BILATERAL ECONOMIC ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT

##### GLOBAL HEALTH AND CHILD SURVIVAL

The amended bill includes \$75,000,000 for Global Health and Child Survival to continue programs to combat avian influenza.

##### DEVELOPMENT ASSISTANCE

The amended bill includes \$200,000,000 for Development Assistance, which is for a new Food Security Initiative to promote food security in countries affected by significant food shortages, such as programs to assist farmers to increase crop yields, including in Darfur. Of this amount, up to \$50,000,000 should be used for local and regional purchase. The Secretary of State is directed to submit a report to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds, on the proposed uses of funds to alleviate starvation, hunger, and malnutrition overseas, including a list of those countries facing significant food shortages.

##### INTERNATIONAL DISASTER ASSISTANCE

The amended bill includes \$200,000,000 for International Disaster Assistance to meet urgent humanitarian requirements worldwide, including support for critical needs in Bangladesh, Burma, and the People's Republic of China. A portion of these funds should be used for assistance for internally displaced persons in Iraq and Afghanistan. In addition, funds are available under this heading to assist in the response to the international food crisis.

##### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

The amended bill includes \$93,000,000 for Operating Expenses of the United States Agency for International Development to address staffing, security, and operating needs.

##### OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

The amended bill includes \$1,000,000 for Operating Expenses of the United States Agency for International Development Office of Inspector General.

##### OTHER BILATERAL ECONOMIC ASSISTANCE

##### ECONOMIC SUPPORT FUND

The amended bill includes \$1,124,800,000 for Economic Support Fund to address critical health, economic, and security needs. These funds are to be allocated as follows:

##### ECONOMIC SUPPORT FUND

(In thousands of dollars)

Country and region	Amended bill
Afghanistan .....	455,000
Bangladesh .....	50,000
Burma .....	5,300
Central African Republic .....	2,000
Chad .....	5,000
Democratic Republic of the Congo .....	10,000
Iraq .....	102,500
Jordan .....	100,000
Kenya .....	25,000
North Korea .....	15,000
Pakistan .....	150,000
Sudan .....	25,000
Uganda .....	15,000
West Bank and Gaza .....	150,000
Zimbabwe .....	15,000
Total .....	1,124,800

*Afghanistan.*—The amended bill includes \$455,000,000 for assistance for Afghanistan.

*Governance and Capacity Building.*—The amended bill includes \$20,000,000 for the National Solidarity Program to support small-scale development initiatives; and not less than \$35,000,000 for preparations for the 2009 elections. The funding shall be programmed in a manner consistent with the Afghan National Development Strategy.

*Rural Development and Alternative Livelihoods.*—The amended bill includes not less than \$35,000,000 for rural development and alternative livelihoods.

*Bangladesh.*—The amended bill includes \$50,000,000 for cyclone recovery and reconstruction assistance.

*Burma.*—The amended bill includes \$5,300,000 for assistance for Burma for humanitarian programs along the Thai-Burma border.

*Iraq.*—The amended bill includes \$102,500,000 for assistance for Iraq.

*Community Action Program (CAP).*—The amended bill includes \$32,500,000 for continued support for the Community Action Program.

*Community Stabilization Program (CSP).*—The amended bill includes \$32,500,000 for continued support for the Community Stabilization Program.

*Marla Ruzicka Iraqi War Victims Fund.*—The amended bill includes \$2,500,000 for the Marla Ruzicka Iraqi War Victims Fund for continued assistance for Iraqi civilians who suffer losses as a result of the military operations.

*Provincial Reconstruction Teams (PRTs).*—The amended bill includes \$35,000,000 for continued support for the Provincial Reconstruction Teams.

##### DEPARTMENT OF STATE

##### INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

The amended bill includes \$199,000,000 for International Narcotics Control and Law Enforcement activities in Iraq, Afghanistan, the West Bank, Mexico, and Africa. The Secretary of State is directed to consult with the Committees on Appropriations on the use of these funds.

##### MIGRATION AND REFUGEE ASSISTANCE

The amended bill includes \$350,000,000 for Migration and Refugee Assistance to respond to urgent humanitarian and refugee admissions requirements, including those involving refugees from Iraq, Afghanistan, and central Africa.

##### NONPROLIFERATION, ANTI-TERRORISM, DEMINING, AND RELATED PROGRAMS

The amended bill includes \$4,500,000 for Nonproliferation, Anti-terrorism, Demining

and Related Programs, for humanitarian demining in Iraq.

#### MILITARY ASSISTANCE

##### FUNDS APPROPRIATED TO THE PRESIDENT FOREIGN MILITARY FINANCING PROGRAM

The amended bill includes \$302,500,000 for Foreign Military Financing Program, of which \$100,000,000 is for assistance for Jordan, \$170,000,000 is for assistance for Israel, and \$32,500,000 is for assistance for Lebanon.

##### PEACEKEEPING OPERATIONS

The amended bill includes \$95,000,000 for Peacekeeping Operations for programs in Africa to address needs beyond those projected in the fiscal year 2009 budget request, including for Darfur and \$10,000,000 for Peacekeeping Operations in the Democratic Republic of the Congo (DRC). These funds are made available to support infantry battalions of the DRC armed forces, to protect vulnerable civilians in the eastern region of the country, and should be made available in accordance with thorough vetting procedures. The Department of State should ensure that trained units are being provided professional leadership, appropriate training in human rights, and adequate pay.

#### SUBCHAPTER C—GENERAL PROVISIONS, THIS CHAPTER

The amended bill includes the following general provisions for this chapter:

##### EXTENSION OF AUTHORITIES

Section 1401 extends certain authorities necessary to expend Department of State and foreign assistance funds.

##### IRAQ

Section 1402 imposes certain conditions and limitations on assistance for Iraq and requires reports.

##### AFGHANISTAN

Section 1403 imposes certain conditions and limitations on assistance for Afghanistan and requires a report.

##### WEST BANK

Section 1404 directs the Department of State to provide a report to the Committees on Appropriations not later than 90 days after enactment of this Act, and 180 days thereafter, on the Palestinian security assistance program.

##### WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

Section 1405 grants waiver authority to the President with respect to certain assistance to North Korea and the “Glenn Amendment,” which established automatic sanctions in the Arms Export Control Act on non-nuclear weapon states that detonate a nuclear device.

##### MEXICO

Section 1406 sets a ceiling on funding for Mexico at \$400,000,000. The provision also provides a restriction on the use of funding for budget support or cash payments and restricts obligation of 15 percent of the funding provided under the headings “Foreign Military Financing Program” and “International Narcotics Control and Law Enforcement” until the Secretary of State submits a report in writing.

##### CENTRAL AMERICA

Section 1407 states that \$65,000,000 may be made available for the countries of Central America, Haiti and the Dominican Republic and prohibits the use of funding for budget support or cash payments. The provision restricts obligation of 15 percent of the funding provided under the headings “Foreign Military Financing Program” and “International Narcotics Control and Law Enforcement” for the military and police forces until the Secretary of State submits a report in writing.

#### BUYING POWER MAINTENANCE ACCOUNT (INCLUDING TRANSFERS OF FUNDS)

Section 1408 provides authority to utilize \$26,000,000 from appropriations for Diplomatic and Consular Programs from a prior Act and authority to transfer up to an additional \$74,000,000 of the funds made available by this Act to the Buying Power Maintenance Account to manage exchange rate losses in fiscal year 2008. The Department of State shall consult on any proposed transfers resulting from this authority. The Department of State estimates the impact of currency fluctuations to be at least \$260,000,000 on United States diplomatic operations worldwide.

In addition, the provision includes authority to transfer unobligated and expired balances after fiscal year 2008 into the Buying Power Maintenance Account to address future exchange rate losses. The Secretary of State shall submit a report to the Committees on Appropriations not later than October 15, 2008, on the amount transferred by this authority in this or any fiscal year, the total amount of exchange rate losses in fiscal year 2008, and the accumulated impact of losses from prior years.

Finally, authority is granted to the Broadcasting Board of Governors to transfer unobligated and expired balances after fiscal year 2008 into its Buying Power Maintenance Account.

##### SERBIA

Section 1409 authorizes the Secretary of State to withhold funds related to reimbursement of costs associated with damage to the United States Embassy in Belgrade resulting from the February 21, 2008, attack.

##### RESCISSIONS

Section 1410 rescinds prior year funds and makes them available for a contribution to the World Food Program and for programs in the INCLE account. The provision also rescinds prior year funds from the Iraq Relief and Reconstruction Fund.

##### DARFUR PEACEKEEPING

Section 1411 authorizes the President to utilize prior year Foreign Military Financing Program and Peacekeeping Operations funds for transfer or lease of helicopters or related equipment necessary for operations of the AU/UN hybrid peacekeeping mission in Darfur.

##### TIBET

Section 1412 provides up to \$5,000,000 for the establishment of a United States Consulate in Lhasa, Tibet, under the headings “Diplomatic and Consular Programs” and “Embassy Security, Construction and Maintenance” in this and prior Acts, and recommends certain actions regarding the opening of such a consulate.

The Secretary of State is directed to submit a report to the Committees on Appropriations not later than 90 days after enactment of this Act detailing efforts taken by the Department of State to establish a United States Consulate in Lhasa, Tibet, and a description of any policies or programs by the Government of the People's Republic of China aimed at undermining public support for Tibet including in the media, academia, and political arenas.

##### JORDAN

##### (INCLUDING RESCISSION OF FUNDS)

Section 1413 provides \$58,000,000 for assistance for Jordan, which is offset by a rescission of an equal amount from the Millennium Challenge Corporation.

##### ALLOCATIONS

Section 1414 requires that funds in the specified accounts shall be allocated as indicated in the respective tables in this explan-

atory statement. Any change to these allocations shall be subject to the regular notification procedures of the Committees on Appropriations.

##### REPROGRAMMING AUTHORITY

Section 1415 allows for reprogramming of funds made available in prior years to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

##### SPENDING PLANS AND NOTIFICATION PROCEDURES

Section 1416 requires the Secretary of State to provide detailed spending plans to the Committees on Appropriations on the uses of funds appropriated in subchapters A and B. These funds are also subject to the regular notification procedures of the Committees on Appropriations.

##### TERMS AND CONDITIONS

Section 1417 establishes that unless designated otherwise in this chapter, the terms and conditions contained within the Department of State, Foreign Operations and Related Programs Appropriations Act, 2008 (Public Law 110-161) shall apply to funds appropriated by this chapter, with the exception of section 699K.

#### TITLE II—DOMESTIC MATTERS

##### CHAPTER 1—FOOD AND DRUG ADMINISTRATION

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### FOOD AND DRUG ADMINISTRATION

##### SALARIES AND EXPENSES

The amended bill provides an additional \$150,000,000 for Food and Drug Administration, Salaries and Expenses, available until September 30, 2009. FDA is directed to provide the Committees on Appropriations monthly expenditures reports on the use of these funds.

##### CHAPTER 2—COMMERCE, JUSTICE, AND SCIENCE

##### DEPARTMENT OF COMMERCE

##### BUREAU OF THE CENSUS

##### PERIODIC CENSUSES AND PROGRAMS

##### (INCLUDING TRANSFER OF FUNDS)

The amended bill includes \$210,000,000 for increased costs associated with the poor management of the 2010 Decennial Census. Within the funds provided, not less than \$50,300,000 shall be used to restore funding associated with the approved March 26, 2008 reprogramming within the Bureau of the Census. Funds transferred pursuant to the reprogramming to address immediate shortfalls within the Field Data Collection Automation contract from the American Community Survey, Census Coverage Measurement activities, and other Census activities may result in increased risk and other unintended consequences to other parts of the Census. The \$50,300,000 shall be available solely to complete previously planned activities and address vacancies in the aforementioned areas in order to reduce risk and ensure a successful 2010 Decennial Census.

The Census Bureau shall submit to the Committees on Appropriations of the Senate and the House of Representatives, within 30 days of enactment of this Act, a detailed plan showing a timeline of milestones and expenditures for the 2010 Decennial Census, and shall include a quantitative assessment of the associated risk to the program as it is currently constituted. In addition, the Inspector General shall submit quarterly reports to the Committees on Appropriations, until the conclusion of the 2010 Decennial Census, detailing the progress of the revised plan for the execution of the 2010 Decennial

Census and any unanticipated slippages from the revised 2010 milestones, as well as reassessing the associated risk to the program. The Census Bureau is directed to provide the Inspector General with any required information so that the quarterly reports can begin 60 days after submission of the plan.

Because rising costs associated with the 2010 Decennial Census and the Department's and the Bureau's lack of contract oversight are cause for particular concern, the bill includes not less than \$3,000,000 for the Department's Office of the Inspector General for Census contract oversight activities and not less than \$1,000,000 solely for a reimbursable agreement with the Defense Contract Management Agency to review and improve Census contract management.

DEPARTMENT OF JUSTICE  
FEDERAL PRISON SYSTEM  
SALARIES AND EXPENSES

The amended bill includes \$178,000,000 for additional costs of the Bureau of Prisons (BOP) related to the custody and care of inmates and the maintenance and operation of correctional and penal institutions. The BOP has been chronically underfunded in recent budget requests, due to consistently underestimated growth in inmate populations and inadequate funding requests for medical expenses. As a result, BOP facilities face rising staff-to-inmate ratios, placing corrections officers and inmates at unacceptable risk of violence. The amended bill includes funding for FCI Pollock activation costs and for inmate drug abuse treatment required by law. The Administration is urged to re-estimate BOP fixed costs and prisoner population for fiscal year 2009 and to provide the House and Senate Committees on Appropriations with those estimates no later than August 1, 2008. Further, the BOP is directed to notify the Committees of current staff-to-inmate ratios at all Federal prisons on a monthly basis.

OTHER AGENCIES

NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION

SCIENCE, AERONAUTICS AND EXPLORATION

The amended bill includes \$62,500,000 for Science, Aeronautics and Exploration.

NATIONAL SCIENCE FOUNDATION  
RESEARCH AND RELATED ACTIVITIES

The amended bill includes \$22,500,000 for Research and Related Activities, of which \$5,000,000 shall be available solely for activities authorized by section 7002(b)(2)(A)(iv) of Public Law 110-69.

EDUCATION AND HUMAN RESOURCES

The amended bill includes \$40,000,000 for Education and Related Activities of which \$20,000,000 is for section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1) and \$20,000,000, is for activities authorized by section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n-1a).

CHAPTER 3—ENERGY

DEPARTMENT OF ENERGY  
ENERGY PROGRAMS  
SCIENCE

The amended bill includes an additional \$62,500,000 for Science. The Department of Energy is instructed to utilize this funding to eliminate all furloughs and reductions in force which are a direct result of budgetary constraints. Workforce reductions which are a result of completed work or realignment of mission should proceed as planned. This funding is intended to maintain technical expertise and capability at the Office of Science, and may be used for National Laboratory Research and Development including research related to new neutrino initiatives.

Funding for research efforts shall not be allocated until the Office of Science has fully funded all personnel requirements.

ENVIRONMENTAL AND OTHER DEFENSE  
ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

The amended bill includes an additional \$62,500,000 for Defense Environmental Cleanup.

CHAPTER 4—LABOR AND HEALTH AND  
HUMAN SERVICES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION  
STATE UNEMPLOYMENT INSURANCE AND  
EMPLOYMENT SERVICE OPERATIONS

The amended bill provides \$110,000,000 for Unemployment Compensation State Operations to compensate the States for the administrative costs of processing the Unemployment Insurance (UI) claims workload for the balance of fiscal year 2008. New UI claims are increasing, reaching a level in April 2008 nearly 18 percent greater than the previous year. States are beginning to experience service degradation in the form of call center delays for claimants, waiting times for adjudication of disputed claims, and reductions in program integrity activities, tax collection, and tax audits. While funding in the Consolidated Appropriations Act, 2008 is sufficient to cover the costs of processing 2.4 million Average Weekly Insured Unemployment (AWIU), claims have already climbed above 2.9 million AWIU. The amount provided will compensate States for the claims workload estimated by the Department of Labor up to the point where additional funds are released under a legislated trigger.

DEPARTMENT OF HEALTH AND HUMAN  
SERVICES

NATIONAL INSTITUTES OF HEALTH  
OFFICE OF THE DIRECTOR  
(INCLUDING TRANSFER OF FUNDS)

The amended bill provides \$150,000,000 in additional funding for the National Institutes of Health to support additional scientific research. This funding is to be distributed on a pro-rata basis across the NIH institutes and centers.

CHAPTER 5—LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED  
MEMBERS OF CONGRESS

The amended bill provides the customary death gratuity to Annette Lantos, widow of Tom Lantos, late a Representative from the State of California.

TITLE III—NATURAL DISASTER RELIEF  
AND RECOVERY

CHAPTER 1—AGRICULTURE

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

The amended bill provides \$89,413,000 for the Emergency Conservation Program for disaster relief. The recent Midwest floods and tornadoes have added to disaster relief funding needs. Therefore, these funds are provided to meet these and other disaster relief funding needs.

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

The amended bill provides \$390,464,000 for the Emergency Watershed Protection Program for disaster relief. The recent Midwest floods and tornadoes have added to disaster relief funding needs. Therefore, these funds are provided to meet these and other disaster relief funding needs.

CHAPTER 2—COMMERCE

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION  
ECONOMIC DEVELOPMENT ASSISTANCE  
PROGRAMS

The amended bill provides \$100,000,000 for economic development assistance in Presidentially-declared disaster areas to provide disaster relief, long-term recovery and restoration of infrastructure.

CHAPTER 3—CORPS OF ENGINEERS  
DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

Public Law 109-148, the 3rd emergency supplemental appropriations act of 2006, Public Law 109-234, the 4th emergency supplemental appropriations act of 2006, and Public Law 110-28, the emergency supplemental appropriations act of 2007, provided funds to repair and restore hurricane damaged projects, accelerate completion of New Orleans area flood and storm damage reduction projects, and provide 100-year storm protection for the greater New Orleans area. The scope and magnitude of the work required has increased with time. The current cost estimate requires \$5,761,000,000 in additional Federal funds and a non-Federal cost-share of \$1,527,000,000.

The Administration requested this funding under the Construction account in the fiscal year 2009 budget. The amended bill provides the full amount of the request as a supplemental appropriation to ensure the existing schedule for completion of 100-year protection for the greater New Orleans area by 2011 is met. However, \$2,926,000,000 is provided under Flood Control and Coastal Emergencies in order to provide continuity in appropriations for projects to repair, restore, and accelerate completion of the levels of protection authorized prior to Hurricane Katrina. None of the funds recommended for this purpose shall be available until October 1, 2008.

In addition, the amended bill provides \$605,988,800 to respond to recent natural disasters. The funding included under the Construction; Mississippi River and Tributaries; Operation and Maintenance; and Flood Control and Coastal Emergency accounts that reference natural disasters are provided to address nationwide disaster recovery and emergency situations and should not be construed to pertain exclusively to any single disaster event. The Corps shall prioritize all projects to ensure that the most critical health and safety risks are addressed.

CONSTRUCTION

The amended bill includes \$2,896,700,000 for Construction. Within the recommended funds, \$1,077,000,000 is provided to complete the 100-year storm protection for the Lake Pontchartrain and Vicinity project; \$920,000,000 is provided to complete the 100-year storm protection for the West Bank and Vicinity project; and \$838,000,000 is provided for elements of the Southeast Louisiana Urban Drainage project that are within the geographic perimeter of the West Bank and Vicinity projects and the Lake Pontchartrain and Vicinity project.

The amended bill includes a provision which requires the Lake Pontchartrain and Vicinity, West Bank and Vicinity and Southeast Louisiana projects be cost shared 65 percent Federal and 35 percent non-Federal as proposed by the Administration with a resulting Federal cost of \$2,835,000,000 and a non-Federal cost of \$1,527,000,000. While the amended bill includes specific statutory dollar amounts for the three projects, statutory language has been included that would allow the Administration to request a reprogramming of funds, if required. However, the



Corps should use this reprogramming ability sparingly.

Due to recent natural disasters, the Corps of Engineers has identified a number of projects that are currently under construction that have been damaged by storm and flood events. The amended bill includes \$61,700,000 for the Corps to repair and rehabilitate these construction projects that were affected by natural disasters.

#### MISSISSIPPI RIVER AND TRIBUTARIES

Due to recent natural disasters, the Corps of Engineers has identified a number of Federally-maintained construction and maintenance projects that have been damaged or otherwise impacted by storm and flood events. The amended bill includes \$17,590,000 for the Corps to repair and rehabilitate these projects that were affected by natural disasters.

#### OPERATION AND MAINTENANCE

Due to recent natural disasters, the Corps of Engineers has identified a number of navigation and flood damage reduction projects that have been impacted by storm and flood events. The amended bill provides \$298,344,000 for the Corps to restore navigation channels and harbors to pre-storm conditions; and to repair eligible flood damage reduction and other projects in States affected by natural disasters.

#### FLOOD CONTROL AND COASTAL EMERGENCIES

The amended bill provides \$3,152,854,800 for Flood Control and Coastal Emergencies. The funding includes, at full Federal expense, the following amounts: \$704,000,000 to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; \$90,000,000 for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; \$459,000,000 for armoring critical elements of the New Orleans hurricane and storm damage reduction system; \$53,000,000 to improve protection at the Inner Harbor Navigation Canal; \$456,000,000 to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; \$412,000,000 for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; \$393,000,000 for repair and restoration of authorized protections and floodwalls; and \$359,000,000 to complete the authorized protection for the Lake Pontchartrain and Vicinity Project, for the West Bank and Vicinity Project and the New Orleans to Venice Project. While the Committee has recommended specific statutory dollar amounts for the projects identified under this heading, statutory language has been included that would allow the Administration to request a reprogramming of funds, if required. However, the Corps should use this reprogramming ability sparingly.

Due to recent natural disasters, the Corps of Engineers has identified a number of projects that have been damaged by storm and flood events. The amended bill includes \$226,854,800 for the Corps to prepare for flood, hurricane and other natural disasters and support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law; to repair and rehabilitate eligible projects that were affected by natural disasters; and to fund claims processing and discovery costs associated with Hurricane Katrina lawsuits.

The amended bill includes a provision directing the Corps to continue the NEPA alternative evaluation of all options for permanent pumping of storm water in the New

Orleans metropolitan area with particular attention to Options 1, 2 and 2a and within 90 days of enactment of this Act provide the House and Senate Appropriation Committees cost estimates to implement Options 1, 2 and 2a of the above cited report. Current plans do not fully account for the operational challenges that arise during major storm events and are not, therefore, fully protective of public safety.

#### EXPENSES

The amended bill includes \$1,500,000 for additional oversight and management costs associated with Hurricane Katrina recovery efforts.

#### CHAPTER 4—SMALL BUSINESS SMALL BUSINESS ADMINISTRATION DISASTER LOANS PROGRAM ACCOUNT (INCLUDING TRANSFER OF FUNDS)

Based on early estimates of damages due to severe storms and flooding in a number of states, the amended bill includes \$164,939,000 in loan subsidy for the costs of providing direct loans for homeowners and business-owners so that they can recover from the effects of these disasters. The amended bill also includes a total of \$101,814,000 for the administrative costs for carrying out the loan program. These funds will provide for the on site presence of Small Business Administration (SBA) employees to assist disaster victims in obtaining low interest loans from the SBA. Funding will support additional staff in call centers, disaster resource sites, and loan processing centers and for field inspections to verify damages and losses of homes and businesses. Funding is also necessary to hire additional attorneys to carry out the loan closing process, as well as staff to service the loans. Of this amount, \$6,000,000 may be transferred to the Salaries and Expenses account for indirect administrative expenses and \$1,000,000 is for the Office of Inspector General for audits and reviews of disaster loans.

#### CHAPTER 5—FEMA DISASTER RELIEF DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY DISASTER RELIEF

The amended bill provides an additional \$897,000,000 for Disaster Relief. The recent Midwest floods and tornadoes have added to disaster relief funding needs. The 1993 Midwest floods cost FEMA over \$1.1 billion fifteen years ago and the current damage is likely to cost at least this amount, but in inflated dollars. This funding is provided to partially meet these and other disaster relief funding needs.

#### CHAPTER 6—HOUSING AND URBAN DEVELOPMENT DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### PERMANENT SUPPORTIVE HOUSING

The amended bill includes funding for Louisiana Permanent Supportive Housing, in the amount of \$73,000,000. This is a new program, and the money is split between two accounts in the bill—the Homeless Assistance Grants and the Project-Based Rental Assistance programs. This program will provide funding for the 3,000 units of permanent supportive housing that are envisioned in the HUD-approved Louisiana Road Home Program. This will enable the promise of the Road Home Program to address the housing needs of our most vulnerable citizens, in particular extremely low-income homeless, disabled and frail elderly persons, to be fulfilled. Of the \$73,000,000 provided, \$20,000,000 will fund 2,000 project-based vouchers (funded for 1-year terms) with \$3,000,000 in administrative fees, and \$50,000,000 will fund 1,000 Shelter Plus Care units (funded for five-year terms).

These are the ideal and proven housing programs for creating permanent supportive housing for the populations in question. The program funds are provided to the State of Louisiana or its designee or designees, and language is included stating that the administering entity or entities can act as a public housing agency for purposes of administering the funding.

#### COMMUNITY PLANNING AND DEVELOPMENT

##### COMMUNITY DEVELOPMENT FUND

The amended bill provides \$300,000,000 for the Community Development Fund for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas for which the President declared a major disaster.

#### TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

The amended bill includes language providing a temporary extension of unemployment benefits to workers who have lost their jobs. Specifically, the amended bill provides up to 13 weeks of extended unemployment benefits in every State to workers exhausting regular unemployment compensation. The extended benefits program will terminate on March 31, 2009. The percentage of workers exhausting unemployment benefits is currently 37 percent, which is higher than at the beginning of any of the past five recessions. Not only will workers and their families benefit from extended benefits, providing this financial assistance also can reduce the severity and duration of an economic downturn. Experts agree that extending unemployment benefits is one of the most cost-effective and fast acting forms of economic stimulus because workers who have lost their paychecks have little choice but to spend these benefits quickly.

#### TITLE V—VETERANS EDUCATIONAL ASSISTANCE

Title V of the amended bill includes provisions designed to expand the educational benefits for men and women who have served in the armed forces since the terrorist attacks of September 11, 2001. The provisions will closely resemble the educational benefits provided to veterans returning from World War II.

The benefits included in title V would apply to all members of the military who have served on active duty, including activated reservists and National Guard. To qualify, veterans must have served at least three months of qualified active duty, beginning on or after September 11, 2001. The amended bill provides for benefits to be paid in amounts linked to the amount of active duty service.

In addition to tuition and other established charges, the benefit includes a monthly stipend for housing costs as well as tutorial assistance and licensure and certification tests.

The amended bill would create a new program in which the government will agree to match, dollar for dollar, any voluntary additional contributions to veterans from institutions whose tuition is more expensive than the maximum educational assistance provided in the amended bill.

In addition, title V allows for members of the armed services to transfer their benefits to their spouse or children.

Finally, the amended bill provides for the veterans to have up to fifteen years after they leave active duty to use their educational assistance entitlement. Veterans would be barred from receiving concurrent assistance from this program and another similar program.

**TITLE VI—ACCOUNTABILITY AND  
TRANSPARENCY IN GOVERNMENT CON-  
TRACTING**

**CHAPTER 1—CLOSE THE CONTRACTOR  
FRAUD LOOPHOLE**

Chapter 1 of title VI is identical to the language of H.R. 5712, “Close the Contractor Fraud Loophole Act,” passed by the House on April 23, 2008 and was in the Senate amendment adopted on May 22, 2008. It closes a loophole in a proposed rule so that mandatory fraud reporting requirements would apply to U.S. contractors working overseas as well as to contractors working here at home.

**CHAPTER 2—GOVERNMENT FUNDING  
TRANSPARENCY**

Chapter 2 of title VI is identical to the language of H.R. 3928, “Government Funding Transparency Act of 2007,” passed by the House on April 23, 2008 and was in the Senate amendment adopted on May 22, 2008. It requires any company or organization receiving at least \$25 million and 80 percent or more of their revenue from federal payments to disclose the compensation of their most highly-compensated officers.

**TITLE VII—MEDICAID PROVISIONS**

Title VII of the amended bill includes language extending the current moratorium to April 2009 on four Medicaid regulations pertaining to: graduate medical education payments; limits on payments to government safety net providers; rehabilitation services; and school-based administrative and specialized medical transportation services for children. The amended bill also establishes a moratorium for the same period for two Medicaid regulations pertaining to: health care provider taxes and targeted case management. The cost of the moratoria is fully offset over five and ten years in the amended bill by provisions that extend an asset

verification demonstration to all fifty States and reduce balances in the Physician Assistance and Quality Initiative Fund. These six moratoria are identical to those included in H.R. 5613, which was approved by the House by a 349-62 vote and were in the Senate amendment adopted on May 22, 2008.

The moratorium on these six regulations is included in the amended bill due to concerns about their potential negative impact on essential medical services for millions of people, particularly for seniors, people with disabilities, and children, and on the providers of these safety net services. These regulations also would have a far-reaching impact on graduate medical education, outreach and supportive services designed to help individuals get the medical care they need, and foster care services.

According to the Congressional Budget Office (CBO), these regulatory changes would reduce Federal Medicaid spending by more than \$17,500,000,000 over the next five years, shifting these costs to States and localities. These cuts would occur during an economic downturn when States and localities are least able to restore services. Further, the authorizing committees indicate that many of these regulations alter longstanding Medicaid policy without specific Congressional authorization.

Additional time is required to examine the potential impact of these regulations. Accordingly, the amended bill includes \$5,000,000 for a study to be completed no later than September 2009 by an independent entity to assess the prevalence of the problems in the Medicaid program the regulations were intended to address and their impact on each State. The amended bill also includes \$25,000,000 for the purpose of reducing fraud and abuse in the Medicaid program.

**TITLE VIII—GENERAL PROVISIONS, THIS  
ACT**

The amended bill includes the following general provisions:

Section 8001 establishes the period of availability for obligation for appropriations provided in this Act.

Section 8002 provides that, unless otherwise noted, all appropriations in this Act are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 and section 301(b)(2) of S. Con. Res. 70, the congressional budget resolutions for fiscal years 2008 and 2009.

Section 8003 provides for a reduction of \$3,577,845,000 from the Procurement; Research, Development, Test and Evaluation; and Defense Working Capital headings within chapter 1 of title IX of this Act. The section also provides that the reduction shall be applied proportionally to each appropriation account under such headings, and to each program, project, and activity within each such appropriation account.

Section 8004 amends section 9310 of this Act, which prohibits the obligation or expenditure of funds available to the Department of Defense to implement any final action on joint basing initiatives. The amendment excepts funds deposited in the Department of Defense Base Closure Account 2005 from this restriction.

Section 8005 makes funds provided in Public Law 110-28, which remain available for obligation, within the operation and maintenance portion of the Defense Health Program for Post Traumatic Stress Disorder and Traumatic Brain Injury (TBI) available for psychological health and traumatic brain injury.

Section 8006 provides that this Act may be referred to as the “Supplemental Appropriations Act, 2008”.

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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TITLE I			
MILITARY CONSTRUCTION, VETERANS AFFAIRS, INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RELATED MATTERS			
CHAPTER 1			
DEPARTMENT OF AGRICULTURE			
Foreign Agricultural Service			
Public Law 480 Title II Grants, FY 2008 (emergency)...	350,000	850,000	+500,000
Public Law 480 Title II Grants, FY 2009 (emergency)...	395,000	395,000	---
Total, Chapter 1.....	745,000	1,245,000	+500,000
CHAPTER 2			
DEPARTMENT OF JUSTICE			
Office of Inspector General (emergency).....	---	4,000	+4,000
Legal Activities			
Salaries and expenses, general legal activities (emergency).....	4,093	1,648	-2,445
Salaries and expenses, United States Attorneys (emergency).....	5,000	5,000	---
Total, Legal activities.....	9,093	6,648	-2,445
United States Marshals Service			
Salaries and expenses (emergency).....	14,921	28,621	+13,700
Federal Bureau of Investigation			
Salaries and expenses, FY 2008 (emergency).....	101,122	106,122	+5,000
Salaries and expenses, FY 2009 (emergency).....	39,062	82,600	+43,538
Total, Federal Bureau of Investigation.....	140,184	188,722	+48,538
Drug Enforcement Administration			
Salaries and expenses (emergency).....	8,468	29,861	+21,393
Bureau of Alcohol, Tobacco, Firearms and Explosives			
Salaries and expenses (emergency).....	4,000	4,000	---
Federal Prison System			
Salaries and expenses (emergency).....	9,100	9,100	---
Total, Chapter 2.....	185,766	270,952	+85,186
CHAPTER 3			
DEPARTMENT OF DEFENSE			
Military construction, Army (emergency).....	1,440,750	1,108,200	-332,550
Military construction, Navy and Marine Corps (emergency).....	237,505	355,907	+118,402
Military construction, Air Force (emergency).....	305,000	399,627	+94,627
Military construction, Defense-Wide (emergency).....	27,600	890,921	+863,321
Total, Active Components.....	2,010,855	2,754,655	+743,800

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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Family housing construction, Navy and Marine Corps (emergency).....	11,766	11,766	---
Base realignment and closure account 2005 (emergency).....	415,910	1,278,886	+862,976
Total, Department of Defense.....	2,438,531	4,045,307	+1,606,776
DEPARTMENT OF VETERANS AFFAIRS			
Departmental Administration			
General operating expenses (emergency).....	---	100,000	+100,000
Information technology systems (emergency).....	---	20,000	+20,000
Construction, major projects (emergency).....	---	396,377	+396,377
Total, Departmental Administration.....	---	516,377	+516,377
General Provisions			
Sec. 1301. Barracks improvements (emergency).....	---	200,000	+200,000
Total, Department of Veterans Affairs.....	---	716,377	+716,377
Total, Chapter 3.....	2,438,531	4,761,684	+2,323,153
CHAPTER 4			
SUBCHAPTER A			
SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008			
DEPARTMENT OF STATE			
Administration of Foreign Affairs			
Diplomatic and consular programs (emergency).....	1,708,008	1,465,700	-242,308
Worldwide security protection.....	(162,400)	(210,400)	(+48,000)
Office of the Inspector General (emergency).....	---	9,500	+9,500
Embassy security, construction, and maintenance (emergency).....	160,000	76,700	-83,300
Total, Administration of Foreign Affairs.....	1,868,008	1,551,900	-316,108
International Organizations			
Contributions to international organizations (emergency).....	53,000	66,000	+13,000
Contributions for international peacekeeping activities, current year (emergency).....	333,600	373,708	+40,108
Total, International Organizations.....	386,600	439,708	+53,108
Total, Department of State.....	2,254,608	1,991,608	-263,000
RELATED AGENCY			
Broadcasting Board of Governors			
International broadcasting operations (emergency).....	---	2,000	+2,000
BILATERAL ECONOMIC ASSISTANCE			
Funds Appropriated to the President			
International disaster assistance (emergency).....	---	220,000	+220,000
Operating expenses of the United States Agency for International Development (emergency).....	41,000	150,500	+109,500

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
Operating expenses of the US Agency for International Development, Office of Inspector General (emergency).....	---	4,000	+4,000
Other Bilateral Economic Assistance			
Economic support fund (emergency).....	2,009,000	1,882,500	-126,500
Department of State			
Democracy Fund (emergency).....	---	76,000	+76,000
International narcotics control and law enforcement (emergency).....	734,000	390,300	-343,700
Migration and refugee assistance (emergency).....	30,000	315,000	+285,000
U.S. Emergency Refugee and Migration Assistance Fund (emergency).....	---	31,000	+31,000
Nonproliferation, anti-terrorism, demining and related programs (emergency).....	5,000	13,700	+8,700
Total, Bilateral Economic Assistance.....	2,819,000	3,083,000	+264,000
MILITARY ASSISTANCE			
Funds Appropriated to the President			
Foreign Military Financing Program (emergency).....	---	137,500	+137,500
Total, Subchapter A.....	5,073,608	5,214,108	+140,500
SUBCHAPTER B			
BRIDGE FUND SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2009			
DEPARTMENT OF STATE			
Administration of Foreign Affairs			
Diplomatic and consular programs (emergency).....	1,064,450	704,900	-359,550
Worldwide security protection.....	(45,800)	(78,400)	(+32,600)
Office of the Inspector General (emergency).....	16,800	57,000	+40,200
Embassy security, construction, and maintenance (emergency).....	---	41,300	+41,300
Total, Administration of Foreign Affairs.....	1,081,250	803,200	-278,050
International Organizations			
Contributions to international organizations (emergency).....	40,000	75,000	+35,000
Contributions for international peacekeeping activities, current year (emergency).....	---	150,500	+150,500
Total, International Organizations.....	40,000	225,500	+185,500
Total, Department of State.....	1,121,250	1,028,700	-92,550
RELATED AGENCY			
Broadcasting Board of Governors			
International broadcasting operations (emergency).....	---	6,000	+6,000
BILATERAL ECONOMIC ASSISTANCE			
Funds Appropriated to the President			
Global health and child survival (emergency).....	---	75,000	+75,000
Development assistance (emergency).....	210,000	200,000	-10,000

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
International disaster assistance (emergency).....	270,000	200,000	-70,000
Operating expenses of the United States Agency for International Development (emergency).....	60,000	93,000	+33,000
Operating expenses of the US Agency for International Development, Office of Inspector General (emergency)	---	1,000	+1,000
Total, Funds Appropriated to the President.....	540,000	569,000	+29,000
Other Bilateral Economic Assistance			
Economic support fund (emergency).....	1,297,700	1,124,800	-172,900
Department of State			
International narcotics control and law enforcement (emergency).....	225,000	199,000	-26,000
Migration and refugee assistance (emergency).....	191,000	350,000	+159,000
Nonproliferation, anti-terrorism, demining and related programs (emergency).....	---	4,500	+4,500
Total, Department of State.....	416,000	553,500	+137,500
Total, Bilateral Economic Assistance.....	2,253,700	2,247,300	-6,400
MILITARY ASSISTANCE			
Funds Appropriated to the President			
Foreign Military Financing Program (emergency).....	170,000	302,500	+132,500
Peacekeeping operations (emergency).....	60,000	95,000	+35,000
Total, Military Assistance.....	230,000	397,500	+167,500
Total, Subchapter B.....	3,604,950	3,679,500	+74,550
SUBCHAPTER C - GENERAL PROVISIONS			
Sec. 1410:			
(a)(1) World Food Program.....	---	20,000	+20,000
(a)(2) Andean Counterdrug Initiative (rescission).	---	-20,000	-20,000
(b)(1) International narcotics control and law enforcement (Sudan).....	---	10,000	+10,000
(b)(2) International narcotics control and law enforcement (prior-year rescission).....	---	-10,000	-10,000
(c) Iraq Relief and Reconstruction Fund (rescission of emergency appropriations).....	---	-50,000	-50,000
Sec. 1413:			
(a)(b) Jordan.....	---	58,000	+58,000
(c) Millennium Challenge Corporation (rescission).	---	-58,000	-58,000
Total, Subchapter C.....	---	-50,000	-50,000
Total, Chapter 4.....	8,678,558	8,843,608	+165,050
GENERAL PROVISIONS			
DEPARTMENT OF HOMELAND SECURITY			
Customs and Border Protection			
Salaries and expenses (rescission).....	-50,000	---	+50,000
Total, title I.....	11,997,855	15,121,244	+3,123,389



HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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TITLE II			
DOMESTIC MATTERS			
CHAPTER 1			
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Food and Drug Administration			
Salaries and expenses (emergency).....	---	150,000	+150,000
CHAPTER 2			
DEPARTMENT OF COMMERCE			
Bureau of the Census			
Periodic censuses and programs (emergency).....	---	210,000	+210,000
DEPARTMENT OF JUSTICE			
Federal Prison System			
Salaries and expenses (emergency).....	---	178,000	+178,000
OTHER AGENCIES			
National Aeronautics and Space Administration			
Science, aeronautics and exploration (emergency).....	---	62,500	+62,500
National Science Foundation			
Research and related activities (emergency).....	---	22,500	+22,500
Education and human resources (emergency).....	---	40,000	+40,000
Total, National Science Foundation.....	---	62,500	+62,500
Total, Other Agencies.....	---	125,000	+125,000
Total, Chapter 2.....	---	513,000	+513,000
CHAPTER 3			
DEPARTMENT OF ENERGY			
Energy Programs			
Science (emergency).....	---	62,500	+62,500
Environmental and Other Defense Activities			
Defense environmental cleanup (emergency).....	---	62,500	+62,500
Total, Chapter 3.....	---	125,000	+125,000
CHAPTER 4			
DEPARTMENT OF LABOR			
Employment and Training Administration			
State unemployment insurance and employment service operations (emergency).....	---	110,000	+110,000

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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DEPARTMENT OF HEALTH AND HUMAN SERVICES			
National Institutes of Health			
Office of the Director (emergency).....	---	150,000	+150,000
Total, Chapter 4.....	---	260,000	+260,000
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CHAPTER 5			
HOUSE OF REPRESENTATIVES			
Payments to Widows and Heirs of Deceased Members of Congress.....	---	169	+169
	=====	=====	=====
Total, title II.....	---	1,048,169	+1,048,169
	=====	=====	=====
TITLE III			
NATURAL DISASTER RELIEF AND RECOVERY			
CHAPTER 1			
DEPARTMENT OF AGRICULTURE			
Farm Service Agency			
Emergency Conservation Program (emergency).....	---	89,413	+89,413
Natural Resources Conservation Service			
Emergency Watershed Protection Program.....	---	390,464	+390,464
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Total, Chapter 1.....	---	479,877	+479,877
CHAPTER 2			
DEPARTMENT OF COMMERCE			
Economic Development Administration			
Economic development assistance programs (emergency)...	---	100,000	+100,000
CHAPTER 3			
DEPARTMENT OF THE ARMY			
Corps of Engineers - Civil			
Construction, general (emergency).....	---	61,700	+61,700
Construction, FY 2009 (emergency).....	5,761,000	2,835,000	-2,926,000
Mississippi River and tributaries (emergency).....	---	17,590	+17,590
Operation and maintenance (emergency).....	---	298,344	+298,344
Flood control and coastal emergencies.....	---	226,855	+226,855
Flood control and coastal emergencies, FY 2009(emerg.)	---	2,926,000	+2,926,000
Expenses (emergency).....	---	1,500	+1,500
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Total, Chapter 3.....	5,761,000	6,366,989	+605,989

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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CHAPTER 4			
Small Business Administration			
Disaster Loans Program Account:			
Direct loans subsidy (emergency).....	---	164,939	+164,939
Administrative expenses (emergency).....	---	101,814	+101,814
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Total, Chapter 4.....	---	266,753	+266,753
CHAPTER 5			
DEPARTMENT OF HOMELAND SECURITY			
Federal Emergency Management Agency			
Disaster Relief (emergency).....	---	897,000	+897,000
CHAPTER 6			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Permanent supportive housing (emergency).....	---	73,000	+73,000
Community Planning and Development			
Community Development Fund (emergency).....	---	300,000	+300,000
	-----		
Total, Chapter 6.....	---	373,000	+373,000
	-----		
Total, title III.....	5,761,000	8,483,619	+2,722,619
TITLE IV			
EMERGENCY UNEMPLOYMENT COMPENSATION			
Federal-State agreements, FY 2008 (emergency).....	---	4,790,000	+4,790,000
Federal-State agreements, FY 2009 (emergency).....	---	7,765,000	+7,765,000
	=====		
Total, title IV.....	---	12,555,000	+12,555,000
	=====		
TITLE V			
VETERANS EDUCATIONAL ASSISTANCE			
Veterans educational assistance, FY 2008 (emergency)...	---	50,000	+50,000
Veterans educational assistance, FY 2009 (emergency)...	---	746,000	+746,000
	=====		
Total, title V.....	---	796,000	+796,000
	=====		
TITLE VII			
MEDICAID PROVISIONS			
Medicaid moratorium, FY 2008 (emergency).....	---	305,000	+305,000
Medicaid moratorium, FY 2009 (emergency).....	---	805,000	+805,000
	=====		
Total, title VII.....	---	1,110,000	+1,110,000
	=====		

HOUSE AMENDMENT TO SENATE AMENDMENT 2 TO H.R. 2642  
(Amounts in thousands)

	Request	Recommended	Recommended vs. Request
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TITLE VIII			
GENERAL PROVISIONS			
Sec. 8003. General defense reduction (emergency).....	---	-3,577,845	-3,577,845
	=====	=====	=====
Grand total.....	17,758,855	35,536,187	+17,777,332
Appropriations.....	---	(88,169)	(+88,169)
Emergency appropriations.....	(17,808,855)	(35,586,018)	(+17,777,163)
Rescissions.....	(-50,000)	(-88,000)	(-38,000)
Rescissions of emergency funding.....	---	(-50,000)	(-50,000)
	=====	=====	=====

DISCLOSURE OF CONGRESSIONALLY DIRECTED  
SPENDING ITEMS

Following is a list of congressionally directed spending items (as defined in rule XLIV of the Standing Rules of the Senate)

included in the House amendment discussed in this explanatory statement, along with the name of the Senator who submitted a request to the Committee of jurisdiction for the items so identified. The items were con-

tained in the Senate-passed amendment. Neither the amendment nor the explanatory statement contains any limited tax benefits or limited tariff benefits as defined in rule XLIV.

## MILITARY CONSTRUCTION

(In thousands of dollars)

Account	State	Location	Project Title	Amount	Requested By
Army	Alaska	Fort Wainwright	Child Development Center	17,000	The Administration <sup>1</sup>
Army	California	Fort Irwin	Child Development Center	11,800	The Administration <sup>1</sup>
Navy	California	Camp Pendleton	Armory—5th Marine Regiment	10,890	The President
Navy	California	Camp Pendleton	Bachelor Quarters & Armory	34,970	The President
Navy	California	Camp Pendleton	Bachelor Quarters & Dining Facility	24,390	The President
Navy	California	Camp Pendleton	Company Headquarters—Military Police	8,240	The President
Navy	California	Camp Pendleton	Explosive Ordinance Detachment—Ops	13,090	The President
Navy	California	Camp Pendleton	Intelligence Surveillance Reconnaissance	1,114	The President
Navy	California	Camp Pendleton	Armory—Regimental & Battalion HQ	5,160	The President
Navy	California	Camp Pendleton	Armory—Intelligence Battalion	4,180	The President
Navy	California	Camp Pendleton	JIEDDO Battle Courses	9,270	The Administration <sup>1</sup>
Navy	California	China Lake	JIEDDO Battle Courses	7,210	The Administration <sup>1</sup>
Navy	California	Point Mugu	JIEDDO Battle Courses	7,250	The Administration <sup>1</sup>
Navy	California	San Diego	Child Development Center	17,930	The Administration <sup>1</sup>
Navy	California	Twentynine Palms	Regimental Headquarters Addition	4,440	The President
Navy	California	Twentynine Palms	JIEDDO Battle Courses	11,250	The Administration <sup>1</sup>
Air Force	California	Beale AFB	Child Development Center	17,600	The Administration <sup>1</sup>
Army	Colorado	Fort Carson	Child Development Center	8,400	The Administration <sup>1</sup>
Army	Colorado	Fort Carson	Soldier Family Assistance Center	8,100	The President
Navy	Florida	Eglin AFB	JIEDDO Battle Course Additions	780	The Administration <sup>1</sup>
Air Force	Florida	Eglin AFB	Child Development Center	11,000	The Administration <sup>1</sup>
Army	Georgia	Fort Gordon	Child Development Center	7,800	The Administration <sup>1</sup>
Army	Georgia	Fort Stewart	Soldier Family Assistance Center	6,000	The President
Defense-Wide	Georgia	Fort Benning	Hospital Replacement	350,000	( <sup>2</sup> )
Army	Hawaii	Schofield Barracks	Child Development Center	12,500	The Administration <sup>1</sup>
Army	Kansas	Fort Riley	Transitioning Warrior Support Complex	50,000	The President
Defense-Wide	Kansas	Fort Riley	Hospital Replacement	404,000	( <sup>2</sup> )
Army	Kentucky	Fort Campbell	Child Development Center	9,900	The Administration <sup>1</sup>
Army	Kentucky	Fort Campbell	Soldier Family Assistance Center	7,400	The President
Army	Kentucky	Fort Knox	Child Development Center	7,400	The Administration <sup>1</sup>
Army	Louisiana	Fort Polk	Soldier Family Assistance Center	4,900	The President
Navy	Mississippi	Gulftort	JIEDDO Battle Courses	6,570	The Administration <sup>1</sup>
Army	Missouri	Fort Leonard Wood	Starbase Complex 6, Phase 1	50,000	( <sup>2</sup> )
Air Force	New Jersey	McGuire AFB	JIEDDO Training Facility	6,200	The Administration <sup>1</sup>
Air Force	New Mexico	Cannon AFB	Child Development Center	8,000	The Administration <sup>1</sup>
Army	New York	Fort Drum	Warrior in Transition Facilities	38,000	The President
Army	North Carolina	Fort Bragg	Child Development Center	8,500	The Administration <sup>1</sup>
Navy	North Carolina	Camp Lejeune	Child Development Center	16,000	The Administration <sup>1</sup>
Navy	North Carolina	Camp Lejeune	JIEDDO Battle Courses	11,980	The Administration <sup>1</sup>
Navy	North Carolina	Camp Lejeune	Maintenance/Operations Complex	43,340	The President
Defense-Wide	North Carolina	Camp Lejeune	Hospital Addition/Alteration	64,300	( <sup>2</sup> )
Army	Oklahoma	Fort Sill	Child Development Center	9,000	The Administration <sup>1</sup>
Navy	South Carolina	Parris Island	Recruit Barracks	25,360	( <sup>2</sup> )
Army	Texas	Fort Bliss	Child Development Center	5,700	The Administration <sup>1</sup>
Army	Texas	Fort Bliss	Child Development Center	5,900	The Administration <sup>1</sup>
Army	Texas	Fort Bliss	Child Development Center	5,700	The Administration <sup>1</sup>
Army	Texas	Fort Hood	Child Development Center	7,200	The Administration <sup>1</sup>
Army	Texas	Fort Hood	Warrior in Transition Facilities	9,100	The President
Army	Texas	Fort Sam Houston	Child Development Center	7,000	The Administration <sup>1</sup>
Defense-Wide	Texas	Fort Sam Houston	Burn Rehab Unit	21,000	The President
Army	Virginia	Fort Lee	Child Development Center	7,400	The Administration <sup>1</sup>
Navy	Virginia	Yorktown	JIEDDO Battle Courses	8,070	The Administration <sup>1</sup>
Army	Afghanistan	Bagram	Administrative Building	13,800	The Administration <sup>1</sup>
Army	Afghanistan	Bagram	New Roads	27,000	The President
Army	Afghanistan	Bagram	Ammunition Supply Point	62,000	The President
Army	Afghanistan	Bagram	Power Plant	41,000	The President
Army	Afghanistan	Bagram	Bulk Fuel Storage & Supply, Phase 3	23,000	The President
Army	Afghanistan	Bagram	Bulk Fuel Storage & Supply, Phase 4	21,000	The President
Army	Afghanistan	Various Locations	CIED Road—Rte Alaska	16,500	The President
Army	Afghanistan	Bagram	Aircraft Maintenance Hangar	5,100	The President
Army	Afghanistan	Ghazni	Rotary Wing Parking	5,000	The President
Army	Afghanistan	Kabul	Consolidated Compound	36,000	The President
Army	Afghanistan	Various Locations	CIED Road—Rte Connecticut	54,000	The President
Air Force	Afghanistan	Bagram	Strategic Ramp	43,000	The President
Air Force	Afghanistan	Bagram	Parallel Taxiway, Phase 2	21,400	The President
Air Force	Afghanistan	Bagram	East Side Helo Ramp	44,400	The President
Air Force	Afghanistan	Kandahar	ISR Ramp	26,300	The President
Navy	Djibouti	Camp Lemonier	Network Infrastructure Expansion	6,270	The President
Navy	Djibouti	Camp Lemonier	Dining Facility	20,780	The Administration <sup>1</sup>
Navy	Djibouti	Camp Lemonier	Water Production	19,140	The President
Navy	Djibouti	Camp Lemonier	Full Length Taxiway	15,490	The Administration <sup>1</sup>
Navy	Djibouti	Camp Lemonier	Fuel Farm	4,000	The Administration <sup>1</sup>
Navy	Djibouti	Camp Lemonier	Western Taxiway	2,900	The Administration <sup>1</sup>
Army	Iraq	Camp Adder	Petro Oil & Lubricant Storage	10,000	The President
Army	Iraq	Camp Adder	Waste Water Treatment & Collection	9,800	The President
Army	Iraq	Camp Adder	Convoy Support Center Relocation, Phase 2	39,000	The President
Army	Iraq	Al Asad	Landfill Construction	3,100	The President
Army	Iraq	Al Asad	Hot Cargo Ramp	18,500	The President
Army	Iraq	Al Asad	South Airfield Apron (India Ramp)	28,000	The President
Army	Iraq	Camp Anaconda	Landfill Construction	6,200	The President
Army	Iraq	Camp Anaconda	Hazardous Waste Incinerator	4,300	The President
Army	Iraq	Camp Constitution	Juvenile TIFRIC	11,700	The President
Army	Iraq	Fallujah	Landfill Construction	880	The President
Army	Iraq	Camp Marez	Landfill Construction	880	The President
Army	Iraq	Q-West	North Entry Control Point	11,400	The President
Army	Iraq	Q-West	Perimeter Security Upgrade	14,600	The President
Army	Iraq	Camp Ramadi	Landfill Construction	880	The President
Army	Iraq	Scania	Entry Control Point	5,000	The President
Army	Iraq	Scania	Water Storage Tanks	9,200	The President
Army	Iraq	Camp Speicher	Military Control Point	5,800	The President
Army	Iraq	Camp Speicher	Landfill Construction	5,900	The President
Army	Iraq	Camp Speicher	Aviation Navigation Facilities	13,400	The President
Army	Iraq	Camp Taggadum	Landfill Construction	880	The President
Army	Iraq	Camp Victory	Landfill Construction	6,200	The President
Army	Iraq	Camp Victory	Level 3 Hospital	13,400	The President
Army	Iraq	Camp Victory	Waste Water Treatment & Collection	9,800	The President
Army	Iraq	Camp Victory	Water Supply, Treatment & Storage, Phase 3	13,000	The President
Army	Iraq	Camp Victory	Water Treatment & Storage, Phase 2	18,000	The President
Army	Iraq	Camp Warrior	Landfill Construction	880	The President
Army	Iraq	Various Locations	Overhead Cover—eGlass	30,000	The President
Army	Iraq	Various Locations	Overhead Cover—eGlass, Phase 4	105,000	The President
Air Force	Iraq	Balad AB	Helicopter Maintenance Facilities	34,600	The President
Air Force	Iraq	Balad AB	Foxtrot Taxiway	12,700	The President

## MILITARY CONSTRUCTION—Continued

(In thousands of dollars)

Account	State	Location	Project Title	Amount	Requested By
Air Force .....	Iraq .....	Balad AB .....	Fighter Ramp .....	11,000	The President
Army .....	Kuwait .....	Camp Arifjan .....	Communications Center .....	30,000	The President
Air Force .....	Kyrgyzstan .....	Manas AB .....	Strategic Ramp .....	30,300	The President
Air Force .....	Oman .....	Masirah AB .....	Expeditionary Beddown Site .....	6,300	The Administration <sup>1</sup>
Air Force .....	Qatar .....	Al Udeid .....	Facilities Replacement .....	30,000	The Administration <sup>1</sup>
Air Force .....	Qatar .....	Al Udeid .....	Close Air Support Parking Apron .....	60,400	The Administration <sup>1</sup>
Defense-Wide .....	Qatar .....	Al Udeid .....	Special Operations Forces Warehouse .....	6,600	The President

<sup>1</sup> These projects were requested by the Department of Defense subsequent to the submission of the President's budget request and were not included in the official budget request.<sup>2</sup> These projects were added by the House Committee on Appropriations as a result of hearings, site visits, and departmental briefings on trainee and recruit facilities and medical treatment facilities.

## CONGRESSIONALLY DIRECTED SPENDING ITEMS

Account	Project	Funding	Member
<b>SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT</b>			
Corps of Engineers—Construction .....	In the aftermath of Hurricane Katrina, Lake Ponchartrain and Vicinity, LA .....	\$1,077,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Construction .....	In the aftermath of Hurricane Katrina, West Bank and Vicinity, LA .....	920,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Construction .....	In the aftermath of Hurricane Katrina, Southeast Louisiana, LA .....	838,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, 17th Street, Orleans, and London Avenue Canal pumps and closures, LA .....	704,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, Stormproofing interior pump stations, LA .....	90,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, Levee and critical element armoring, LA .....	459,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, Navigable closure at the Inner Harbor Navigation Canal, LA .....	53,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, Incorporation of Plaquemines Parish, Louisiana, Non-Federal levee .....	456,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, reinforcing or Replacing Floodwalls in the existing Lake Ponchartrain and Vicinity, and West Bank and Vicinity Projects in New Orleans, LA .....	412,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, repair and restoration of authorized protections and floodwalls in New Orleans, LA .....	393,000,000	The President, Senators Landrieu, Vitter
Corps of Engineers—Flood Control and Coastal Emergencies .....	In the aftermath of Hurricane Katrina, complete authorized Lake Ponchartrain and Vicinity and West Bank and Vicinity projects in New Orleans, LA .....	359,000,000	The President, Senators Landrieu, Vitter
<b>SUBCOMMITTEE ON TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES</b>			
Department of Housing and Urban Development: Permanent Supportive Housing .....	Permanent Supportive Housing vouchers for the State of Louisiana for elderly, disabled and other at-risk homeless individuals directly impacted by Hurricane Katrina .....	73,000,000	Senator Landrieu

Mr. BYRD. Mr. President, today, the Senate Appropriations Committee reported the fiscal year 2009 Labor, Health and Human Services, Education, and Related Agencies Appropriations Act. In this bill, the Senate Committee has continued its aggressive efforts to improve the safety of miners in the coal fields.

After the deadly tragedy at the Sago Mine in 2006, the Congress passed the Mine Improvement and New Emergency Response, MINER, Act, which I was pleased to cosponsor. Among other things, that bill required the immediate installation of emergency breathing devices and also the installation of wireless communications and tracking equipment by June 2009. The MINER Act also required the Mine Safety and Health Administration, MSHA, to draft several new regulations, including rules on penalties, mine rescue teams, and the sealing of abandoned areas. It also required a report from the National Institute for Occupational Safety and Health, NIOSH, on refuge alternatives, as well as a report on belt-air ventilation and the fire-retardant properties of belt materials from a technical study panel. I would note that the Appropriations Committee included two amendments to the MINER Act in the fiscal year 2008 Omnibus appropriations bill directing MSHA to finalize regulations later this year that would implement the recommendations on refuge alternatives and belt safety provided by NIOSH and the Technical Study Panel. MSHA issued the proposed rules this month for comment.

In order to meet these new mandates and so that MSHA can fulfill its other important health and safety respon-

sibilities, like completing 100 percent of statutory inspections, the Senate Appropriations Committee increased funding for coal enforcement from \$117 million in fiscal year 2006, to \$150 million in fiscal year 2008. In May 2006, the Senate Appropriations Committee also directed MSHA to hire 170 new coal inspectors and provided \$25.6 million to accomplish that task. Since then, MSHA has hired 322 coal enforcement personnel—increasing the number of inspectors from 587 in June 2006, to 750 in May 2008.

I also proudly note that the committee has added funding for mine safety research at NIOSH, increasing to \$50 million the budget for the development of health and safety technologies. The committee also provided \$23 million in the fiscal years 2006 and 2007 Supplemental Appropriations Acts in order to expedite the deployment of safety technologies. With the funding the committee has provided since Sago, NIOSH has unveiled an improved self-contained, self-rescuer, SCSR, that allows miners to replace their oxygen supply without removing their SCSR. NIOSH has also announced progress on more durable and survivable communications systems, and completed critical studies of seals and refuge alternatives, which MSHA has used as the basis for its regulatory proposals.

Having increased funding in previous years, the Appropriations Committee focused this year on ensuring that the administration does not back away from its commitment to mine safety. In his fiscal year 2009 budget, President Bush proposed cutting coal enforcement by \$10 million. The committee-reported fiscal year 2009 bill rejects this

proposal, and increases the budget for coal enforcement to \$155 million. This is \$4.4 million above the fiscal year 2008 enacted level, and when you discount \$6 million of one-time expenditures last fiscal year, the total increase is more than \$10 million.

This funding would enable MSHA to continue to hire inspectors, specialists, and support staff, and to implement the MINER Act. It would also enable MSHA to achieve 100 percent compliance with its statutory mandates. In addition, the fiscal year 2009 committee-reported bill includes \$2 million above the president's budget request for MSHA to minimize coal dust levels through increased spot inspections. This is a new funding priority for the committee, in light of NIOSH reports in 2007 about alarming clusters of rapidly progressing black lung around southern West Virginia. The bill also includes language requiring by March 31, 2009, a report from MSHA on the feasibility and efficacy of MSHA assuming responsibility for collecting dust samples and using single, full-shift measurements instead of averages to ensure compliance with the law.

Mr. President, I praise the work of the dedicated enforcement personnel laboring in the coal fields. With funding from the Appropriations Committee, they have been working overtime and putting in long and hard hours. After too many years of neglect in the President's budgets, I am proud to note that there are visibly and noticeably more inspectors in the coal fields today, and additional inspectors are on the way. That is real, tangible progress. We must continue it. The argument that MSHA can now afford to



cut back its budget for coal enforcement must not be allowed to take root. We must provide MSHA personnel with everything they need to do their job. As coal production increases across the Nation and MSHA struggles to implement the mandates of the MINER Act, the Congress must ensure sufficient funding to ensure that each and every mandate of the Coal Act is enforced.

Mr. COCHRAN. Mr. President, over the past few months I have spoken several times in this Chamber about the need to approve a supplemental request from the President for appropriations to fund activities and operations of the Department of Defense. Progress on this request has been terribly slow. It has now been more than 500 days since the President submitted his request.

In a hearing before the Defense Appropriations Subcommittee last month, Secretary of Defense Gates testified that the military personnel accounts that pay our soldiers, and the operations and maintenance accounts that fund readiness, training and salaries of civilian employees were running dry. Secretary Gates has been able to forestall this depletion of funds for a short period of time, but only by employing measures that are disruptive to the operations and management of the Department of Defense.

Secretary Gates has had to transfer funding from Air Force, Navy and Marine accounts to the Army to enable the Army to meet its military and civilian payroll, and to fund current operations. It is incredible to think that to be able to pay military personnel who are on the frontlines, engaged in combat, the Secretary of Defense has had to transfer funding between accounts because the Congress will not act on a supplemental request that has been pending for almost a year and a half.

The delay in providing supplemental funding has caused the Defense Department to divert thousands of man hours from focusing on how best to support our men and women in uniform to figuring out how to cash flow the Defense Department so our men and women in uniform will receive a paycheck. We will probably never know how many millions of dollars have been wasted during this shell game. And we will probably never know how many sailors, soldiers, airmen or marines have been put at greater risk because Defense Department leaders and managers have had to shift their attention from supporting the warfighter to figuring out how to make the payroll, or deciding what activities are "exempt" from cessation because the Department's funding has been depleted.

The delay in providing funding for our troops has disrupted operations in Afghanistan as well as Iraq. Admiral Mullen, the Chairman of the Joint Chiefs of Staff, testified at a Defense Appropriations Subcommittee hearing that during his visit to the front lines he learned that the soldiers were unable to allocate funds from the Com-

mander's Emergency Response Program because all the money had essentially already been allocated. We are more than two-thirds of the way through the fiscal year, yet Congress has provided less than one-third of the funds requested for this emergency response. Admiral Mullen said, and I quote,

I'm especially concerned about the availability of funds into the Commander's Emergency Response Program, authority for which expires next month. (The program) has proven in most cases more valuable and perhaps more rapid than bullets or bombs in the fight against extremism . . .

I worry that the Congress is becoming an impediment to the efficiency and the capability of our government, and to our Department of Defense particularly. I worry that we are not acting as expeditiously as we should to protect our troops in the field that are conducting dangerous missions. The delays we have experienced with this supplemental were as unnecessary as they are inexcusable.

I am also disappointed that the supplemental before the Senate means that the gulf coast's ongoing recovery from Hurricane Katrina will be slowed. Mississippi's gulf coast suffered tremendous devastation as Senators know as a result of Hurricane Katrina. There was significant loss of life as well as significant damage to property. In last year's supplemental spending bill, the Congress tasked the U.S. Army Corps of Engineers to recommend measures to protect the Mississippi gulf coast from future storms. The Corps of Engineers has drafted its recommendations, and the Senate responded by including funding for these important Corps-recommended projects in our version of the supplemental appropriations bill.

One of the projects included in the Senate-passed supplemental is the restoration of Mississippi's Barrier Islands. These islands, which are federally owned, suffered terrible damage after Hurricane Camille in 1969 and are now so vulnerable that even a relatively small hurricane may destroy them completely. These are my State's last line of defense before a major hurricane moves inland. Continued delay leaves my state more vulnerable.

The Corps of Engineers also concluded that homeowner relocation assistance would be the most effective alternative for reducing the risk from future hurricane surge events by relocating structures and population centers from the high risk zones. This voluntary program would assist those who are looking to locate outside the high-hazard area. It is vital not only to recovery but also for protection from a future disaster. We are now in the midst of another hurricane season, and every day this Congress does not act is 1 more day that Mississippians are at risk.

Unfortunately, all of these items were dropped from the bill by the other body, and because of the long delay in acting on the supplemental there is

now no time or opportunity to consider the matter further. I share the President's concerns about excessive spending. But 16 months have passed since the President's supplemental request was submitted, and 6 months have passed since the 2008 bills were enacted. In that time natural disasters have occurred and additional disaster-related needs have become apparent.

In March of this year, three barracks at Camp Shelby in Mississippi suffered significant damage and destruction after violent weather. Fourteen soldiers were hospitalized; four of the soldiers sustained serious injuries. Many other structures were damaged. The Senate-passed spending bill contained funding to rebuild these barracks, but the continued delays in funding prevent this important work from being started. Floodwaters continue to inflict damages to farms, homes, and businesses along the Mississippi River. There is little question that additional resources will be required to respond to this continuing disaster.

I am speaking today in part to draw attention to what I feel has been a poor performance by Congress on this bill. But I also come to the floor because there is no other venue to express my views on the supplemental. There was no conference committee appointed to resolve differences between the House and Senate. There were no meetings of the chairmen and ranking members of the Appropriations Committees or of the subcommittees involved. And there has been virtually no opportunity for Members of this body to offer amendments to the bill. I regret that. It is not the way we should discharge our responsibilities. I think there is little question that had we followed regular order we could have enacted a supplemental a month ago, and spared our men and women in the field a great deal of uncertainty.

I support this supplemental and urge my colleagues to do the same, but hope that we can do better next time.

Mr. REID. Mr. President, momentarily, the Senate will move to pass the domestic portion of the emergency supplemental appropriations bill.

After months of negotiation, I am confident that we will pass this legislation by an overwhelming bipartisan margin.

For our troops, for the unemployed, and for those who have suffered from natural disasters and economic hardship, this legislation is a long-overdue victory.

I am glad we have reached this point, but it has not come easily.

My colleagues will recall that when President Bush requested yet another supplemental war funding bill, he said to Congress—give me my war money and not a penny more.

He said that even after appropriating \$660 billion for war, any effort by Congress to address our needs here at home would be met with a veto.

Some of our Republican colleagues said—why bother trying—why take the

time to legislate—when the President has made his veto plans clear?

Our answer then was it is our job to legislate.

The Constitution calls for three separate but equal branches of government.

A President's veto threat must not stop us from doing what we think is right.

So we did not blink or back down. We said that after \$600 billion spent on Iraq, it is long past time to take care of some problems right here in America.

We did exactly what the Congress is meant to do: we legislated. We negotiated. We compromised.

And because we did, we now stand ready to deliver a major victory for the American people.

After months of inching ever closer—despite some Republicans who said it wasn't worth the cost—we are delivering a new GI bill to our courageous troops.

Some on the other side of the aisle started out opposing this effort. My Republican colleagues from Arizona, South Carolina, and North Carolina opposed it, apparently because they and others felt it was too generous to the troops who serve.

They pursued their own bill, which in my view was but a pale shadow of the GI bill we vote on tonight.

It would have fallen far short of providing our troops what they deserve. In the face of their opposition, we persisted.

President Franklin Delano Roosevelt signed the original GI bill into law 64 years ago.

He said at the time that the bill “Gives emphatic notice to the men and women in our Armed Forces that the American people do not intend to let them down.”

Since President Roosevelt affixed his name to that historic legislation, nearly 8 million veterans have advanced their education, gotten better jobs, and blazed a path to a brighter future for themselves and their families.

Those 8 million men and women have gone on to become teachers, doctors, entrepreneurs and public servants.

Several of our colleagues are among them—DAN AKAKA, CHUCK HAGEL, DAN INOUE, FRANK LAUTENBERG, TED STEVENS, JOHN WARNER and JIM WEBB.

I don't think it is presumptuous to say that each one of them would credit the GI bill as one reason for what they have achieved.

In his time, President Roosevelt promised to never let our troops down, and today we stand poised to renew and reinvigorate his pledge.

The new GI bill will increase educational benefits for all members of the military who have served on active duty since September 11, including reservists and National Guard.

The years since September 11 have seen our troops strained to a level not seen since Vietnam, so these benefits are hard-earned and well-deserved.

This new GI bill so covers college expenses to match the full cost of an in-

state public school, plus books and a stipend for housing.

For those who have said it costs too much, I say our troops have more than earned it.

And every dollar we invest in educating our veterans today comes back to our economy seven times over.

But, new GI bill is not the only important investment this supplemental legislation makes.

It also extends unemployment insurance for all states by 13 weeks and an additional 13 weeks for States with the highest unemployment.

The Congressional Budget Office and many economists say that extending unemployment insurance is among the most effective steps we can take to stimulate the economy.

We have talked for months about the need to help struggling Americans keep their heads above water as our economy continues to flounder. We could have passed this extension months ago, but passing it today is an important step.

This supplemental appropriations bill also: Provides long overdue assistance to victims of Hurricane Katrina with matching funds for levee construction, law enforcement, hospitals, homelessness and reconstruction projects in Mississippi; comes to the aid of victims of other natural disasters like floods and droughts that have devastated certain crops; rolls back the Bush administration's attempts to regulate Medicaid into oblivion by blocking six of seven administration regulations aimed at depriving children, the elderly and people with disabilities of critical services; and, this legislation invests in a variety of other critical priorities, including infrastructure repair, food and drug safety, and firefighters' assistance.

It is no secret that many Democrats—myself included—wish that there was no such thing as an emergency supplemental appropriations bill.

We wish that the urgent domestic needs of the American people had been addressed by President Bush and funded in the ordinary budget process.

And we wish that the \$660 billion we have already spent on the war in Iraq could have gone toward eliminating our record deficit, and investing in schools, hospitals, roads, job training and public safety.

But despite the crushing weight of a war that will cost us well more than \$2 trillion when all is said and done—it is our responsibility to always put the needs of the American people first.

This supplemental appropriations bill fulfills that responsibly. I urge all of my colleagues to support it.

Mr. LEVIN. Mr. President, I strongly support the extension of unemployment insurance benefits. Extending unemployment insurance benefits would fairly and rightly extend much needed assistance to Americans who are struggling to find jobs. While I was disappointed that the provision in this

bill does not include extra benefits for states with high unemployment rates, I believe this unemployment insurance extension, or benefits of an additional 13 weeks for all States, is an important step forward. If the trend of rising unemployment rates continues, it is my hope that Congress will consider another emergency unemployment insurance package that will do more to help states struggling with the highest rates of unemployment.

The Nation's unemployment rate jumped to 5.5 percent in May from 5 percent in April—the biggest jump in 1 month in 22 years. Since the beginning of the Bush administration, Michigan has suffered significant jobs losses and the State's unemployment rate has increased from 4.5 percent in January 2001 to 8.5 percent in May of this year, the highest unemployment rate in the Nation. Michigan has not seen an unemployment rate this high since October of 1992. For too long, the administration has stood idle as 3.3 million manufacturing jobs have been lost, and as working families have felt the squeeze of the rising costs of energy, health care and food. An estimated 428,000 Michigan residents were unemployed in May. Between May 2007 and May of this year, over 170,000 residents exhausted their unemployment benefits and could not find jobs. This year, on average each month about 15,000 more Michigan residents face this same predicament.

President Bush's opposition to an extension of unemployment benefits is apparently based on his belief that, somehow, the availability of unemployment benefits would discourage people from looking for a job. I am disappointed that President Bush would repeat this tired and inaccurate excuse for failing to provide Americans the help they need in these tough times. The devastating reality is that about 7.6 million Americans are unemployed and cannot find jobs, not because they are refusing to look, but because the labor market simply does not have the jobs. Millions of workers have been searching for a job for over 6 months, to no avail. The number of long-term unemployed workers is now higher than when it was when we provided an unemployment insurance extension in 2002. The high rate of unemployment has disproportionately affected veterans, minorities, and young people. While Americans continue to search high and low for a job, their unemployment benefits are running out.

Our people face tremendous economic pressures, from a rate of home foreclosures that is up 130 percent from 2006, soaring costs of health care, to skyrocketing prices for food and gas. Unfortunately, this situation is unlikely to improve soon. Since President Bush took office, the price of health insurance is up 44 percent, the price of college tuition is up 47 percent, the price of gas is up 95 percent, the Federal debt has almost doubled and the dollar has lost a third of its value.

Meanwhile, American families are facing a cost crunch. According to a study by a prominent Harvard Law School professor, the median household income fell by \$1,175, in 2007 dollars, between 2000 and 2006. During that same period, consumer expenditures for basic family needs such as mortgage payments, gas, food, phone bills, household appliances, and health insurance increased by \$3,552, also in 2007 dollars. Available data in 2008 suggest that the cost of basic needs has continued to increase since 2006, and, between a lower real income and higher basic costs, families are facing as much as a \$5,700 shortfall, as compared with 2000 figures.

Extending unemployment insurance during times of recession is nothing new. In the past 30 years, Congress has acted three times to establish temporary extended unemployment benefits, each time during a recession. On average, the length of time that Americans have struggled to get by without a job is longer than it has been in the 30 years since Congress first extended unemployment insurance benefits.

Extending unemployment insurance during tough times is one of the most effective ways to stimulate the economy, dollar for dollar, and this money can be distributed within weeks. Extending unemployment insurance is essential to provide much-needed support to those who have lost their jobs and are struggling to reenter the job market. Workers who receive these unemployment benefits are likely to spend them quickly, making this one of the fastest ways to infuse money into our economy in the short term.

I supported an economic stimulus package considered in the Senate, which included important provisions including an unemployment insurance extension. Unfortunately, this legislation was blocked due to a filibuster by Senate Republicans. It was deeply disappointing that the Senate was forced to pass a short-term stimulus package that did not include an unemployment insurance extension. On May 22, 2008, the Senate overwhelmingly supported an amendment to the Emergency Supplemental bill that included a 13-week extension for unemployment benefits, with an additional 13 weeks for states like Michigan with high levels of unemployment. While the latter important provision is not included in the bill before us, I believe Congress must act with urgency to provide an emergency unemployment extension and therefore I support this legislation.

Mr. FEINGOLD. Mr. President, I support the amendment to the emergency supplemental funding bill that provides needed assistance for Wisconsin and other flood-stricken Midwestern States, unemployed workers, and veterans.

As a result of the horrifying floods that have ravaged the Midwest over the last 3 weeks, a number of people have lost their lives, including two residents of Wisconsin, and many more

have lost homes or suffered other harm.

I joined a number of my colleagues from affected States in asking that flood relief money be included in the supplemental, and I am very pleased to support the \$2.65 billion in disaster relief in the amendment for States suffering from record flooding. I cannot emphasize enough how crucial this disaster relief is to the people of Wisconsin. Beginning on June 5, Wisconsin was struck by 7 to 9 inches of rain that fell over a 24-hour period, followed by destructive winds and tornadoes. So far, 28 counties in Wisconsin have been declared disaster areas and we expect that at least 2 more will be declared disasters shortly. This water is draining into the Mississippi as we speak and has inundated communities throughout Iowa, Indiana, Illinois, Missouri and surrounding States.

With damage assessments underway, over \$400 million of damage has been identified in the State of Wisconsin alone. Over 15,000 residents have registered for individual assistance in the 22 declared Wisconsin counties. An estimated 4,000 wells have been contaminated. The damage to crops will be considerable. We have not seen devastation like this in my State since 1993.

The assistance provided in this amendment will go a long way to help families and businesses get back on their feet, but additional funds may be needed down the road. I will continue to work with my colleagues in the Senate to ensure that the Federal Government's response is prompt and complete.

I am also pleased that this amendment provides thirteen weeks of extended unemployment insurance benefits to workers who have exhausted their regular unemployment insurance benefits. At this critical time in our Nation's economy, it is important that Congress do what it can for workers and families who are struggling. Earlier this month, the Department of Labor released its unemployment figures for the month of May showing a 1-month increase of half a percentage point in the unemployment rate to 5.5 percent, which was one of the biggest 1-month increases in over two decades. I joined a number of my Senate colleagues in requesting an extension of unemployment benefits as part of the stimulus package Congress passed earlier this year due to the fact that increasing unemployment benefits has a high stimulative effect on the economy. It is clear that an extension of unemployment benefits is needed in our States and local communities now.

I strongly support the provisions of this amendment that update the GI bill to provide comprehensive educational benefits for this generation of veterans. This legislation will help thousands of servicemembers transition back to civilian life as they return from demanding tours in Iraq and Afghanistan. It will also benefit the entire Nation as veterans' contributions to the work-

force are enhanced through higher education. While these provisions should have been paid for, passing them is the least we can do for a brave generation of Americans who have served their country honorably.

There are other provisions in the amendment that I support, including a moratorium on six rules proposed by the administration that would undermine the Medicaid Program. I am disappointed, however, that the bill no longer includes vital funding for Byrne grants, LIHEAP and other domestic priorities. And I continue to be extremely disappointed at the willingness of too many of my colleagues to provide the President with funds to continue the misguided war in Iraq. While that funding is not included in the amendment we will vote on today, I will continue to oppose efforts to fund a war that is damaging our national security.

Mr. CARDIN. Mr. President, the spending bill we consider today contains many provisions that address urgent needs facing our Nation's economy, our Nation's families, and our Nation's troops.

Among the most important, this legislation extends unemployment insurance benefits at a time where too many Americans are struggling to find jobs, it postpones six Medicaid regulations that would have impeded access to health care for those who need it most, and it provides veterans returning from Iraq and Afghanistan with a new level of educational benefits that will cover the full costs of an education at a State institution.

We have an obligation to respond to the growing economic crisis and the needs it has created for American families. People are losing their homes and their jobs, and along with those jobs, their health care. Since March 2007, the number of unemployed has increased by 1.1 million workers. We learned a few weeks ago that the unemployment rate in our country shot up by a half a point, from approximately 5 to 5.5 percent. The Baltimore Sun reported last week that the Goodwill Industries of the Chesapeake's Baltimore center has seen an estimated 50 percent increase in clients seeking job placement assistance.

This bill includes provisions that respond to these growing needs. It extends unemployment benefits by 13 weeks for all the Nation's workers. Extending unemployment insurance this way helps families. That is critically important. But it will also help our economy. Economists estimate that every dollar spent on benefits leads to \$1.64 in economic growth. With this extension, we will provide critical stimulus to our slowing economy.

The bill also extends a freeze on six Medicaid rules issued by the administration that would have put a tremendous burden on State and local budgets already under pressure and affected access to services for many Marylanders and Americans all around the country.

I want to talk about the impact of just two of those rules: one that would eliminate Medicaid coverage of transportation services required by students with special needs and the second that would change benefits for case management services that help some of our most vulnerable individuals access needed medical, social, and educational services. In addition to impeding access to care, these two rules alone would have cost Maryland \$67 million in their first year. I was a proud cosponsor of S. 2819 that would have prohibited the Secretary of Health and Human Services from implementing these rules and am glad to see that a moratorium on these rules will become law.

I am especially pleased to support provisions that provide veterans returning from Iraq and Afghanistan with a new level of educational benefits that will cover the full costs of an education at a State institution. Some of my colleagues have argued that the benefit is too generous. But this country provided our troops a similar opportunity after World War II. That investment created a generation of great leaders and an economic boom that transformed our country.

A new GI bill allows a new generation of brave men and women to fulfill their dreams and adjust to civilian life. Just today a young man came into my office, a Maryland National Guardsman, who had served two tours of duty in Iraq. While overseas on his second tour, he missed the birth of his first child. Now that he is home, he wants to pursue an education. Although interested in a program at my State's flagship institution, the University of Maryland at College Park, the tuition was beyond his means and he enrolled in a community college instead where he will shortly complete his associate's degree program. He came into my office to explain his situation and ask whether there was any way we could help him continue his education at a 4-year institution.

That is an opportunity we owe the service men and women, including activated reservists and National Guard, who this administration has asked to serve extended and repeated combat tours. I am so proud that we will live up to that obligation today. But a new GI bill is also a wise investment; it allows our economy to fully benefit from these veterans' talent, leadership, and experience.

There are other critical provisions in this bill. It provides funding to address the devastating Midwest flooding and other natural disasters. It addresses critical quality of life and medical care issues for our troops including funding to improve barracks, build VA hospitals and polytrauma centers, and create new military child care centers. It provides the funding we need to implement the 2005 BRAC recommendations.

The bill makes critical investments to improve our competitiveness by funding research and other programs at

the National Institutes of Health, the National Science Foundation, the National Aeronautics and Space Administration, and the Department of Energy. At a time we are all avoiding tomatoes, this bill makes a major investment in food safety by providing additional resources to the Food and Drug Administration.

I want to commend my colleagues who refused to give up on these priorities even in the face of initial opposition and a veto threat from our President. I am encouraged that we may have a chance in the near future to act on other domestic priorities including increased energy assistance to low-income Americans facing skyrocketing fuel prices and commercial fishery disaster assistance that could help Maryland's watermen.

Former President John F. Kennedy said, "To govern is to choose." In this bill, this Congress is choosing to prioritize those issues that affect Americans' lives every day, our access to jobs, to health care, to education, to safe food. I am proud to offer this bill my support.

#### NATIONAL SYNCHROTRON LIGHT SOURCE II

Mr. SCHUMER. Mr. President, I rise today to ask my colleague, the chairman of the Energy and Water Appropriations Subcommittee, about a matter that may become an issue if we do not pass the fiscal year 2009 appropriations bills in a timely manner. As you know, there are several critically important projects in the Department of Energy's Office of Science budget in various stages of development. One of the projects is the National Synchrotron Light Source II at Brookhaven National Laboratory. This project is in the design phase and is expected to begin construction in the early part of 2009.

The fiscal year 2008 Omnibus appropriations bill provided approximately \$20 million less than the budget request, and the fiscal year 2009 budget request has a substantial increase, which is consistent with the funding profile. I am concerned about the impact a continuing resolution for several months may have on the schedule and overall cost for the National Synchrotron Light Source II project. One issue is that under a continuing resolution less money would be available than if the budget request were enacted. A more pressing issue is that under some previous continuing resolution rules construction would not be allowed to begin as that would be a new activity.

Could my colleague please comment on these matters?

Mr. DORGAN. I thank the gentleman from New York for the question. There are several projects in the Office of Science and in the Department of Energy that are in various stages of planning, design, and construction. Like the National Synchrotron Light Source II project, these other projects may also be impacted if a long-term continuing resolution is enacted.

I very much appreciate my colleague's concern about the project at

Brookhaven National Laboratory and will work with him to attempt to address these issues if a long-term continuing resolution becomes a reality.

Mr. ENZI. Mr. President, I rise today to discuss the emergency supplemental bill that we are considering in the Senate.

This new version of the emergency supplemental bill represents a change from the previous version. It is less expensive—\$3 billion less in domestic, nonmilitary spending that didn't belong in this bill in the first place.

The bill is also better for overall defense than the last version. I am speaking of the GI bill provisions in this legislation. Changes have been made to try and address the transferability of benefits. These changes also attempt to deal with the concern the Department of Defense raised about the retention of our servicemembers by requiring extended service for extended transferable benefits. It does not fully address the concerns, but it is a step forward.

Congressional leaders have sat down with the administration and developed a bill that President Bush can sign.

I recently had the opportunity to address Wyoming's American Legion convention in Riverton, WY. They support improvements in the GI bill but never want to see any veterans, from World War II to our current operation, be used for gotcha politics. I think they will be pleased that changes and improvements were made.

This isn't a perfect bill. There is still some overspending on non-military matters. The bill was force fed through the process. Amendments that could improve the bill further were shunned by the majority leadership.

The fact remains, however, that we need to fund our troops. We need to provide our men and women in uniform with the best possible equipment and the funding they need to do their job fighting the wars in Iraq and Afghanistan. We have a responsibility to make this happen in an expeditious manner. Sending this legislation to President Bush is the only way that will happen and so I will support the supplemental bill.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to concur.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the motion to concur.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 162 Leg.]

## YEAS—92

Akaka	Dorgan	Mikulski
Alexander	Durbin	Murkowski
Barrasso	Ensign	Murray
Baucus	Enzi	Nelson (FL)
Bayh	Feingold	Nelson (NE)
Bennett	Feinstein	Obama
Biden	Graham	Pryor
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Roberts
Brown	Harkin	Rockefeller
Brownback	Hatch	Salazar
Bunning	Hutchison	Sanders
Burr	Inhofe	Schumer
Byrd	Inouye	Sessions
Cantwell	Isakson	Shelby
Cardin	Johnson	Smith
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Clinton	Landrieu	Stevens
Cochran	Lautenberg	Sununu
Coleman	Leahy	Tester
Collins	Levin	Thune
Conrad	Lieberman	Vitter
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Crapo	Martinez	Whitehouse
Dodd	McCaskill	Wicker
Dole	McConnell	Wyden
Domenici	Menendez	

## NAYS—6

Allard	Craig	Kyl
Coburn	DeMint	Voinovich

## NOT VOTING—2

Kennedy	McCain
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The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is made and laid upon the table.

The Senator from Florida is recognized.

# UNANIMOUS CONSENT REQUEST— S. 2766

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 832, S. 2766, the Clean Boating Act, the bill be read a third time and passed, and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Ms. MURKOWSKI. Mr. President, reserving the right to object, I ask that the unanimous consent request be modified, that my amendment which is at the desk be agreed to, and that the bill be read a third time and passed.

Mrs. BOXER. Mr. President, reserving the right to object, I think the Senator from Alaska knows full well the amendment she is seeking to attach to our bill, or the substitute she is putting forward, never was approved in the committee of jurisdiction, the EPW Committee.

The committee worked long and hard at getting a compromise. Because of Senator NELSON and Senator MARTINEZ and others, we have a bill at the desk that Senator NELSON tried to get done now that passed our committee by an overwhelming vote.

As a matter of fact, 13 million boaters, 13 million boaters are going to

wake up very unhappy in the morning if Senator MURKOWSKI objects to this bill. Her substitute was never voted on by the committee.

As a matter of fact, the individual she asked to offer an amendment never offered it. There was a reason; this was a delicate compromise.

I object to Senator MURKOWSKI's amendment to the request. I support strongly Senator NELSON's request to move this Clean Boating Act. It means that 13 million recreational boaters will not have to get a permit to discharge their water pollution, and 13 million recreational boaters are counting on us.

I hope Senator NELSON's unanimous consent will be granted.

The PRESIDING OFFICER. Is there objection to the original unanimous consent from the senior Senator from Florida?

Ms. MURKOWSKI. Mr. President, I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, the evening is getting late, and we have taken some significant action tonight. But I wish to speak for a moment and ask unanimous consent to speak up to 10 minutes on the supplemental bill.

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

## SUPPLEMENTAL APPROPRIATIONS

Ms. LANDRIEU. Mr. President, we passed, by an overwhelming margin, a supplemental emergency spending bill that will fund our ongoing operations in Iraq and in other parts of the world and will send some money stateside.

In the view of this Senator, we have shortchanged, even with our good effort that was just made, shortchanged some real ongoing serious emergencies here at home.

As far as the gulf coast is concerned, I voted for the bill because I have always believed that half a loaf is better than none.

In the bill, in large measure because of the work of Members on both sides of the aisle, we have a significant amount of money toward the construction of levees that failed and put a great city and region and regions throughout the gulf coast at risk, particularly the New Orleans metropolitan area. I know people get tired of reviewing the details, but less than 3 years ago, several significant levees along the great port system in the city of New Orleans, levees that should have held collapsed, and 80 percent of the city went under water. The water is long gone, but the pain is still there. The rebuilding is still going on. The anxiety of homeowners, renters, small business owners and large business owners, and industrial investors is still there, questioning whether the Federal Government's commitment to not only fix the levees, restore the levees and

bring them up to the standards that were promised decades ago, if that promise is going to be kept.

This bill gets us part of the way there, but we still have an awfully long way to go. In the underlying bill we passed, in large measure crafted by House leadership—and I am disappointed in this view of the House leadership—they put in only a portion of the very critical levee funding that is needed for us to go forward, to restore these levees to 100-year flood protection. I don't know how to explain this, but 100-year flood protection is the bare minimum for the United States. There are a few areas that are enjoying 200- and 300-year flood protection in this country, but very few. Most do not have, as you can tell by the flooding going on now in States such as Missouri and Iowa and parts of Illinois, most places don't have the 100-year protection.

For a reference point, I wish to impress upon my colleagues that this is a minimum standard. The country of the Netherlands, which is so small it could fit inside of Louisiana, a powerful economy but a small nation, has flood protection for its people against storms that happen once every 10,000 years. We, the United States of America, cannot claim that we have flood protection for 99 percent of our people against floods once every 100 years. I am going to say again, as I have said 100 times on this floor, incremental funding, nickles and dimes, a few hundred million here or there, is not going to get the job done. In the long run, it is going to cost the American taxpayer billions and billions of dollars more.

So here we go again, after the flood, after the storm, after the promises, after the speeches, after the lights, after the photographs, the bill is passed, but we do not have the whole amount of money necessary to reconstruct the levees as promised by the President and as spoken to on numerous occasions by many Members of the House and Senate. We do have \$5.8 billion in this bill, \$1.16 billion for the Lake Pontchartrain vicinity which is a long, ongoing project, I think started back in the 1960s. We do have \$920 million in for west bank levee which was started back in the 1960s. We have \$967 million in the southeast Louisiana flood control project that was started in the 1990s. We have \$2.9 billion of flood control and emergency projects, modifying drainage canals, installing pumps, armoring levees, improving protection at the inner harbor canal, federalizing certain non-Federal levees in Plaquemine Parish, the long parish that sits at the toe of the boot in Louisiana, reinforces and replaces floodwalls, repairs and restores floodwalls. The problem is the match that is required because of the House action. The Senate reduced the match required by the State of Louisiana and extended our payment terms. Instead of requiring the State of Louisiana to pay a higher level of 35 percent, the

Senate had suggested, I think wisely, that we revert back to the historic share, which is 25 percent. No one in Louisiana thinks we have to get these projects for free. Everyone in Louisiana understands we have to step up and pay our share. No one is objecting. What we simply asked for was a reasonable share, a historic share, not 35 percent but something like 20 or 25 percent. And most importantly, we had asked that we be allowed to pay it over 30 years.

But, no, under the House version that was very ill-conceived and very poorly thought out, the terms are tougher than historical standards and will require the State to come up with a greater match, 35 percent, and require us to pay it over 3 years.

I submit for the RECORD a letter from the president of Jefferson Parish, Aaron Broussard, a parish now of a half million people, as well as a letter from Bobby Jindal, the Governor of Louisiana. I ask unanimous consent that these letters be printed in the RECORD.

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

JEFFERSON PARISH, LOUISIANA,  
Jefferson, LA, June 23, 2008.

Hon. MARY LANDRIEU,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LANDRIEU: We are concerned that language contained in the Emergency Supplemental Appropriations Bill, as passed by the House of Representatives last week, creates an unfair and unacceptable new cost share on the citizens of Jefferson Parish and Orleans Parish and creates a new financial burden that will unduly delay the SELA project and impose significant new risks to Southeast Louisiana.

As you know, the Southeast Louisiana Urban Flood Control Project, SELA, was authorized by WRDA of 1996 to provide for urban flood control in Southeast Louisiana on an expedited basis. The SELA Project has been a true partnership between local governments and the Army Corps of Engineers for over a decade. A major and very important feature of SELA has been a cost share of 75/25. The non-Federal sponsors of SELA have sought and received the approval of the electorate for the revenues needed to meet this 75/25 cost sharing requirement.

Now, without the benefit of legislative hearing or committee oversight, the House of Representatives has unilaterally changed the traditional cost share for the project. This fundamental change in the SELA project will create unprecedented delay in the delivery of the benefits of SELA Project. Specifically:

The change in the cost sharing for SELA from the presently authorized 75/25 to 65/35 equates to an additional \$121M in payments for the SELA sponsors.

This increase will have an impact on the economic recovery of Jefferson Parish as \$50M in new revenue sources must be approved and/or revenues now slated for other recovery work will have to be diverted to SELA.

The impact on Orleans Parish will be even greater as their share of the SELA work will increase by approximately \$70M.

All of these increases are on top of the \$331M that Jefferson Parish has agreed to pay under the presently authorized 75/25 cost sharing.

It will be very difficult, if not impossible, to maintain our construction schedule as the

Administration will undoubtedly request that a new Project Cost Agreement be executed to reflect the higher cost sharing formula. This will in turn, require that Jefferson Parish submit a new financing plan showing adequate capability to meet these increased obligations. We may be forced to seek revenue bonding or seek new revenue sources, such as additional taxes from our citizens. This could further delay the completion of the SELA Project and the delivery of its benefits.

Senator Landrieu, I believe you will agree that the House of Representatives should not be allowed to unilaterally change the cost sharing authorized by WRDA '96 in an Emergency Supplemental Bill without the benefit of hearing, senate committee oversight or conference committee negotiations. In fact, as you know, the Senate Bill had language that maintained the historic cost sharing and directed the Secretary of the Army to use a 30 year pay out so that we could maintain the rapid pace of our recovery from Katrina. Now in light of the House actions, long term financing of the new cost share is the least that will be needed to address this unprecedented new cost share obligation.

I implore the Senate leadership and the Energy and Water Appropriations Subcommittee to retain its language on the Emergency Appropriations Bill and send the amended bill back to the House of Representatives for final passage.

Sincerely,

AARON BROUSSARD,  
Parish President.

STATE OF LOUISIANA,  
OFFICE OF THE GOVERNOR,  
Baton Rouge, LA, June 25, 2008.

Hon. HARRY REID,  
Senate Majority Leader, The Capitol, Washington, DC.

Hon. ROBERT BYRD,  
Chairman, Committee on Appropriations, The Capitol, Washington, DC.

Hon. MITCH MCCONNELL,  
Senate Republican Leader, The Capitol, Washington, DC.

Hon. THAD COCHRAN,  
Ranking Member, Committee on Appropriations, The Capitol, Washington, DC.

DEAR LEADER REID, LEADER MCCONNELL, CHAIRMAN BYRD AND RANKING MEMBER COCHRAN: Our state appreciates the strong support that you have demonstrated for the Gulf Coast victims of Hurricanes Katrina and Rita. The emergency supplemental appropriations bill soon to be considered by the U.S. Senate attempts to fulfill an important commitment to Louisiana—the restoration of the 100-year level of hurricane protection by 2011. I support the inclusion of these funds in the final bill; however, I remain concerned that the goal of the funding is jeopardized by the unprecedented cost share required under the legislation.

As proposed in the House bill, the State of Louisiana would be faced with a \$1.8 billion cost share over the next three years for hurricane protection. This would result in a 4000 percent increase over the state's pre-Katrina contribution toward hurricane protection efforts. As we understand, Louisiana could be faced with paying up to \$1.1 billion in 2010 alone. This is nearly one-third of the state's discretionary budget. Burdening Louisiana with an unprecedented cost share in this compressed time frame will cause irreparable harm to our ongoing recovery efforts and stall our coastal restoration efforts.

The emergency supplemental bill also proposes to increase the overall percentage of funds provided by the state. Under the House proposal, Louisiana's cost share responsibilities would actually increase by over \$200 million above the cost share required under

current law. Considering the extraordinary impact the 2005 hurricanes and the various aspects of recovery ongoing, it is alarming that Congress would choose to require a higher cost share at this time.

As you know, the Senate version of the emergency supplemental allowed Louisiana the opportunity to pay its share of these important hurricane protection efforts over a longer period of time as allowed under current law. The Senate bill also used the traditional cost share requirements that reflect current law.

The Senate is right. Placing this extraordinary burden upon the backs of Louisiana citizens would set back our recovery for years. The large cuts to budgets, services and programs required to make \$1.8 billion available for levees would have a profound impact on Louisiana families across our state.

To be clear, Louisiana is willing to partner with the federal government on these important protection efforts. We are not asking for a waiver. The Senate bill requires our state to pay its share for hurricane protection under reasonable terms and in compliance with current law. I strongly urge you to support our Congressional delegation's efforts to retain the Senate provisions related to hurricane protection. If not possible to include this language in the supplemental, I encourage you to adopt this legislation on its own or through another legislative instrument.

Sincerely,

BOBBY JINDAL,  
Governor.

Ms. LANDRIEU. I wish to read part of the Governor's letter:

As proposed in the House bill, the State of Louisiana would be faced with a \$1.8 billion cost share over the next three years for hurricane protection. This would result in a 4000 percent increase [not 4, not 40, not 400] over the state's pre-Katrina contribution toward hurricane protection efforts.

I know it is not the intention of the chairman of the House Appropriations Committee or the Speaker of the House or the majority and minority leaders in the House to make Louisiana pay 4,000 percent more than we were paying before the storm, when we are in an economic situation that is far more challenging than we were before the city and many of our parishes went under water and 1 million people were displaced in the southern part of our State, but that is exactly what they did.

I am going to leave here, along with my colleagues, but I am going to come back and find a way, with the goodwill on the floor of this Senate, working with Republicans and Democrats, to come to some reasonable terms for the people of Louisiana so we can pay a reasonable share and have a longer period to pay it back.

I know we are one Nation and we all have to support each other's projects, but to put this in perspective, many of us here have funded over the last maybe 15 years a project that is rather famous and well known called the big dig in Boston. That project is an eight-lane highway under the city of Boston that extends for 3.5 miles. We all spent money to do it. It cost \$14.8 billion for the big dig. I asked in this supplemental for \$8 billion to help build 200 miles of levee to protect up to 2 million, roughly, people from losing everything they have worked for and their



parents and their grandparents have worked for, because when those levees break, nothing is saved, and insurance does not even begin to cover the cost of what people have lost. We had to be told in this supplemental discussion that we weren't a priority or we needed to wait. It couldn't fit in this bill. Sorry, we couldn't do it. Sorry, we couldn't find the appropriate cost share.

I am happy for projects like the big dig and other projects around the country. I know some people think I am wearing out my welcome, but it is my job to represent the people of my State. I intend to do it as fairly as I can. I have to say, the President was the one who came to Jackson Square. I didn't go to Jackson Square and turn the lights on and make a promise to the American people that these levees would be rebuilt. He did. Then many Members of Congress came down, Republicans and Democrats, and took shots with a lot of people and said they would rebuild these levees. We want to rebuild our levees. We are willing to put up our share. But the people of Louisiana, under no circumstance, can pay a 4,000-percent increase. Under no circumstance can our State come up with \$1.8 billion every year for the next 3 years out of our general fund.

I want to make one more point about the levees. The people on the other side of the levee are not in high-rise condominiums. They are not lying on the beach sunbathing, and they are not frolicking in 2 feet of water for recreational purposes. The people on the other side of these levees are running the greatest port system in North America. They are engaged in fisheries and transportation and oil and gas. They are the men and women who unload the ships that come from all over the world to support the economy of this Nation.

We have work to do when we get back here. I am going to go home for a week. Then I am going to come back, and we are going to work on finding a better way for us to reduce the cost share and extend the time for us to repay our portion so we can get these levees built and give comfort and keep our promise to the people before we have to mark the third anniversary of Katrina, which will be August 29.

We have time, but we don't have a lot of it. It is almost July. The third anniversary will be August 29. I want to put the Senate on notice that I am going to do everything in my power not to allow us to go home for August until some provisions have been made. There are two options. The President can, by executive order, do this. I am asking him to. I am sending him a letter tomorrow asking him to do it. If he doesn't, then every bill that comes to this floor will be subject to an objection by me until this situation is corrected. It is as if you did not give us any levee money, because without us being able to put up a match, the project can't go forward. Some provision will have to be made. I

wanted to go on the record tonight saying I am willing to work toward any compromise that will be reasonable and look forward to doing that when we return.

In addition, there were provisions that the Senate graciously, under Senator BYRD's leadership, had put in this bill to continue to help us with other elements of our recovery. The criminal justice provision was stripped out by the House. The health care provision was stripped out by the House. These amounted to literally a few hundred million dollars in the scheme of things.

It is not a great deal of money, as these bills go, that are hundreds of billions of dollars. But it was important money to the city of New Orleans and the region and to hospitals that have never closed from the time that hurricane swept through and destroyed so much in its path. Oschner Hospital stayed open. West Jeff and East Jeff opened very soon, as soon as they could, and have continued to provide indigent care, losing millions and millions and millions of dollars, and yet cannot get the proper reimbursement necessary because of what they did.

FEMA only provides help to public entities. Oschner is technically not a public entity, but it was the only hospital that stayed open, and the doctors and the nurses did the right thing. All they have been—since doing the right thing—is punished because their board has lost money, money, money, month after month after month. I have pleaded their case on any number of occasions. Senator LEAHY, Senator HARKIN, and others have been very gracious to try to include help. But it seems as though at certain points it always gets stripped out.

So we are going to come back, and I am going to ask again for some health care funding and some criminal justice funding and work with Senator GRASSLEY, Senator HARKIN, Senator McCASKILL, and others to fashion better remedies for the thousands of homeowners in other parts of this country who have also been disappointed by levee systems that should have held and failed, by Federal bureaucracies that promised help and did not show up.

I know only too well the pain that is going on right now in other parts of the country. I have lived this nightmare for 3 years in south Louisiana and in Mississippi, Alabama, and Texas. So we do have some work to do when we get back, and I look forward to working with you and others to accomplish that.

Mr. President, I ask unanimous consent for 2 minutes to extend my remarks.

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

Ms. LANDRIEU. Thank you, Mr. President.

#### TRIBUTE TO JUSTICE REVIUS ORTIQUE

Ms. LANDRIEU. Mr. President, I have come to the floor of the Senate tonight to pay tribute to a man who had a significant impact on the civil rights movement in my State and our Nation. Justice Revius O. Ortique, a native New Orleanian, passed away on Sunday, June 22, 2008.

At the height of his long and distinguished career in 1992, he was the first African American elected to the Louisiana Supreme Court. But the road was not easy nor was the path to success clear.

Justice Ortique served his country for 4 years as an Army officer in the Pacific theater during World War II. He returned home as part of a great generation his longtime friend Sybil Morial notes for its "desire to bring about change." He attended college at Dillard University, earned a master's degree in criminology from Indiana University, and then earned a law degree from Southern University.

It was a challenging time, to say the least, to be a young, African-American attorney in our South, but Revius Ortique rose to the challenge with determination to change the landscape for African Americans in our city—helping to desegregate lunch counters and neighborhoods, city halls and corporate boardrooms, throughout Louisiana and the South. He served his community as the president of the Urban League of Greater New Orleans for five terms and was also president of the Community Relations Council, a group of local leaders focused on bridging the racial divide and making our city stronger.

Justice Ortique's efforts to heal the divisions of our community soon garnered rightful national attention. He became president of the National Bar Association in 1959. From that post, he had President Johnson's ear—a direct voice to power, speaking for millions of African-Americans. Moved in some measure by Ortique's urging, President Johnson appointed Thurgood Marshall to be the first African-American U.S. Supreme Court Justice and appointed eight other distinguished African Americans to Federal judgeships.

The first African American to be appointed to the Civil District Court bench in New Orleans, in 1978, Justice Ortique continued to be reelected and later served as chief judge. His friends and colleagues remember him as holding himself and his courtroom to the pinnacle of decorum. He was also an inspiring mentor to many young lawyers and judges. "He really taught you how to be a good lawyer," said Judge Michael G. Bagneris, who serves on the Civil District Court in New Orleans. "He always instilled in young lawyers that they had to show respect for the court." It is a respect Justice Ortique earned through his demonstrated wisdom on the bench and the gentlemanly standards he held.

Justice Ortique was elected to the Louisiana Supreme Court in 1992 but



could only serve 2 years due to a State age restriction. He was not ready to retire. He remained as hungry to serve as that young man who went off to defend our country a half century earlier. Mayor Marc Morial appointed him to the New Orleans Aviation Board where he quickly became its chairman, serving for 8 years.

Over the course of his career, five U.S. Presidents learned of his stellar reputation as a jurist and as a leader, appointing him to various Commissions, including the investigation into the killings at Kent State University.

At the end of his life, Justice Ortique and his loving wife of 60 years, Miriam, were living in Baton Rouge. Their New Orleans house had been destroyed by Hurricane Katrina, and like so many Louisianians, they were working to soon return home. He is also survived by his daughter, Rhessa Marie McDONALD, and three grandchildren. From the struggles of the civil rights era, to the successes that come with hard work and resolve, Justice Ortique's American story is one of great promise and determination. His legacy will live on through the generations he has inspired to bring about change of their own.

Mr. President, I thank the Presiding Officer and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

### HOUSING CRISIS

Mr. DODD. Mr. President, I wish to review very briefly before we close out this evening and head back to our respective States for the Independence Day recess sort of where we are on the housing issue which has dominated a good part of the debate over the last week or so in the Senate.

I wish to begin by thanking the majority leader and the minority leader for the ability to raise a number of issues which have been debated and discussed over the last week or so regarding the effort to get this housing crisis back on track. I have said this so often, for those who have had to listen to it, it would be redundant, but for those who are hearing it the first time: The heart of the economic crisis is the housing crisis, and for anyone who doubts it, the heart of the housing crisis is the foreclosure crisis. We now have roughly 8,500 foreclosures a day occurring in the United States.

This is no longer a question that has merely affected the subprime lending market. It has now spread to the prime market area as well. It is affecting student loans, municipal finance, commercial financing. It has had a tremendous impact on global markets as well. As

we all today recognize, we live in a world where major economic conditions affect not only those of us who live here but elsewhere as well.

So when we return a week or so from tonight, we will be back on this housing bill along with other measures but certainly the housing bill. It is with a deep sense of regret that I speak this evening about the disappointment I feel over the inability to conclude this matter. It would not have taken this Chamber much more than 2 or 3 hours to consider all of the amendments that were being offered by Democrats and Republicans to this housing measure. But for the actions of one or two Members who refused to allow us to go to the debate—not even considering amendments we would have disagreed with, it is very disappointing to me when you consider that we are now leaving for another 8 or 10 days.

I will remind my colleagues and those who may be interested in this that every day we are not in session, and every day we fail to act on this measure, somewhere between 8,000 and 9,000 homes, not to mention the individuals affected by it, will be filing for foreclosure. So as we leave tomorrow and head back to our respective States across the country, some 8,000 to 9,000 people will be put at great jeopardy for their long-term economic security and potentially losing their homes.

As we go off and spend our time next week, whether we are spending our time with our families or engaging in activities with our constituents, on every day we are not here, another 8,000 to 9,000 people will find their long-term financial security at further risk because we could not convince a couple of Members to allow us to debate the issues of housing and what we might do. Let me also point out that it is only a handful of people.

Two days ago when we considered the motion to proceed to this matter, the vote was 83 to 9. For every vote we have had on this housing measure over the last week, the lowest number of votes we have had in favor of our proposals was 77. So it is disappointing with that kind of a majority, which rarely occurs on any issue let alone one as potentially controversial as the housing issue, because we have had overwhelming support to move forward. Yet I find myself this evening as we conclude our debates on all of these matters unable to conclude this issue because of one or two Members who refuse to allow us to even get to this issue at all.

Let me read, if I can, a headline from the business section of the Washington Post this morning: "Delinquencies Rise at Fannie Mae and Freddie Mac." Now let me read the headline from Monday's section of USA Today: "New Faces Join Ranks of Nation's Homeless: Renters, Middle Class Hit Hard by Rising Foreclosures."

The Housing and Economic Recovery Act of 2008 would address both of these very serious concerns, and more. Our

bill establishes a strong, new, world class regulator to make sure the housing GSEs are well regulated and financially sound. Our legislation provides for a voluntary new program that could help anywhere from 400,000 to 500,000 distressed homeowners avoid foreclosure. The legislation has proven time and time again to enjoy strong, bipartisan support, and we have made enormous progress over the last number of months. We have worked very hard, Senator SHELBY and I, my Republican colleague from Alabama, the ranking Republican on the committee, and 19 of the 21 members of that committee—only 2 dissenters out of the 21 members—to put together this package. We worked through a number of amendments, accepting some, defeating others. In fact, last night the bill passed on the overall Dodd-Shelby proposal 79 to 16. Yet because of a technicality involving procedural hurdles that will not let us get to final passage, this measure is now being held up by one or two Senators because they want yet another vote on a completely unrelated matter.

Let me review very briefly, if I can, for my colleagues before we go into recess exactly what it is we are working so hard to achieve. It has a number of key elements, all of which have been supported by strong bipartisan votes in either the Banking Committee or the full Senate.

First, the HOPE for Homeowners Act. I have said over and over again, this bill, HOPE for Homeowners, is not guaranteed to produce the results we want, but what it does do is make it possible for both lenders and borrowers to reach an agreement whereby borrowers can stay in their homes with mortgages they can afford. The lenders are going to reduce their earnings—there is no question about that—but it is not going to be zero. So there is an advantage for the lender to be involved in this voluntary program. Speculators are not allowed to participate. It is only owner occupied residences. It is a temporary program. It is a purely voluntary one, but it is one that has been tried.

It was actually tried many years ago, back in the 1920s and the 1930s when we had the Great Depression in this country, and the Federal Government actually purchased distressed mortgages. We are not doing anything like that. We are actually insuring these mortgages, allowing these people who are running the risk of losing their homes to stay in those homes, and thus bring us to a floor, if you will—a bottom—of this housing market, this mortgage market that would allow capital to begin to flow again. It is a very important proposal.

I must tell my colleagues that we have listened to countless witnesses in over 50 hearings over the last year and a half of the Banking Committee. Witnesses have come from the entire breadth of the political spectrum and all of them have concluded that this idea is worthy of a try.

So while I cannot stand here this evening and promise miraculous results, it is our best judgment—this is our best effort—of what we can do in this body to offer some relief at this moment.

The second proposal that is part of this bill is the GSE reform, Fannie Mae and Freddie Mac. These are important sources of liquidity in the residential mortgage market. They have provided a great source of relief during this time. Our bill reforms these institutions in such a way that we have a strong regulator requiring certain capital requirements and the like. It has been tried for the last 6 years to achieve what we have in this bill. It has failed in every other attempt. This final proposal, which we crafted over the last number of weeks, enjoys broad-based bipartisan support.

The third feature of this bill, which has received less attention than the two points I have made, may be the provision which has more lasting implications than anything else we have done.

The homeowners bill is a temporary one. It dies in 2 or 3 years; it will go out of existence. But the affordable housing provisions of the bill are permanent. We will generate revenues that will make it possible for people to have rental housing in the future that they could not even begin to imagine under present circumstances. That is a very important part of the bill as well.

We include, as a result of the work of the Finance Committee, under the leadership of Senators MAX BAUCUS and CHUCK GRASSLEY, of Iowa, mortgage revenue bonds, relief for first-time home buyers, tax credits that would allow them to purchase foreclosed properties or others.

We have provisions dealing with counseling services, which are very important as people try to work out arrangements with lenders to stay in their homes. It has been called the most broad-sweeping housing legislation in more than a generation. All because of one or two Senators, I was unable to complete that bill this evening. As a result of the leadership of HARRY REID, our majority leader, we will be back on this bill when we return Monday, July 7. We will have a cloture vote that day and then move, 48 hours later or so, to a second cloture motion, which should allow us to come to a final conclusion on the bill.

I am deeply saddened that, as we go into this Independence Day recess, we were not able to complete action on this proposal. I say to the American people, as we leave for 10 days, we have done something that will offer you some hope, some sense of optimism, some sense of confidence that your Senate, your Congress was not unmindful of your concerns and worries. Nothing provides greater stability to a family, to a neighborhood, to a community than home ownership. It is one of the great dreams of most American families to be able to have their own home,

to watch equity increase in those homes, to be able to provide a stable environment for your family and children. Yet we see with the ever-increasing foreclosure crisis in the country, as I mentioned, some 8,400 foreclosures every day in the country—that dream, that hope is evaporating for too many American families. So this bill would have provided real relief. Unfortunately, we could not get to it.

I would be remiss if I didn't mention at the same time, of course, we are simultaneously or are about to provide economic relief to 17 telecom companies who were engaged in activities that were highly questionable in the vacuuming up of private information of millions of Americans and their families, private telephone conversations, e-mails, faxes, and the like. That is part of the so-called Foreign Intelligence Surveillance Act. While I have deep concern about those who would do us great harm, I am deeply disturbed that that issue seems to be taking greater priority than this home ownership issue, Medicare relief, and the families across the country.

I wish to conclude my remarks this evening, as we prepare to leave this city and return to our respective States, by saying that at a time when we could have done something meaningful for an awful lot of people, to offer them some hope, some renewed sense of confidence and optimism, we missed that opportunity. I didn't want the evening to end without expressing my disappointment.

Simultaneously, I offer a note of optimism. When we come back 10 days from now, this will be a priority item. The majority leader, to his credit, talked about this eloquently and often over the last several days. He is committed that this issue will be a priority item when we return. As such, we will eventually conclude passage of this bill, and we will work with the House of Representatives to adopt a compromise measure and be able to offer some hope that people can remain in their homes—at least many will—with the hope that they can stay there, raise their families, and that we can once again see capital begin to flow in critical areas of investment in this country.

I am grateful to the Presiding Officer and to others who are here to hear these concluding remarks. Again, I felt it was important to identify exactly what the situation was as we concluded our business this evening.

With that, I yield the floor.

#### CAPITOL GUIDE SERVICE RETIREMENTS

Mr. REID. Mr. President, I call to your attention today the contributions of three outstanding individuals who will be retiring from the U.S. Capitol Guide Service at the end of the week. Tom Stevens, Sharon Nevitt, and Jeannie Divine have served the Congress—House and Senate alike—with a dedica-

tion to duty that allowed the guide service to fulfill the mission of providing our constituents with an educational and enjoyable experience while visiting our Nation's Capitol.

Tom Stevens first came to the guide service in March of 1985. Tom's contributions toward managing the expanded role of the guide service following the events of September 11, 2001, were instrumental in his selection as Director of the Capitol Guide Service in 2003. Tom's commitment to the employees of the Capitol Guide Service and the Congressional Special Services Office is well known. Under his leadership, this team has skillfully provided assistance to hundreds of thousands of visitors who come to the Capitol each year. Tom has been a mainstay in the effort to prepare for the operations of the Capitol Visitor Center. We recognize and appreciate his extraordinary contributions to the Capitol Visitor Center and indeed the entire Congress.

Sharon Nevitt, the Assistant Director of the Capitol Guide Service, came to the Service in 1977, working her way up through a number of management and supervisory roles. Her efficiency, quiet competence, and fierce loyalty to the employees of the guide service have been invaluable to the day to day operations of the Capitol Guide Service. Sharon has also contributed a wealth of time and effort to various working groups aimed at establishing operational procedures for the new Capitol Visitor Center. Sharon's efforts and her many contributions are recognized and appreciated.

Jeannie Divine has been a fixture here in the Congress since 1975. I would venture to say that each and every one of our offices has been assisted by Jeannie at one time or the other over her career. Jeannie is the one who takes all our calls and works with our staffs to accommodate the growing number of tour requests from our constituents who visit our Capitol each year. She handles each request with efficiency and courtesy. Her kindness and lighthearted nature have allowed her to form lasting friendships with people from both sides of the aisle and both sides of the Hill. Her efforts to help all of us are recognized and appreciated.

We owe an enormous debt of gratitude to this dedicated team whose combined tenure equals 87 years of exemplary service to the Congress of the United States. Please join me in wishing Tom, Sharon, and Jeannie never-ending success in their future endeavors.

#### HONORING NEA PRESIDENT REG WEAVER

Mr. DURBIN. Mr. President, I wish to honor a man who has spent the greater part of his life as an advocate for quality public education.

Reg Weaver has said, "There is no feeling like seeing children's eyes brighten up as they discover the world of opportunity."

He should know. For more than 30 years, as a teacher and a national education leader, Reg Weaver has helped countless children discover the world of opportunity. He has enriched children's lives and helped to improve America's public schools. And in doing so, he has helped to make America better and stronger.

This week, after two terms, Reg Weaver is retiring as president of the 3.2 million-member National Education Association, America's largest teachers union. I know that many of my colleagues join me in thanking Mr. Weaver for his dedicated service. We wish him well as he begins his next chapter in life. I won't say "retirement" because, if you know Reg Weaver, you know he is going to continue to champion children and teachers—it is who he is.

Reg Weaver grew up in the central Illinois town of Danville, about 120 miles south of Chicago. When he started grade school, the U.S. Supreme Court had not yet passed its landmark *Brown v. Board of Education* ruling. Reg attended a predominately White public school through the third grade. Then his family moved across town, and Reg found himself in a mostly Black public school. The differences between the two schools were stark.

Two years later, his mother re-enrolled Reg in the mostly White school, telling school officials the family lived with Reg's grandmother.

That first-person experience with "separate but equal" public schools in his hometown made a deep impression on Reg Weaver. He has spent his life working to guarantee all children the opportunity to attend a good public school, no matter where they live.

The idea of dedicating his life to that goal evolved gradually.

In high school, Reg Weaver shied away from science, despite the urgings of his homeroom teacher, Mr. Sanders, to take a chemistry class. He says he feared the class would be too difficult and other students might ridicule him. Instead, he concentrated on Spanish and wrestling, both of which he excelled in. He thought of becoming an interpreter or maybe even a physical therapist.

His wrestling won him a scholarship to Illinois State University. Only after accepting the scholarship did Reg Weaver realize he was attending a teachers college. He couldn't major in Spanish or physical therapy at Illinois State so he majored in special education for students with disabilities.

Some might say that Reg Weaver fell into teaching by accident. I think it was fate. He discovered quickly that he loved teaching and went on to earn a master's degree from Roosevelt University in Chicago.

In another twist of fate, Reg Weaver found his niche teaching science—the very subject he had once avoided—to middle school students in suburban Chicago. It was there that he first got involved in the Illinois Education Association, the State chapter of the National Education Association.

In 1981, Reg Weaver became the first African American ever elected president of the Illinois Education Association. During his 6 years as IEA president, the organization increased its membership by 50 percent. IEA was also the driving force behind passage in 1983 of a comprehensive collective bargaining law for Illinois teachers and other school personnel. To this day, Reg Weaver keeps a photo of the bill signing in his office.

In 1996, Mr. Weaver was elected vice president of the National Education Association. He was elected president of the national organization in 2002. As we all well remember, that was a time of major change for public education in America. Less than a year before, President Bush had signed the No Child Left Behind Act, the most comprehensive overhaul of Federal education law in 40 years.

As NEA President, Reg Weaver has not only worked to highlight flaws in the new law, he has tried to suggest ways the law can be strengthened. Reg Weaver fought to improve the achievement for all students and close the achievement gaps that leave too many low-income and minority students behind. He has worked to increase teacher pay so schools can attract and retain qualified staff. He has worked to encourage parents' involvement in their children's education, always mindful of the difference his own mother's involvement in his education made in his life.

From his days as a middle school science teacher in suburban Chicago to his tenure as president of the Nation's largest professional employee association, Reg Weaver has been a tremendous asset to Illinois and to our Nation.

Over the years, he has received many accolades and awards. *Ebony* magazine named him one of the 100 most influential Black Americans. He is also the recipient of People for the American Way's 2005 Spirit of Liberty Award and the U.S. Hispanic Leadership Institute's 2006 George Meany Latino Leadership Award.

One award that has special meaning for him is his inclusion in the Danville, IL, High School Wall of Fame. In the same high school where he once feared to take a science class, Reg Weaver now serves as an inspiration for students to study hard and go as far in life as their talents and passions will take them.

In closing, I want to thank Reg Weaver's family—especially his wife Betty—for sharing so much of Reg with America for so long. Above all, I want to thank Reg Weaver for his passionate advocacy on behalf of America's students, teachers and public schools.

#### GLOBAL AIDS BILL

Mr. DURBIN. Mr. President, many of us on the Democratic side have dis-

agreed with the President's policies—on the war in Iraq, on the economy, on education, and health care.

But an overwhelming majority of us, on both sides of the aisle, find common ground in our support for the President's Emergency Plan for AIDS Relief, or PEPFAR.

The President believes this program is one of the hallmarks of his administration. I agree. I think it is his most positive achievement as President of the United States.

In fact, I believe it is an important illustration of American smart power, a resource we have both squandered and underutilized in recent years.

Smart power is the idea that America's strength resonates not only from its military power but from the power of its ideas, the power of its values, its generosity and diplomacy.

I worry that a measure of this leadership has been lost recently. We are in a struggle of ideas across the world. Many of our harshest critics paint a picture of the United States that is not even close to reality.

When you consider the purpose of this bill—to prevent 12 million new infections; support treatment for at least 3 million people; and provide care for another 12 million, including 5 million vulnerable children—it is easy to see it as an expression of American values—of generosity and caring for those in need.

The success of the PEPFAR program has brought us a long way since 2003, when only 50,000 people in sub-Saharan Africa were receiving treatment. Today, PEPFAR and the Global Fund jointly support nearly 2 million people on treatment, primarily in Africa.

That is remarkable progress in just 5 years. The situation on the ground has been literally transformed through the support and generosity of the American people.

We should be proud of this achievement. But, as U.S. Global AIDS coordinator Dr. Mark Dybul has reminded us many times, "We cannot treat our way out of this epidemic." To build on this progress, we are going to have to integrate our treatment efforts with other prevention activities.

Epidemics do not occur in isolation. If a person goes hungry or doesn't have safe water to drink, her antiretroviral drugs will not be effective. If there are not enough doctors or nurses in her village, she will not receive the care she needs to overcome this terrible disease.

It is essential to integrate treatment with prevention, health workforce capacity development, and other important public health efforts on the ground. We need to move away from an emergency posture to one that encourages sustainability for the long term.

This bill—the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008—helps us do that.

The President has urged Congress to send him this important bill before the end of the year.

In March, the Senate Foreign Relations Committee approved the bill on an overwhelming bipartisan vote of 18 to 3. Our colleagues in the House passed a similar measure with a resounding vote—308 to 116—a few weeks later.

Some of the most vulnerable parts of the world have been ravaged by AIDS, TB and malaria. Through this bill, we have an opportunity to turn the tide on these terrible diseases.

Around the world, all eyes are on the U.S. Senate.

Although it has been a long 2½ months of negotiation with those who placed holds on the bill—and I applaud Senator BIDEN and Senator LUGAR on their tenacity and leadership in reaching an agreement last night to finally advance this bill.

I urge my colleagues to do the right thing and to support this vital, life-saving legislation.

#### CRISIS IN ZIMBABWE

Mr. DURBIN. Mr. President, I have repeatedly come to the floor to talk about the genocide in Darfur, a tragedy that is now entering its sixth year, with little end in sight. Senator SNOWE and 27 other Senators joined me last month in writing to the President saying that his legacy would be largely affected by whether definitive action is taken to halt this humanitarian crisis on his watch.

Unfortunately, I fear President Bush will leave office and hand the crisis in Darfur to the next President.

Sadly, there is another African crisis that also demands the world's attention—this one in Zimbabwe.

On March 29, the country held a presidential election in which opposition leader Morgan Tsvangirai won over incumbent Robert Mugabe by nearly 5 percent. Official results were withheld by the government for more than a month, raising concerns of official manipulation. Opposition leaders and supporters, election observers, and reporters were harassed and in some cases detained. Some were tortured, others killed.

Under those results, in which neither candidate received more than 50 percent, a runoff was scheduled for June 27.

The period leading up to this runoff has been a tragedy for the people of Zimbabwe, for democracy, for the rule of law, and for the entire southern African region.

President Mugabe, once a hero of Zimbabwe's independence, has used violence to destroy his country's democratic process.

Opposition supporters are harassed, attacked, and threatened if they do not vote for Mugabe. Tsvangirai has been detained repeatedly and has survived three assassination attempts. His party's secretary general, Tendai Biti, was arrested earlier this month and charged with treason.

And then this week, government thugs raided opposition party head-

quarters, rounding up supporters, including women and children.

Mugabe even said in regards to the next round of voting, "We are not going to give up our country because of a mere X. How can a ballpoint pen fight with a gun?"

Mugabe has driven Zimbabwe's economy into the ground, starved his own people, and brought sweeping international condemnation upon his government. He has further added to his people's suffering by manipulating the distribution of international food aid.

The process has been so undermined by President Mugabe that on Monday, Morgan Tsvangirai withdrew from the race and sought refuge in the Dutch embassy.

The man who won the most votes in the first round of Zimbabwe's election now has to seek the protection of a foreign embassy out of fear the government will take his life.

This is outrageous.

The situation in Zimbabwe is a tragedy that the international community must address. The world cannot stand idly by anymore while petty dictators destroy the lives and ignore the democratic will of their own populations.

What message are we sending when murderous governments such as those in Burma, Sudan, and Zimbabwe are allowed to thumb their noses at basic human rights and the international community?

The UN Security Council said this week that it would be "impossible for a free and fair election to take place." UN Secretary General Ban Ki-moon also strongly condemned the situation in Zimbabwe, saying that an election under current conditions "would lack all legitimacy."

And recently 14 former African presidents, two former UN Secretaries-General and 24 other prominent African leaders signed a joint letter to Mugabe, calling for an end to the pre-election violence and for a free and fair election.

But where pressure has not been strong enough is from the democracies neighboring Zimbabwe. Recently Senators FEINGOLD, KERRY, and WHITEHOUSE joined me to meet with the ambassadors from the southern African nations of Botswana, Zambia, and South Africa to discuss the need for greater attention to the crisis in Zimbabwe.

While I am pleased that Botswanan and Zambian leaders have spoken more forcefully on Zimbabwe in recent days, these nations must do much more to help the people of Zimbabwe. Many African leaders have argued over the years that they must take greater responsibility for political and human rights reform on their own continent. I suggest Zimbabwe is an urgent opportunity for just such action.

South Africa in particular, a nation that the world stood behind to end the tragic injustice of apartheid, has been noticeably quiet in its responsibility to halt Mugabe's reign of destruction.

President Mbeki has tried quiet diplomacy, but it is clear that Mugabe does not respect these efforts.

The South African ruling party said this week that "any attempts by outside players to impose regime change will merely deepen the crisis." That argument misses the point.

It is the people of Zimbabwe that are demanding change.

The right to associate freely, to vote without intimidation or violence, to peacefully choose one's leader—these are all basic democratic values shared around the world. They are the values that brought a peaceful end to apartheid.

In fact, election protocols agreed to by the members of the Southern African Development Community demand certain benchmarks for elections to be considered legitimate—benchmarks which are certainly not being met in Zimbabwe.

South Africa, more than any other nation in Africa, has the ability and the moral responsibility to rein in Mugabe. The rest of the global community stands ready to help South Africa with this urgent need.

The world must step up against the injustices in Zimbabwe. The Mugabe regime must not conduct a runoff election until conditions allow for a free and fair process, including an end to political violence and intimidation, the release of political detainees, free access of election observers, the freedom to associate and hold political rallies, and a transparent and honest vote counting process.

Without such minimal steps, the world must not recognize the results of a rigged process in which Mugabe will simply proclaim himself president for another term.

#### HONORING OUR ARMED FORCES

LANCE CORPORAL ANDREW FRANCIS WHITACRE

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of the brave lance corporal from Bryant, Indiana. Andrew Whitacre, 21 years old, died on June 19, 2008, in Farah Province, Afghanistan, from injuries sustained while his unit was conducting combat operations. He was a member of the U.S. Marine Corps, G Company, 2nd Battalion, 7th Marines, 1st Marine Division from Twentynine Palms, CA.

Andrew graduated from Jay County High School in 2005. Andrew loved sports and was an avid snowboarder. Those who knew him best recall a brave young man with an extraordinary sense of generosity. He enlisted in the Marines at the age of 17, telling his family that if he served, another would be spared that decision. Andrew left for boot camp in July of 2005, shortly after graduating from high school. Proud of his service and patriotic in spirit, Andrew never wavered in his decision to enlist. His family said it was the surest decision he ever made.

In March of this year, Andrew proposed to his fiancée, Casey McGuire of

Parker, AZ. He was due to return in November. Casey described Andrew as her "hero," and said that he asked her to encourage everyone to send letters to American servicemembers abroad, thanking them for their service and showing their support. Andrew truly had the needs of others always at heart.

Today, I join Andrew's family and friends in mourning his death. Andrew will forever be remembered as a son, brother and friend to many. He is survived by his father and stepmother, Ernie and Norma Whitacre; his mother and her fiancée, Susan Nunly and Michael Perry; his fiancée, Casey McGuire; his brothers, Ryan Murphy and Justin Miller; his sister, Ashley Williams; and his grandmothers, Mildred Whitacre, Caroline Huffman, Beulah Murphy, and Mary Scott.

While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Andrew. Today and always, Andrew will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Andrew's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Andrew's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Andrew Francis Whitacre in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the pain that comes with the loss of our heroes, I hope that Layton's family can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Andrew.

#### SAVING THE AMERICAN DREAM

Ms. STABENOW. Mr. President, the effects of the housing crisis have rippled through our economy, affecting every state in the country. There are currently 1 million homes in foreclosure and in the next 2 to 3 years it

is estimated that 2 million Americans may lose their homes to foreclosure. Few States have felt these effects more than in my State of Michigan. Michigan has one of the highest foreclosure rates in the country at 3.6 percent with 1 in every 353 households receiving a foreclosure filing during the month of May. The high levels of foreclosures, coupled with growing inventories of houses, significant declines in house prices, and a decline in building activity have made efforts for recovery even more difficult. Americans are being squeezed from the grocery store to the gas pump and they desperately need relief. That is why I am pleased to support this bipartisan housing legislation. This bill is a significant step to provide relief to struggling homeowners throughout the country and to stabilize our economy.

It would strengthen the regulatory oversight of government sponsored enterprises, GSEs, and provide FHA modernization reforms to help stabilize the housing finance system and begin to restore confidence to the market. The bill also contains the HOPE for Homeowners FHA refinancing program for at-risk homeowners. The Congressional Budget Office estimates that the program is expected to help 400,000 homeowners at risk of losing their homes to foreclosure. The bill also seeks to keep people in their home by providing \$150 million in additional funding for housing counseling. These funds will help as many as 250,000 additional families connect with their mortgage lender to explore options that will keep them in their homes.

Foreclosures not only affect individual homeowners, but have community-wide ramifications. These properties attract crime and vandalism, which drag down local property values and create losses in wealth built up through home equity. Estimates show that more than 40 million households will see their property values decline as a result of a foreclosed home in their neighborhood. To help communities mitigate these impacts, this bill would provide almost \$4 billion for State and local governments to purchase and rehabilitate foreclosed properties. In Michigan, this would provide \$345 million in additional economic activity and 3,220 new jobs. It would help restore 5,695 properties and raise \$11 million in taxes for the state.

The bill also includes important tax benefits targeted to help the recovery of the housing market. It includes a simplification and temporary increase of the low-income housing tax credit to promote the construction of affordable rental housing. To reduce the growing inventory of unoccupied housing, the bill includes a one-time homebuyer tax credit of \$8,000 to stimulate buyer demand. I am also pleased that the package includes my provision to allow struggling American businesses to invest in the economy and create jobs here at home. It would allow those companies hurting the most to utilize already accumulated tax credits to make critical investments in their businesses and create jobs.

As the housing market continues to deteriorate, I applaud the work of our

leadership in crafting this much-needed housing package. I would especially like to thank Chairman DODD and Ranking Member SHELBY for their leadership and work on this important issue. However, I am concerned with two provisions of the legislation that, if enacted, could have far reaching implications for our Nation's housing policy.

The bill as currently drafted provides for an effective date upon enactment, immediately granting the new GSE regulator power over three very diverse and complex entities. The new oversight system must allow for a transition to ensure there are no lapses in regulatory authority or unnecessary market disruptions. The House-passed version of the bill establishes an effective date of 6 months after enactment, which allows all stakeholders in the housing finance system adequate time to adjust to the new system.

I am also concerned with the language that would restrict the use of the GSEs mortgage portfolios as a source of liquidity for the housing market. The current language includes a bias in favor of the GSEs securitizing loans, which predisposes the regulator from being open to all available options. The portfolios are a critical tool to help struggling borrowers refinance risky mortgages and meet the needs of underserved communities. It is imperative that GSEs have flexibility over their portfolio authority. Without this flexibility, subprime, multi-family and other affordable lending could be hindered during a time when GSE investment is needed most for families and our economy. I look forward to a timely and appropriate resolution to both of these concerns.

This housing package is an important first step to address the crisis facing our Nation and it cannot wait another day. In Michigan, we have been in a recession for too long. Our American dream is turning into an American nightmare for too many families. Working together today, we must save the American dream for the future.

#### HONORING THE FOURTH OF JULY

Mr. AKAKA. Mr. President, next week Friday will be Fourth of July, 2008.

In 1776, our forefathers forged our country's independence, marking the Fourth of July as our Nation's birthday. Today, 232 years later, we commemorate the democratic freedoms set forth by the signing of the Declaration of Independence. Historically, many before me have taken this moment to reflect upon and celebrate the accomplishments of years passed and the promise of years to come. And while there is much to reflect upon and celebrate, I would like to take this moment to recognize all Americans who, in their own way, work to preserve our liberties and promote democracy.

Today, while we remember the day that 56 individuals gathered in Pennsylvania at Independence Hall—we are

reminded of a critical moment in time when our forefathers shaped a new union, one that broke from the traditional. Our Nation was built on the fundamental principle: "That all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." As our forefathers endured a life of struggle, but envisioned a life of freedom, we as a Nation must keep in mind the sacrifices that they and others made and the hardships that preserve them.

As we honor individuals who contribute to upholding our civil liberties, we must also take this opportunity to appreciate them for the courage they have displayed to preserve our independence and our freedom. From our armed servicemembers who stand ready to defend our Nation, to 18-year-olds perpetuating our democracy by registering to vote, and to people of all backgrounds around the Nation reaffirming the principle of our union on a daily basis—to all, I pay tribute. Their individual contribution allows us to celebrate our independence every day.

#### 20TH ANNIVERSARY OF BELIN-BLANK CENTER

Mr. GRASSLEY. Mr. President, 20 years ago this summer, the Connie Belin & Jacqueline N. Blank International Center for Gifted Education and Talent Development was established at the University of Iowa. Originally created by the Iowa Board of Regents as the Belin National Center for Gifted Education, the center was made possible by a million-dollar endowment that established the Myron and Jacqueline Blank Chair in Gifted Education, which is held to this day by Professor Nicholas Colangelo. In 1995, the center was renamed the Connie Belin & Jacqueline N. Blank International Center for Gifted Education and Talent Development, honoring a longtime leader in gifted education and a Des Moines philanthropist. In 2008, the Belin-Blank Center celebrates two decades of service to the international gifted education community.

The Belin-Blank Center has earned a strong national and international reputation for its work on behalf of gifted and talented children, which my colleagues know is a subject of great interest to me. Since its inception, the center has pioneered unique and innovative opportunities for students, including academic talent searches designed to discover gifted students; weekend and summer programs on everything from algebra, art, and 3D design to chemistry, creative writing and LEGO robotics; and the National Academy of Arts, Sciences, and Engineering, which provides early admission to the university.

Professional development for educators has been the foundation upon which the work of the center has been

built. Examples of the center's work in this area include producing internationally acclaimed research symposia and developing specially designed coursework for Iowa's teachers to earn a State of Iowa endorsement in gifted education. As a result of the Belin-Blank Center's efforts, more educators today understand that supporting high-achieving students is an important aspect of successful teaching.

The Belin-Blank Center has successfully competed for private, Federal, and State grants. I am proud to say that this includes two Federal Jacob K. Javits Gifted and Talented Education Grants. This program, which I have championed, is designed to improve our ability to meet the unique learning needs of gifted students nationwide. The limited funding is quite competitive and it is a testament to the quality of the Belin-Blank Center's work that it has secured two such grants. The first grant, for the years 2003 to 2006, focused on the discovery and development of giftedness in students who attend alternative high schools and the second, for the years 2005 to 2008, focused on twice-exceptional students, which are students who are gifted and also have a disability. These projects have contributed substantially to our ability to serve these populations of students, who are often overlooked for gifted education programming.

In 2004, the director and associate director of the Belin-Blank Center, Nicholas Colangelo and Susan Assouline, along with Miraca U.M. Gross, a colleague from Australia, published "A Nation Deceived: How Schools Hold Back America's Brightest Students." The landmark report helped move the subject of gifted education and accelerated programs for high-achieving students into the educational mainstream, drawing notice from Time, the New York Times, the Washington Post, and hundreds of other media venues.

An important milestone for the center also occurred in 2004 when the Belin-Blank Center and the University of Iowa's Honors Program moved into a new building, the Myron and Jacqueline N. Blank Honors Center, which is located in the heart of the University of Iowa campus. In bringing the two programs together, the University of Iowa became one of the Nation's first schools to offer kindergarten-through-college support for gifted students under one roof.

As an Iowan and an advocate for gifted and talented education, I am very proud to have such a highly esteemed center in Iowa. For its tremendous contribution to the field of gifted education internationally and for its positive impact on the lives of countless gifted and talented students, the Belin-Blank Center is truly deserving of recognition on the occasion of its 20th anniversary.

#### TRIBUTE TO GENERAL T. MICHAEL MOSELEY

Mr. CORNYN. Mr. President, I rise today to recognize an outstanding military leader and fellow Texan, GEN T. Michael Moseley. For nearly 3 years, General Moseley has served as the Chief of Staff of the United States Air Force, functioning as the senior uniformed Air Force officer responsible for the organization, training, and equipping of more than 710,000 Air Force personnel—active duty, Guard, and Reserve airmen, and civilians both in the United States and overseas. His service to our Air Force and to the American people has been both distinguished and admirable; he is, by all accounts, an exceptional American, a dedicated public servant, and an outstanding defender of the principles of democracy and liberty for which this Nation stands.

General Moseley was born in Dallas, TX, and grew up just south of there, in the city of Grand Prairie. His family has a long history of serving the people of Texas, and the United States as a whole. General Moseley's father, as a mason, helped build several well-known and prominent buildings in Dallas. His grandfather served the Texas law enforcement community as a member of the Texas Rangers, that legendary organization established in 1835 to range and guard the Texas Frontier. General Moseley hails from a long line of proud and noble Texans, and has greatly added to that legacy with his own distinguished service in the Air Force.

His impressive military career began in the Corps of Cadets at Texas A&M University, where he earned both a bachelor's and master's degree in political science. On his way to becoming Air Force Chief of Staff, he held key staff positions running the gamut from operational to joint to personnel assignments. He served as commander of numerous units and organizations, including the F-15 Division of the Air Force Fighter Weapons School at Nellis AFB, the 33rd Operations Group at Eglin AFB, and the 57th Wing—the Air Force's largest, most diverse flying wing—also at Nellis AFB. He is a member of the prestigious Council on Foreign Relations, and he was even knighted in 2006 at the suggestion of Queen Elizabeth II, in recognition of his outstanding contributions to U.S.-United Kingdom relations while in command of air operations over Afghanistan and Iraq in the early days of the global war on terrorism. His list of medals, other awards, and accomplishments is so long as to preclude mentioning them all here.

Without a doubt, General Moseley's selfless service to the United States, especially in this arduous and vital fight against global terrorism, has been instrumental in securing the safety and liberty of all Americans. And while he will be leaving behind his noble and exemplary career with the Air Force, his contributions and the impact of his leadership will be felt for years to



come, both throughout the halls of the Pentagon, and by each and every person that had the honor of serving next to him.

It is my privilege to commend the honorable and faithful service of GEN T. Michael Moseley, and to thank him for his commitment to our country and the principles upon which it is founded.

I wish General Moseley and his wife Jennie all the best as they prepare for the future, and I thank them both for the sacrifices they have willingly made in the defense of freedom and our great Nation.

#### IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, earlier this week, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through [energy\\_prices@crapo.senate.gov](mailto:energy_prices@crapo.senate.gov) to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

HELLO SENATOR CRAPO: The impact of the high gas and energy prices is affecting my wife and I quite a bit. My wife is disabled with severe arthritis, Crohn's Disease, and vision problems from glaucoma, and I am the only income provider for our household. I earn just enough to cancel out my wife's SSI, so we have to cover all her medical expenses that the insurance I receive from work does not cover; that is \$250.00 to \$300.00 plus. I am an employee of Kootenai County, so due to budget restraints and laws, I do not see much in the line of raises to offset cost of living expenses. My job requires that I have transportation available, and that cuts carpooling and riding a bus.

I drive 30 miles round trip for work, with a 1988 Mazda pickup that has 190,000 miles on it. If there is a good tail wind, I may get 18 mpg. Due to medical expenses and price increases for food, heating, etc., I cannot afford to purchase a newer vehicle that gets better gas mileage. With costs for gas, energy and products affected by the increases, it takes away from an already tight budget, and we have no choice but to cut back where we can. Some people say get another job, but a lot of my off time is used to assist my wife around the house, and take her for errands and medical appointments. At this point, I am concerned about what I will do when the pickup gets to the point of needing high-dollar repair work. We also live in a mobile home that uses electric heat. Sometimes my wife gets depressed that she cannot contribute financially to our household, which does not help her condition.

The two things that would help our situation would be that my income does not count

against my wife's SSI, which would be a tremendous help to the budget for medical bills and possibly a better vehicle, and, of course, the lower prices for fuel and energy.

Thanks for your assistance; it is greatly appreciated.

BOB, *Post Falls.*

Due to increased gas prices (and some unexpected medical bills), we are now a one car family. I primarily bike to work (it is only two miles away) and I have taught my son to ride the bus. He attends TVMSC at Riverglen, and we live on the East side of town (one-half hour away), so that has helped as well. My husband works out in Meridian, and he occasionally uses public transportation, but has found that the inter-county routes are underfunded and unreliable. Twice the bus has not shown up at all (due to repairs), and it can only handle two bikes, so if the bus bike rack is full, you are out of luck. I believe reducing our reliance on foreign oil is important; it will require advancement in green energy as well as personal changes. However, before the public will use alternative transportation, it has to be reliable and that requires money. Boise does a great job maintaining the green belt and I have noticed on the BSU campus, the bike racks are always full. This was not the case a year ago. This is a positive change. Now if we could work on public transportation and advancing technology to create more fuel efficient cars that are affordable. I also believe tax credits (many of which already exist) to encourage people to weatherproof (insulate/buy better windows) their homes or that encourage them to purchase energy efficient appliances would help.

Overall, I hope we reduce the amount of oil we use, not just increase oil production. I think this will help in the long run.

Thank you,

TIFFANY, *Boise.*

Thank you for trying to stop the insanity. The high gas prices have made it difficult for me to take the 20 some mile drive to Parma from Caldwell to visit my 95-year-old grandmother. Normally I go once a week. I've had to miss a week now and then because I didn't have enough money for gas. I've cut corners elsewhere to do my best to get those visits in since I know we are living on borrowed time. She's had several strokes lately, and we do not know how long she'll be with us.

It cost \$97.00 to fill my vehicle a few days ago. With my 6-year-old in baseball and my teenager in baseball, that takes a lot of gas to travel to games. I missed my teenager's games at tournament because I could not afford to drive to North Idaho and stay in a hotel. His first tournament ever—that was really hard.

I am convinced that the gas prices are affecting our grocery prices, too. My husband works in construction. The economy has slowed so much that his company is having a hard time finding work. This is a very established, well-known company. Because our income has gone down and gas and food have gone up, I'm trying to feed a family of 5 on less than \$100.00 a month. The only way I've managed to do this is because we are all hunters and have lots of meat and fish in the freezer from last year.

I'm tired of hearing how much the oil companies make!!! It is wrong to make such a huge profit off of something we really have to have in order to work and function!! If you live in a city, you can get by using the bus system or subway. I live 5 miles from the grocery store, and there is no bus system to ride. I cannot walk or ride my bike to get groceries. My husband works 100 miles from home. He comes home on weekends. The type of work he does wouldn't benefit from public

transportation either. Something has to be done about these prices.

Sincerely,

KRISTI.

DEAR SENATOR CRAPO: Thank you for giving me an opportunity to share my story of how this price of gas is touching my life. First, I want to share my story as a consumer and also as a health care administrator. I run a good-sized nursing home in a small rural Idaho community. I was recruited to run this facility from a good distance away. I travel 130 miles a day round trip on my daily commute. I love my job and the employees I manage love me but as you can imagine 130 miles a day is a lot of gas even with a very fuel efficient vehicle, which I have. Between my wife (who is a stay-at-home mother of five children) and I, we are now spending close to \$500.00 a month on gas alone. I have a good salary but even with that, we are looking at ways to save on all we spend money on. The problem is the higher gas prices make everything else increase in price. There is no way around this as it is causing us to change our life style. It feels unfair that I worked so hard to be able to have my wife stay home, but now if the price does not go down soon, she may be forced to work just so we can survive. People would consider me well in the middle class, but we are not living that life style today. Everything is going up in price, but my salary is not and I am a lucky one. I am grateful for what I have, and I am a proud American and Idahoan. I am not complaining, but I really believe more can be done because many more than me are suffering much worse.

As an Administrator of a Healthcare Facility in a small town, the energy crisis is huge. Our costs are have doubled in many cases, but our reimbursement has not. All of my employees need a raise to combat the increase in cost of living, but this is just not feasible. Many of the employees are very low income, and I really do not see how they make it. I have many who have told me they have just stopped driving because they just cannot afford it. My heart goes out to them, and I do whatever I can to help but the neat thing is they do not blame me. They know I care, and I pay them the best I can. These are great people who care for people who cannot care for themselves. They have one of the most thankless jobs in the world, but they are true heroes in my eyes. These are the people I want you to fight for and beat this crisis. They are a true example of why this country is great. Thank you for fighting for Idaho and all America.

Sincerely,

GERALD, *Weiser.*

I am an employee of Idaho State University and I live in Blackfoot, 20 miles north of Pocatello. I am averaging \$400.00 a month in just gasoline expenses and I do not drive on the weekends unless absolutely necessary. I started this position as a 1 year temporary to hold the job open for an employee who had been offered a 1 year contract as an instructor. I was allowed to work 10 hour days and have a 3 day weekend to help with gasoline consumption but within 2 months of being awarded the position full time I was told I had to work 5 days a week at the office even though the Health Occupations chair offered me an opportunity to fill some Fridays at the Outreach in Blackfoot proctoring tests for students in my programs. To add insult to injury our political representatives that decide pay raises for state employees gave us a 1% raise which for most classified employees amounts to between ten and fifteen cents an hour and my medical benefits, which only cover my husband and myself, went up around 34.35%. Because of this I am forced to



seek employment closer to home at a significantly lower wage just to continue to go into debt. Being unable to keep up with the higher energy costs not associated with travel such as for cooking, heating and cooling a house as well as the maintenance for the residence. I know I am speaking for many low to middle income families when I implore the political representatives of the citizens of this state to help find a solution. This is such a rural state that public transportation is not justifiable and impractical. Please help.

MYRNA.

SENATOR CRAPO: While I can fully appreciate your efforts in trying to keep energy prices down, it is a bit late as the damage has already been done. I have run a small business in Idaho for 25 years. Currently I have 8 employees and I live in constant fear that I will be put out of business. Why? Because EVERY YEAR, we have yet another out-of-control economic crisis in this country.

Now we have 4+ dollar per gallon gasoline. As you know, Idaho has one of the lowest per capita incomes in the U.S. (ranked 41st), yet the cost of living has skyrocketed in the metropolitan areas over the last 10 years. Because of this, and also from increased pressure from the Internet and chain stores, I have had to downsize my operation from a high of 35 employees to what I have now. With the additional increased pressures now in place due to gasoline prices, I expect our sales to decline even further. To be perfectly honest, I cannot survive yet another business downturn and will simply have to go under, putting myself and 7 other people out on the streets. I talk to many other small business owners who are feeling the pinch as well.

If you examine what has happened in this country, we keep talking about 3 major issues but no significant proactive steps have been taken:

First, reducing our dependence on foreign oil by increasing domestic production. This has been debated for 30 years but essentially nothing has been done about it. It would have been a relatively simple matter to open up domestic exploration but Congress will have nothing of it because of lobbyists and environmentalists.

Second, alternative energy. Again this has been talked about for 3 decades but relatively little has been done. The U.S., which should be at the forefront in this area, has lagged far behind much smaller countries such as Spain, France, and the Netherlands.

Third, more fuel efficient transportation. The technology exists TODAY to almost DOUBLE gas mileage in vehicles, but our government can't even get the car manufacturers to comply with federal fuel consumption guidelines which are a pittance. There has not been a significant breakthrough in vehicle gas mileage from the major U.S. carmakers for over 10 years. This is not only inexcusable, it is a major factor in the reason that GM and Ford have fallen on hard times the last several years.

In addition to all of this, we have been embroiled in overseas conflicts in both Iraq and Kuwait, two of the most oil-rich countries on earth, but we have not held them accountable in any way for our help. The costs of our aiding just those two countries, by the time we eventually get out of Iraq, will easily exceed one trillion U.S. taxpayer dollars, not to mention ongoing costs associated with taking care of returning veterans. For this obscene amount of money we will receive nothing in return because we have failed to negotiate oil treaties at the outset. We could have better spent this money on energy research and production here at home.

There is a time for talking and a time for action. We need action NOW to help solve these issues.

Regards,

BOB, Boise.

I am a single mother of three children. Two are disabled. I live in Wilder Idaho and commute to Nampa. The round trip is about 50 miles. I also have to take my children, especially the two disabled ones, to doctor's appointments quite often.

We are now nearly destitute due in part to the cost of commuting. I have been living on credit cards part of the time. I do not know what I'll do about the cost of gas except look into a hydrogen unit for my vehicle. That seems to be the only solution on the horizon as I cannot afford to get another vehicle. Any other ideas?

UNSIGNED.

MIKE: As American citizens we are sick and tired of Congress doing nothing to remove our dependency on foreign oil. We are no longer able to travel, except in emergencies to visit family. Almost everything we consume has gone up in price, from shipping goods and services to products made from oil. We either need to get current members of Congress out of office or demand you hold a special session to do the following:

1. Remove legislation that limits drilling offshore and in Alaska to help increase supply (Drill Now, Drill Everywhere, Save America).

2. Remove all the red tape with opening and producing more nuclear energy power plants.

3. Continue research on alternative fuels that do not deplete our food supply.

4. Take advantage of wind, solar, and hydro power and provide reasonable tax incentives for use of these energy sources.

Please pass this on to all our elected representatives and continue to push Congress to do what we elected them for, putting in place sound legislation that will move this country forward, not backward. We have waited too long, now we must react rather than act. I am counting on you Mike to make this happen, leave a legacy Idaho can be proud of.

M., Rexburg.

DEAR SENATOR CRAPO: This is not what you asked for, but I felt obliged to note that the energy price problem will solve itself through economics. As oil gets more expensive, alternative energies become relatively cheap. Thus, economics will drive up the development of those energies. Unfortunately, one of those alternate energies is food. What this means is that as oil gets more expensive, food will get more expensive, because more food will go toward powering cars (e.g. ethanol). To prevent this from happening, I believe that the federal government must assist in the development of nuclear power.

There is only one source of energy in the universe, and that is nuclear power. All other forms of energy derive from nuclear power. Wind, solar, biomass, oil all of these previously came or are now coming from a very large nuclear power plant in the sky called the sun. Fortunately, most of the detrimental radiation we receive from that nuclear power plant can be safely avoided with sunscreen. Jokes aside, this is an important fact to publicly recognize. Nuclear power is, in fact, our only source of power. We can either try to capture the nuclear power coming from the sun, or we can make it ourselves here on earth. While both are viable avenues, the former will lead to higher food prices because fields of wheat and corn are essentially huge solar power panels that can be used to propel rich people's jets instead of

feeding poor people, and economics will make that happen. I've been told that it takes enough corn to feed a person for a year to fill an SUV gas tank once. Think carefully about what that means. To be feasible and safe, nuclear power will require federal government intervention, but it can be done and will result in a cheap, very long term source of power for the United States.

Nuclear power is the cleanest, cheapest long term solution answer to America's power problems.

MIKE: As financially devastating as gas prices have been to our family budget over the past several years, I can not understand how anyone can determine it is a problem that stands by itself. There are several devastating intimately related issues that if our elected officials insist on continuing their tunnel vision over them, we will never have a meaningful solution. When will it be recognized that burning fossil fuels no matter what their source is or how much it costs to get them to the pump, the Earth is also degrading from their use every day with every gallon we consume. So the real question is, why are we still subsidizing oil production when we need to be gearing up our industrial infrastructure and workers to expand our fuel resources to solar, wind, industrial hemp oil and all the related necessities which would be so constructive, effective and economically advantageous, not to mention how remedial to our environment these most rational efforts would be.

What the hell are you waiting for? Why are you so focused on what gas costs? Do you have any idea what it is going to cost to live anything like a human being after all the oil in the world is burned and we need to live in biospheres in order to breathe—and if we go at this your way, we will still need to develop alternative resources when all the oil is gone—if we can still live on the Earth. Wake up! These problems are not just your problem to solve; this problem belongs to us all and would not be too big for all of us to solve collectively—stop trying to commandeer the solutions—start helping us to solve them meaningfully, constructively and effectively. All you have to do is facilitate the people getting together to organize their solutions into rational plans. Selling your power to solve these problems to the highest bidding lobbyist is NOT the right thing for you to do. There is help available when you come around to doing the right thing. I will be able to help a lot.

Sincerely,

DM.

Thanks for a chance to respond. We do not go to the gym every day because it is across town. Our air conditioner is set at 78 degrees, and even though we're hot and uncomfortable, we do not want the bill that turning it down will bring. We have doubled up our reunion with vacation, so we only have to "head out" as a family once this summer.

F.

DEAR SENATOR CRAPO: I am a retired USDA Forest Service employee, my career covered 40 years with assignments in Idaho, Oregon, Wyoming, California, New Mexico, and Nevada. I read your newsletter and request for comments regarding the serious effects of run-away energy prices. I do not want to focus on the effects, but would rather emphasize my support for using energy supplies and other natural resources within our own national borders to help reduce the cost and our dependency on Arab oil and other foreign natural resources.

My career with the Forest Service included the Arab Embargo on petroleum products in

the late seventies. At the time I was working in Wyoming, on the Bridger-Teton National Forest. This Forest includes part of a geologic formation called an "over-thrust belt". These are areas where layers of sedimentary deposits that include organic matter have been covered over by other geologic layers, often as the result of shifting of the earth's surface. In this process, organic matter gets trapped underneath the layering. Eventually, it gets changed into hydrocarbons—oil and gas.

During the Reagan era the Bridger-Teton National Forest, and other Forests that included over-thrust geology issued hundreds of leases to industry to explore for oil and gas. Many exploratory wells were drilled on the Bridger-Teton Forest, some in very sensitive habitat (one within the view-shed of Jackson, Wyoming). At the time, no fields were developed for commercial use on the Bridger-Teton Forest, but I am aware some deposits were found. With today's prices, it is highly likely some of it would be economic to develop. But, given the current environmental concerns no politician is willing to risk their careers to even suggest environmental constraints be lifted to further explore the potential there or anywhere else within our borders, e.g., ANWR or off shore.

A key point I want to make regarding my experience is industry did a very good job of being sensitive to the environment in the exploration I was involved with. In fact, many of the old exploratory well sites are included in areas environmentalists are currently proposing for Wilderness designation by Congress. Of course, they wish to close off any options to further explore and perhaps develop our own resources for their own ideological reasons. But, because of my experience I know it can be done without destroying any significant sensitive ecosystem values, especially with the new technology available with is much better than we had available in the seventies.

I appeal to you to approach Senator McCain and encourage him to truly be a "change" candidate for President by making a part of his platform energy independence for our nation. And, have part of that program opening up and use of the energy and other natural resources our own nation has to help accomplish that goal and less overall dependency on foreign imports. DRILL HERE, DRILL NOW, PAY LESS!!

Sincerely,

CARL, Nampa.

Baloney!! You are an oil company sellout like the rest the GOP. American needs to diversify its energy sources, not drill for more petroleum. Even the best estimates of U.S. reserves do not come close to meeting U.S. energy demands. This issue is central to our economy, national security, and the environment and it is the reason why I have abandoned the Republican Party . . . or rather why you have abandoned me. Change, or America and the rest of the world will leave you behind!!

KIRK.

I do not think our story is unique, but we are both in our 70's and on Social Security. However my husband, who will soon be 73, still must work to get us through every month. We no longer travel any where. Our children and grandchildren are all out of state, and they also find it hard to make ends meet, so they do not travel either. We no longer have the chance to enjoy the much sought after "retirement" that we have all come to expect. Some still can, but very many can just keep their head above water. We have cut back on thinking about the usual plans for enjoyment we were looking forward to and are grateful that we can at

least, at the moment, afford our food, utility's, a few bills, and still squeeze out enough gas money for my husband to go 60 or so miles roundtrip to work each day. We know it will get worse, and we're not alone.

PATTY.

DEAR SENATOR CRAPO: I can't imagine anyone, anywhere in the USA who is not *mightily* upset over the exorbitant increase in fuel prices. I know my wife and I, our family of 4 couples and their children totaling 15, have already started making plans to reduce our vacation travel this summer to within a 100-mile radius of our homes in Twin Falls. We will take day trips to the South Hills and take a 4-5 day Labor Day trip. As a family, we have been planning a trip to Disneyland in the fall so that our older grandchildren could enjoy a few days in the park. We were planning on using our refund money, coming from Washington DC, to fund the trip which would have included fuel for the trip, lodging, meals and entrance into the park. I speak for my wife, our adult children and myself when I say that the current energy situation is inexcusable.

Being a good Reagan Republican, I wholeheartedly endorse the drilling for more oil in Alaska, allowing additional drilling for oil off both coasts and exploring for additional shale oil in Wyoming, North Dakota, South Dakota, Colorado. I know that many existing oil pumps have been capped; they need to be uncapped. This will upset the environmentalist crowd tremendously, but I feel it is about time that they are put in their place. The Sierra Club and others like them are prime examples.

Thank You for all you're doing to assist us here in Idaho.

Regards,

GRANT, Twin Falls.

DEAR SENATOR: Thanks for your common sense approach to energy issues now facing our country, and Idaho in particular. It completely escapes me as to why Congress continues to bow to the shouts of a few (environmentalists) while ignoring the overwhelming desires of the majority. Latest polls indicate over 60% of Americans want us to use our natural resources to help solve our short term energy requirements.

We have a small company with a fleet of 4 service vehicles. The vehicles are all small, compact hatchback type autos that are quite fuel efficient. We average about 2000 miles per week for all 4 vehicles. When gas was \$2.00 per gallon, we could expect to spend about 650.00 per month on fuel. Now we are approaching \$1500.00 per month for the same mileage with no end in sight. Like most companies our size, we choose to absorb some of those costs for the short term, but as it becomes clear that the prices we see today are the prices we will see in the foreseeable future, we will have to pass on the additional (and unexpected) costs to our clients. Our clients are made up mostly of small retail and service businesses who will, in turn, pass on their increased expenses to their customers and clients, the everyday citizen and the base of your constituency.

Our story is a small one but one I believe is representative of the vast collection of small businesses across the country. This energy issue will cut deep into everyone's pocket, and not just at the pump!

It is time to pass legislation that will encourage responsible use of our natural resources in our own country. It is absurd that the Red Chinese can legally exploit natural resources within 50 miles of our shores when U.S. companies are prohibited by federal law to do the same thing. What happened to practicality and commonsense in our U.S. Congress and Senate? Can we actually sac-

rifice what amounts to a breach in our national security over environmental issues that may have been valid in the 1960s but are absolutely outdated (by superior technology) today.

I believe (as do the majority of Americans) that we can use the natural resources God has provided our great nation in a responsible and conscientious way that will leave a clean environment and a strong economy.

Sincerely,

TOM, Boise.

#### DRUG ENFORCEMENT ADMINISTRATION CELEBRATES 35TH ANNIVERSARY

Mrs. MCCASKILL. Mr. President, I offer these remarks in recognition of 35 years of excellence by the Drug Enforcement Administration, DEA, in combating organizations responsible for the flow of illicit narcotics into the United States. The DEA was created by Executive order on July 1, 1973, in order to establish a single unified command to conduct "an all-out global war on the drug menace." DEA is presently mounting this global attack in 21 divisions throughout the United States and in 87 offices in 63 countries—the largest international presence of any Federal law enforcement agency.

The mission and purpose of the DEA remain as vital today as they were in 1973. After months of hearings and testimony in the U.S. Senate and the House of Representatives, the Senate Committee on Government Operations issued a report in October 1973 noting among other benefits that the creation of DEA as a superagency would provide the momentum needed to coordinate all Federal efforts related to drug enforcement outside the Justice Department, especially the gathering of intelligence on international narcotics smuggling. The DEA has steadfastly served this Nation to that end, mounting an intelligence-driven attack against the most notorious and ruthless international drug cartels and kingpins. DEA's global reach also has been a key component of combating terrorism, as these ideologically-motivated groups have been shown by DEA to fund some of their activities and weapons purchases through drug trafficking proceeds. The agency's re-entry into the intelligence community in 2006 is tacit acknowledgement of the value of DEA to the Nation's security.

For the past 35 years, DEA has identified, targeted, and methodically disrupted and dismantled the operations of those responsible for the illicit drug traffic. Whether it is crack and powder cocaine, methamphetamine, opiates, marijuana, or prescription drugs, DEA agents have courageously infiltrated drug trafficking organizations and brought to justice the most significant and despicable criminals this Nation has faced. The cost of this fight has been tremendous in terms of treasure, but no cost has been greater or more pointed than the price of life and suffering paid by the men and women of

DEA and their families. Since establishment, a combination of 57 special agents, task force officers, and support staff have valiantly given their lives for the Nation in support of DEA's noble mission.

On behalf of the citizens of Missouri, I want to remind the DEA that the agency is not alone in this fight. Missourians and their communities have stood strong against the scourge of drug trafficking and abuse, and our law enforcement agencies have stood shoulder to shoulder with the DEA. Our commitment to protecting young people from the inherent danger of addiction and keeping the ideal of hope strong is unwavering.

I am proud to offer my congratulations to the DEA not only for its marked achievements, but also for its commitment to excellence. The agency has served as a model for interagency collaboration and information sharing across the Federal law enforcement community. Its workforce is both talented and diverse, with the most recent Administrator and Administrator-nominee being women. Additionally, the agency was ranked in the Top 20 best places to work in the Federal Government, placing 18 out of 222 agencies in the Partnership for Public Service's 2007 rankings of "The Best Places to Work in the Federal Government."

#### ADDITIONAL STATEMENTS

##### CONGRATULATING MS. BAILEE CARROLL MAYFIELD

• Mr. BUNNING. Mr. President, today I congratulate Ms. Bailee Carroll Mayfield on receiving the American Veterans, AMVETS, scholarship award. The AMVETS National Scholarship Committee has awarded Ms. Mayfield a \$4,000 scholarship after competing successfully against nearly 200 applicants. AMVETS has recognized Ms. Mayfield as an outstanding high school senior exhibiting academic excellence, promise and merit.

The AMVETS organization awards only six scholarships per year. Each scholarship is awarded to a high school senior who is the child or grandchild of a United States veteran, and is seeking a postsecondary education. Ms. Mayfield plans to utilize her scholarship at Eastern Kentucky University to pursue a career in psychology.

Ms. Mayfield has proven herself to be an exemplary student, rightfully receiving the AMVETS Scholarship Award. She is an inspiration to the citizens of Kentucky and to students everywhere. I look forward to seeing all that she will accomplish in the future.●

##### SALUTE OF TERRY DEVINE

• Mr. CONRAD. Mr. President, to those who live in Fargo, ND, Terry DeVine has been a prominent and steady voice for decades. DeVine was hired by my

State's biggest newspaper, the Fargo Forum, in 1981. DeVine was known as a consummate newsman. It has been said that, if a big story was brewing, DeVine wanted it. His readers know that he got it more often than not.

Throughout his 27 years as managing editor, and later as a columnist, he maintained an integrity and dedication to journalism that was self-evident, spread every morning across the pages of the Forum for all to see.

As a marine during Vietnam, he escorted wounded journalists off the battlefield. He began work with the Sioux Falls Argus Leader newspaper after the war, followed by a time with the Associated Press in Sioux Falls, before finally landing at the Forum, where his presence has been unmistakable.

DeVine's recent retirement saddened many. Justly, the conclusion of his tenure has been seen in Fargo as the end of an era.

In North Dakota, community matters. People share a connection and a concern that is not to be found in all places. But community cannot flourish in a vacuum. It requires a dialogue. It takes a willingness to be truthful and involved. It calls for an understanding of events that is untarnished and open. Perhaps Terry DeVine's greatest contribution has been to consistently furnish these qualities, and through this, to support the community he lives and works in.●

##### IN HONOR OF MICHAEL WYNNE

• Mr. NELSON of Nebraska. Mr. President, as cochair of the Senate Air Force Caucus, I wish to speak about former Air Force Secretary, Michael Wynne.

The Air Force has three core values: integrity first, service before self, and excellence in all we do. I believe Secretary Wynne has striven to live up to these values throughout his illustrious career. Upon graduating from the U.S. Military Academy in 1966, Wynne served in the Air Force for 7 years, concluding his uniformed career as a captain and assistant professor of astronautics at the U.S. Air Force Academy. He then joined the ranks of General Dynamics, working on revolutionary programs such as the F-16 and M1A2 Main Battle Tank. After 23 years of service with General Dynamics, rising to the rank of senior vice president, Wynne joined the U.S. Department of Defense and served as the Principal Deputy Under Secretary, then Under Secretary of Defense for Acquisition, Technology and Logistics. In 2005, he was confirmed as the 21st Secretary of the Air Force—assuming responsibility for organizing, training, equipping, and providing for the welfare of its nearly 370,000 men and women on active duty; 180,000 members of the Air National Guard and the Air Force Reserve; 160,000 civilians; and their families.

On his first day in office, Secretary Wynne issued a new mission statement for the Air Force, declaring that the

"mission of the United States Air Force is to deliver sovereign options for the defense of the United States of America and its global interests—to fly and fight in Air, Space and Cyberspace." He then declared three priorities for the Air Force: winning today's fight; taking care of the Air Force family; and preparing for tomorrow's challenges. In terms of today's fight, Wynne oversaw the deployment of more than 25,000 airmen to the Middle East. He worked to ensure that over 3,000 Rover kits were deployed to the theater so that ground forces could receive full motion video directly from unmanned aerial systems flying orbits around the clock. He also realized the critical importance of intelligence, surveillance, and reconnaissance. Wynne doubled the number of Predator orbits in Iraq and Afghanistan in less than a year, while simultaneously exceeding the Department of Defense requirements for Predator orbits, by 2 years and four orbits.

Secretary Wynne can also take great pride in the support he provided for those who sacrifice so much on the front lines. He was instrumental in facilitating the aero-medical evacuation program, which led to a vastly improved survival rate for wounded troops who were able to reach aid stations over previous wars. Additionally, Wynne also supported an initiative to create a seamless transfer of medical records from theater to stateside and then to the Veterans Administration. Lastly, he understood the need to look after the entire Air Force family—active duty, Guard, Reserve, and civilian—through instilling a culture of empowerment, accountability, and continuous improvement.

In terms of America's future, Secretary Wynne worked hard to fulfill his tremendous responsibility to ensure that the U.S. Air Force would be well postured to address future potential threats. I would like to thank Secretary Michael Wynne for his service to our country and wish him the best in all his future endeavors.●

##### IN HONOR OF GENERAL T. MICHAEL MOSELEY

• Mr. NELSON of Nebraska. Mr. President, as cochair of the Senate Air Force Caucus, I have been afforded a unique opportunity to get to know GEN T. Michael Moseley, former Air Force Chief of Staff. I believe he is best defined by three distinct traits: a commitment to excellence, compassion for those with whom he serves, and a deep appreciation for history.

Whether reviewing his time in the cockpit, eventually commanding the prestigious F-15 division of the Air Force's Fighter Weapons School; his service as a professor at the illustrious National War College; his command of distinguished units, such as the 33rd Operations Group and 57th Wing; his pivotal role in executing the air wars over Afghanistan and Iraq as head of

the 9th Air Force; or his service as Air Force Chief of Staff, it is obvious that General Moseley has applied himself with incredible dedication and commitment. He truly understands the capabilities afforded through air, space, and cyberspace and has worked tirelessly to ensure that the Air Force excels in these critical domains.

In addition, General Moseley is deeply aware that it takes a team to launch a jet in the air and that every pilot needs a wingman; and he has, therefore, consistently sought to support the Air Force family. Most recently, these efforts have manifested themselves through ensuring predictable deployment schedules for Air Force personnel and their families, strengthening family wellness programs, upgrading family housing, increasing educational opportunities, and reaching out directly to Airmen through a variety of mediums to help promote an exchange of ideas.

It is also important to recognize that throughout his nearly four decades of service, General Moseley has displayed a deep appreciation for history and lessons learned from past events. This historical insight and perspective is critical as the U.S. Air Force looks to succeed in today's missions while simultaneously cultivating a force which will excel in the future. General Moseley worked to ensure that this informed approach will continue to flourish in the Service through the creation of the Analysis, Assessment, and Lessons-Learned Directorate on the Air Staff.

These achievements represent just a fraction of General Moseley's accomplishments; but one thing is clear—he has shown a tremendous commitment to his country. I would like to thank GEN T. Michael "Buzz" Moseley for his dedication to duty over these past 36 years, and I wish him all the best in his future endeavors.●

#### TRIBUTE TO DR. THAYNE DUTSON

● Mr. SMITH. Mr. President, today I wish to highlight the importance of acknowledging and celebrating extraordinary efforts by ordinary Americans who have led the way in protecting and preserving America's natural resources. I am honored to commend a natural resource hero in my home State of Oregon, Dr. Thayne Dutson. After a lifetime of service to farmers and ranchers in this country, Dr. Dutson is hanging up his hat and I honor his service.

Dr. Dutson has been dean of the College of Agricultural Sciences at Oregon State University since 1993 and has acted as director of the Oregon Agricultural Experiment Station since 1987. As head of Oregon's College of Agriculture Sciences, Dr. Dutson has dedicated the past two decades of his life to Oregon's farmers and ranchers.

Along with being Oregon Agriculture's resource for cutting-edge research, knowledge about food systems, environmental quality, natural re-

sources and rural communities, Dr. Dutson has also led a team of public servants to administer the extension service throughout the State. Dr. Dutson and his team led Oregon State University's outreach mission by engaging with Oregon's people and communities and focusing his efforts on community livability, strengthening the economic vitality of rural communities and maintaining Oregon's natural resource base. Based on these positive impacts and the leadership of Dean Dutson, the OSU Extension Service is recognized as one of America's top-5 land-grant university extension systems in the country. Dr. Dutson was also instrumental in Oregon State University's selection as one of five regional centers for the U.S. Department of Agriculture's Sun grant initiative, which is working to advance the development of new biobased fuels and products.

I have had the pleasure of working with Dr. Dutson on many projects over the years. Dean Dutson has worked tirelessly on behalf of Oregon's farmers and ranchers. Under Dr. Dutson's watch, Oregon State University has secured critical Federal research funding for grass seed, potatoes, livestock grazing, small fruits, barley genome mapping, soil and air quality, organic Agriculture, nursery crops and biofuels. It is because of his leadership that Oregon agriculture and Oregon State University continue to lead the nation as innovators in all agricultural sciences.

As a young Boy Scout, I was taught that one's duty was to respect and protect the world around you. I believe that we have a responsibility to encourage efforts in conserving our natural resources by responsibly using them, not abusing them. Dr. Thayne Dutson has made major contributions to a proud Oregon pioneering spirit of innovation and responsible management of our natural resources. What Dean Dutson has given back to the Oregon agriculture community is invaluable, for he has taught us that everyone doing their small part can achieve huge successes. I wish Thayne, his wife, Missy, and their family all the best as they pursue future endeavors. Oregon's farmers and ranchers owe him a debt of gratitude.●

#### TRIBUTE TO DR. CHARLES CONSTANTINE MOSKOS

● Mr. WARNER. Mr. President, on May 31, 2008, the Nation lost a great patriot, an avid student and supporter of the military, and a true friend of the enlisted soldier—Northwestern University professor emeritus of sociology, Charles Constantine Moskos.

But he wasn't "professor" or "doctor" Moskos. He was always known as "Charlie." He was "Charlie" to admirals and generals; he was "Charlie" to his students; and he was "Charlie" to the enlisted soldiers, airmen, sailors, and marines he loved so much. He was "Charlie" to many Members of Con-

gress who worked with and admired him.

After graduating with honors from Princeton University in 1956, Charlie was drafted into the Army. He quickly became enamored with the amazing cross-section of Americans who served in the Armed Forces and decided the military institution would be his life-long, academic focus. After he received his doctorate from UCLA in 1963, Charlie taught for 2 years at the University of Michigan before moving on to Northwestern University. At Northwestern, Charlie began a storied 40-year career as a professor of sociology and traveled to war zones, military bases across the globe, the Pentagon, and the Congress. Over those four decades he became known as one of the world's foremost military sociologists and a key adviser to policymakers.

Charlie's field was political sociology, and he studied the Caribbean and the Greek-American community, but his biggest contribution was in addressing the civil-military bond, the integration of the military and our society. He wrote extensively about the culture in the military, the success story of racial integration in the services, particularly the Army. He also focused his writings on the changing nature of the military as we moved from Vietnam to the end of the Cold War and into today's conflicts against terrorists around the globe. As one of the preeminent military sociologists of his time, he was a founding member of the prestigious Inter-University Seminar on Armed Forces and Society, an international association of academics and military scholars.

Charlie's research took him to combat units in Vietnam, Kuwait, Somalia, Kosovo, and Iraq. For over three decades, he also served as an independent adviser to the Joint Chiefs of Staff. Always concerned that the All-Volunteer Force could separate the military from its larger society as it draws from more narrow segments of the population, Charlie is also credited with inspiring President Clinton to create the AmeriCorps Program.

Among other awards, Charlie received the Distinguished Service Medal, the highest honor the Army awards to civilians. He is survived by his beloved wife of 41 years, Ilca Hoan Moskos, of Santa Monica, CA; two sons, Andrew Moskos of Amsterdam, the Netherlands, and Peter Moskos of Astoria, NY; and two grandchildren.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations

which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

# REPORT ON THE ISSUANCE OF AN EXECUTIVE ORDER CONTINUING CERTAIN RESTRICTIONS ON NORTH KOREA AND NORTH KOREAN NATIONALS IMPOSED UNDER THE TRADING WITH THE ENEMY ACT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Pursuant to the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 *et seq.*) (IEEPA), I hereby report that I have issued an Executive Order continuing certain restrictions on North Korea and North Korean nationals imposed pursuant to the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1 *et seq.*) (TWEA). In the order, I declared a national emergency to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula. I ordered the continuation of certain restrictions on North Korea and North Korean nationals as we deal with that threat through multilateral diplomacy.

These restrictions were first imposed pursuant to authorities found in section 5(b) of TWEA, following the declaration of a national emergency in 1950 in Proclamation 2914 (15 *FR* 9029), and continued annually, after the enactment of IEEPA in 1977, in accordance with section 101(b) of Public Law 95-223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note). The most recent continuation of such TWEA authorities is found in Presidential Determination 2007-32 of September 13, 2007. In a proclamation, which I signed the same day as the order, I terminated, effective the following day, the exercise of TWEA authorities with respect to North Korea.

The order I have issued continues the blocking of certain property and interests in property of North Korea or a North Korean national that were blocked as of June 16, 2000, and that remained blocked immediately prior to the date of my order. Absent this order, my proclamation terminating the exercise of TWEA authorities with respect to North Korea would have resulted in the unblocking of that property.

The order also continues restrictions relating to North Korea-flagged vessels that would otherwise have been terminated by my proclamation. These restrictions prohibit United States per-

sons from owning, leasing, operating, or insuring any vessel flagged by North Korea and from registering vessels in North Korea or otherwise obtaining authorization for a vessel to fly the North Korean flag. For the reasons set forth above, I found that it was necessary to continue these restrictions.

I delegated to the Secretary of the Treasury, after consultation with the Secretary of State, the authority to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of my order.

I am enclosing a copy of the Executive Order and proclamation I have issued.

GEORGE W. BUSH.  
THE WHITE HOUSE, June 26, 2008.

## MESSAGES FROM THE HOUSE

At 12:22 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3195. An act to restore the intent and protections of the Americans with Disabilities Act of 1990.

H.R. 3546. An act to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

H.R. 6275. An act to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

H.R. 6358. An act to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

## ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965.

H.R. 430. An act to designate the United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the "Conrad B. Duberstein United States Bankruptcy Courthouse".

H.R. 781. An act to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the "Colonel Charles D. Maynard Lock and Dam".

H.R. 1019. An act to designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayaguez, Puerto Rico, as the "Rafael Martinez Nadal United States Customhouse Building".

H.R. 2728. An act to designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the "Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station".

H.R. 3712. An act to designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the "James M. Ashley and Thomas W. L. Ashley United States Courthouse".

H.R. 4140. An act to designate the Port Angeles Federal Building in Port Angeles,

Washington, as the "Richard B. Anderson Federal Building".

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 12:49 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 377. Concurrent resolution authorizing the use of the rotunda of the Capitol for a ceremony commemorating the 60th Anniversary of the beginning of the integration of the United States Armed Forces.

## ENROLLED BILLS SIGNED

At 1:09 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 6040. An act to amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety.

H.R. 6327. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 8:19 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, in which it requests the concurrence of the Senate:

H.R. 6377. An act to direct the Commodity Futures Trading Commission to utilize all its authority, including its emergency powers, to curb immediately the role of excessive speculation in any contract market within the jurisdiction and control of the Commodity Futures Trading Commission, on or through which energy futures or swaps are traded, and to eliminate excessive speculation, price distortion, sudden or unreasonable fluctuations or unwarranted changes in prices, or other unlawful activity that is causing major market disturbances that prevent the market from accurately reflecting the forces of supply and demand for energy commodities.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 6275. An act to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes; to the Committee on Finance.

H.R. 6358. An act to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

### MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3546. An act to authorize the Edward Byrne Memorial Justice Assistance Grant Program at fiscal year 2006 levels through 2012.

### MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 3195. An act to restore the intent and protections of the Americans with Disabilities Act of 1990.

S. 3202. A bill to address record high gas prices at the pump, and for other purposes.

S. 3213. A bill to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 26, 2008, she had presented to the President of the United States the following enrolled bill:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6746. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, an annual report relative to the conduct of the Defense Acquisition Challenge Program for fiscal year 2007; to the Committee on Armed Services.

EC-6747. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of action on a nomination for the position of Secretary, received on June 25, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-6748. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (73 FR 33321) received on June 25, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-6749. A communication from the Senior Vice President and Chief Financial Officer, Federal Home Loan Bank of San Francisco, transmitting, pursuant to law, the Bank's 2007 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC-6750. A communication from the Deputy Assistant Administrator for Regulatory Programs, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Species: Designation of Critical Habitat for Southern Resident Killer Whale" (RIN0648-AU38) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6751. A communication from the Acting Assistant Administrator, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Threatened Status for Southern Distinct Population Segment of North American Green Sturgeon" (RIN0648-AT02) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6752. A communication from the Deputy Assistant Administrator for Operations, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Species: Final Protective Regulations for Threatened Upper Columbia River Steelhead" (RIN0648-AU18) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6753. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Species: Revision of Critical Habitat for the Northern Right Whale in the Pacific Ocean" (RIN0648-AT84) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6754. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Species: Final Listing Determinations for 10 Distinct Population Segments of West Coast Steelhead" (RIN0648-AR93) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC-6755. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Energy Planning and Management Program; Integrated Resource Planning Rules" (RIN1901-AB24) received on June 24, 2008; to the Committee on Energy and Natural Resources.

EC-6756. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Reporting of ESOP Dividends and Section 404(k)" (Announcement 2008-56) received on June 25, 2008; to the Committee on Finance.

EC-6757. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Auction Rate Preferred Stock—Effect of Liquidity Facilities on Equity Character" (Notice 2008-55) received on June 25, 2008; to the Committee on Finance.

EC-6758. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "China Earthquake Designated as Qualified Disaster Under Section 139 of the Internal Revenue Code" (Notice 2008-57) received on June 24, 2008; to the Committee on Finance.

EC-6759. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 956 for Determining Basis or Property Acquired in Certain Nonrecognition Transactions" ((RIN1545-BH58)(TD 9402)) received on June 24, 2008; to the Committee on Finance.

EC-6760. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the

Treasury, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: Methane Gas Project, Credit for Fuel From a Nonconventional Source" (UIL: 0029.06-00) received on June 24, 2008; to the Committee on Finance.

EC-6761. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Claims for Recovery of Overpayments of Arbitrage Rebate and Similar Payments on Tax-Exempt Bonds" (Rev. Proc. 2008-37) received on June 25, 2008; to the Committee on Finance.

EC-6762. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Guidance Under Section 664 Regarding the Effect of UBTI on Charitable Remainder Trusts" (TD 9403) received on June 24, 2008; to the Committee on Finance.

EC-6763. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Applicable Federal Rates—July 2008" (Rev. Rul. 2008-33) received on June 24, 2008; to the Committee on Finance.

EC-6764. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of an application for a license for the manufacture of the AH-64 LONGBOW Fire Control Radar Accelerometers for the Apache Attack Helicopter Program; to the Committee on Foreign Relations.

EC-6765. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the export of defense articles to Mexico for the production of electronic assemblies for automated equipment for the United States; to the Committee on Foreign Relations.

EC-6766. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a nomination and action on a nomination for the position of Under Secretary of State for Public Diplomacy, received on June 24, 2008; to the Committee on Foreign Relations.

EC-6767. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the export of technical data to Turkey for the manufacture and repair of the upgradeable AN/APX-117 Transponder; to the Committee on Foreign Relations.

EC-6768. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Performance Report relative to the Animal Drug User Fee Act for fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

EC-6769. A communication from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Medical Device Reporting; Baseline Reports" (Docket No. FDA-2008-N-0310) received on June 25, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-6770. A communication from the Chief, Division of Coverage, Reporting and Disclosure, Department of Labor, transmitting, pursuant to law, a report relative to the redesignation of a previously submitted rule, which has been assigned Regulation Identification Number 1210-AB10, as a "non-major



rule"; to the Committee on Health, Education, Labor, and Pensions.

EC-6771. A communication from the Acting Chief Acquisition Officer and Senior Procurement Executive, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation" (FAC 2005-26) received on June 24, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-6772. A communication from the Acting Assistant Legal Adviser, Office of Treaty Affairs, Department of State, transmitting the text of the 2008 Prohibited List of Substances which is to replace the 2007 Prohibited List of Substances that was originally transmitted to the Senate as a part of Annex I of the International Convention Against Doping in Sport (TD 110-14, 110th Congress, 2nd Session); to the Committee on Foreign Relations.

### PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM-409. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to allow immediate family to visit military personnel on extended deployment overseas who are in a rest and relaxation period; to the Committee on Armed Services.

#### SENATE CONCURRENT RESOLUTION NO. 101

Whereas, on April 12, 2007, when Defense Secretary Robert M. Gates announced that all active-duty soldiers currently deployed would see their one-year tour extended to a fifteen months tour, the war-weary Army faced its longest combat tours since World War; and

Whereas, although Defense Secretary Gates termed this a "difficult but necessary" order, many referred to it as the decision that would break the Army because of the chilling effect it would have on the recruiting, retention, and readiness of troops; and

Whereas, the reunion plans of troops and their families were suddenly placed on hold because of the deployment extension orders; and

Whereas, such orders unleashed a flood of emotions including feelings of sadness, disappointment, worry, anxiety, anger, stress, and a sense of betrayal or of promises being broken for service men, women, and their families; and

Whereas, mental health experts agree that deployment extensions are extremely difficult on service members and their families; and

Whereas, extended deployment submerges our service men, women, and their families under tremendous economic, employment, and emotional sacrifices; and

Whereas, service men and women do receive a period of rest and relaxation (R&R); and

Whereas, the continued development of strong family relationships for our service men and women who have repeatedly placed themselves in harm's way in the name of freedom, duty, and honor for us and our country should be supported. Therefore, be it

*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to make provisions to allow immediate family to visit military personnel on extended deployment overseas when they are in a period of rest and relaxation (R&R). Be it further

*Resolved*, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United

States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment:

H.R. 5690. To remove the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 594. A resolution designating September 2008 as "Tay-Sachs Awareness Month".

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2979. A bill to exempt the African National Congress from treatment as a terrorist organization, and for other purposes.

### EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. BIDEN, from the Committee on Foreign Relations:

[Treaty Doc. 110-9; Protocol of Amendments to Convention on International Hydrographic Organization (Ex. Rept. 110-10)]

The text of the committee-recommended resolution of advice and consent to ratification is as follows:

*Resolved (two-thirds of the Senators present concurring therein)*, That the Senate advises and consents to the ratification of the Protocol of Amendments to the Convention on the International Hydrographic Organization done at Monaco on April 14, 2005 (Treaty Doc. 110-9).

### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

\*Army nomination of Gen. David H. Petraeus, to be General.

\*Army nomination of Lt. Gen. Raymond T. Odierno, to be General.

Air Force nominations beginning with Colonel William J. Bender and ending with Colonel Timothy M. Zadalis, which nominations were received by the Senate and appeared in the Congressional Record on March 31, 2008.

Air Force nomination of Maj. Gen. Paul J. Selva, to be Lieutenant General.

Army nomination of Col. Kenny C. Montoya, to be Brigadier General.

Army nomination of Brig. Gen. Errol R. Schwartz, to be Major General.

Army nomination of Maj. Gen. Ricky Lynch, to be Lieutenant General.

Army nomination of Col. Patricia D. Horoho, to be Major General.

Army nominations beginning with Brigadier General Timothy E. Albertson and ending with Colonel Larry W. Triphahn, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Marine Corps nomination of Maj. Gen. John R. Allen, to be Lieutenant General.

Navy nomination of Rear Adm. (1h) Moira N. Flanders, to be Rear Admiral.

Navy nomination of Rear Adm. (1h) Karen A. Flaherty, to be Rear Admiral.

Navy nomination of Rear Adm. (1h) Raymond P. English, to be Rear Admiral.

Navy nomination of Capt. Scott A. Weikert, to be Rear Admiral (lower half).

Navy nomination of Capt. Bruce A. Doll, to be Rear Admiral (lower half).

Navy nomination of Capt. Steven M. Talson, to be Rear Admiral (lower half).

Navy nominations beginning with Capt. Mark J. Belton and ending with Capt. Nicholas T. Kalathas, which nominations were received by the Senate and appeared in the Congressional Record on March 11, 2008.

Navy nomination of Rear Adm. Dirk J. Debbink, to be Vice Admiral.

\*Nelson M. Ford, of Virginia, to be Under Secretary of the Army.

\*Joseph A. Benkert, of Virginia, to be an Assistant Secretary of Defense.

\*Sean Joseph Stackley, of Virginia, to be an Assistant Secretary of the Navy.

\*Frederick S. Celec, of Virginia, to be Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.

Mr. LEVIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Andrew P. Armacost, to be Colonel.

Air Force nomination of Hans C. Bruntmyer, to be Lieutenant Colonel.

Air Force nominations beginning with Dwight Peake and ending with Trevor S. Petrou, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Air Force nominations beginning with Christine Cornish and ending with David G. Watson, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Air Force nomination of John L. Baeke, to be Major.

Air Force nominations beginning with Joseph C. Lee and ending with Brad A. Nieset, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Air Force nominations beginning with Robert B. Kohl and ending with Alvin W. Rowell, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Air Force nominations beginning with James D. Barber, Jr. and ending with Mark John Zechman, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Army nominations beginning with Marvin P. Anderson and ending with Mark V. Vail, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 2008.

Army nominations beginning with John P. Albano and ending with D060387, which nominations were received by the Senate and appeared in the Congressional Record on February 5, 2008.

Army nomination of John Kissler, to be Major.

Army nominations beginning with Mark A. Arturi and ending with Dana F. Campbell,



which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Army nominations beginning with Kathleen Agoglia and ending with James R. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Army nominations beginning with Robert J. Egidio and ending with Alan Z. Siedlecki, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Army nomination of Daisie D. Boettner, to be Colonel.

Army nomination of Thomas C. Powell, to be Colonel.

Army nomination of John M. Anderson, to be Colonel.

Army nomination of Rowell A. Stanley, Jr., to be Colonel.

Army nominations beginning with Michael E. Dunn and ending with Kevin J. Murphy, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Army nominations beginning with Todd D. Kosteletzky and ending with Leesa J. Papier, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Army nomination of Christopher C. Everitt, to be Major.

Army nomination of Dennis P. Collins, to be Major.

Army nominations beginning with Christopher W. Baker and ending with Christina M. Long, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Army nominations beginning with Eric J. Albertson and ending with D060628, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Marine Corps nominations beginning with John E. Bilas and ending with Alan R. Singleton II, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Marine Corps nominations beginning with Joseph R. Cornell and ending with John J. Swincinski, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

Navy nomination of Adam J. Cogan, to be Captain.

Navy nomination of John E. Pasch III, to be Captain.

Navy nominations beginning with Richard C. Boehm and ending with Michael D. Conger, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with James R. Dunworth and ending with Michael A. Sano, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with William K. Davis and ending with Kathleen R. Wright, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Kathleen Gromilovitz and ending with James M. Mancher, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Thomas E. Follo and ending with Sarah M. Standard, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with David J. Harach and ending with Patrick R. Mulcahy, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Donald R. Burns and ending with William D. Michael, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Robert J. Barton II and ending with Christopher M. Waaler, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Drew G. Flavell and ending with Paul F. Weckman, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Teri J. Barber and ending with Lori A. Yost, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Eric B. Anderson and ending with George N. Whitbred IV, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Clayton R. Allen and ending with Eric F. Zanin, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Tammy M. Baker and ending with Leonard A. Zimmermann I, which nominations were received by the Senate and appeared in the Congressional Record on April 15, 2008.

Navy nominations beginning with Charles E. A. Baker and ending with Richard N. Soucie, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Raymond E. Chartier, Jr. and ending with Robin D. Tyner, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Robert C. Buzzell and ending with Eduardo E. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Kevin G. Aandahl and ending with David E. Werner, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with David A. Bondura and ending with Wilburn T. J. Strickland, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Jon D. Albright and ending with Michael W. Zarkowski, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with James E. Aull and ending with Edward B. Warford, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Christian D. Becker and ending with Donald L. Zwick, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with William J. Brougham and ending with Jerome Zinni, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Voresa E. Booker and ending with Pat L. Williams, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Danelle M. Barrett and ending with Boyd T. Zbinden, which nominations were received by the Sen-

ate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with Christopher P. Anklam and ending with Steven J. Yoder, which nominations were received by the Senate and appeared in the Congressional Record on April 28, 2008.

Navy nominations beginning with John L. Franklin and ending with Norman C. Petty, which nominations were received by the Senate and appeared in the Congressional Record on May 20, 2008.

Navy nomination of Michael J. McCormack, to be Captain.

Navy nominations beginning with Gregg P. Lombardo and ending with Charles J. Newbury, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Daniel L. Gard and ending with William A. Wildhack III, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Mark S. Bellis and ending with Steven R. Wolfe, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Frederick H. Boyles and ending with Allison M. Weldon, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Esther E. Burlingame and ending with Kimberly K. Pellack, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Kenneth D. Lapolla and ending with Joseph R. Willie II, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Bruce Bennett and ending with Scott K. Rineer, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Daniel K. Bean and ending with Ted Y. Yamada, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nominations beginning with Gloria M. Baisey and ending with Patricia L. West, which nominations were received by the Senate and appeared in the Congressional Record on June 3, 2008.

Navy nomination of Michael J. Maselly, to be Captain.

Navy nominations beginning with Hillary King, Jr. and ending with James E. Watts, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Roosevelt H. Brown and ending with Dale C. White, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with David R. Bustamante and ending with Rodney O. Worden, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Vida M. Antolinjenkins and ending with Jonathan S. Thow, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Angelica L. C. Almonte and ending with Nancy J. Walker, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Smith C. E. Barone and ending with Curtis M.

Werking, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Roland E. Arellano and ending with Marva L. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Christopher Bower and ending with Andrew F. Wickard, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Debra A. Arsenault and ending with Clifton Woodford, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Michael L. Baker and ending with Chad G. Wahlin, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Brent T. Channell and ending with Michael J. Supko, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Allen C. Blaxton and ending with Joel R. Tessier, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Marc E. Boyd and ending with Elissa J. Smith, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Todd E. Barnhill and ending with Dominick A. Vincent, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Edward F. Bosque and ending with Kim C. Williams, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with John D. Bandy and ending with Jeffrey L. Williams, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Claude W. Arnold, Jr. and ending with Michelle G. Young, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Timothy A. Barney and ending with Vincent C. Watson, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Albert Angel and ending with Thomas P. Wypyski, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Jonathan Q. Adams and ending with Mark T. Zwolski, which nominations were received by the Senate and appeared in the Congressional Record on June 4, 2008.

Navy nominations beginning with Michael A. Bemis and ending with Michael J. Uybo, which nominations were received by the Senate and appeared in the Congressional Record on June 5, 2008.

Navy nomination of Paul E. Levy, to be Lieutenant Commander.

Navy nomination of Robert N. Ladd, to be Lieutenant Commander.

Navy nominations beginning with Ramon J. Berrocal and ending with Brian A. Merritt, which nominations were received by the Senate and appeared in the Congressional Record on June 16, 2008.

By Mr. LEAHY for the Committee on the Judiciary.

Kelly Harrison Rankin, of Wyoming, to be United States Attorney for the District of Wyoming for the term of four years.

Clyde R. Cook, Jr., of North Carolina, to be United States Marshal for the Eastern District of North Carolina for the term of four years.

\*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. KERRY (for himself, Mr. SPECTER, Mr. COLEMAN, and Mr. AKAKA):

S. 3200. A bill to develop capacity and infrastructure for mentoring programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GREGG (for himself, Ms. LANDRIEU, Mr. SUNUNU, and Mr. VITTER):

S. 3201. A bill to reauthorize the Mosquito Abatement for Safety and Health Act for mosquito-borne disease prevention and control; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BENNETT, Mr. BOND, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mr. CORKER, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LUGAR, Mr. MARTINEZ, Ms. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WICKER):

S. 3202. A bill to address record high gas prices at the pump, and for other purposes; read the first time.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 3203. A bill to prohibit the use of funds by the Department of Defense on the KC-X tanker contract, and for other purposes related to that contract; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mr. CARPER):

S. 3204. A bill to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL:

S. 3205. A bill to direct the Commodity Futures Trading Commission to utilize all its authority, including its emergency powers, to curb immediately the role of excessive speculation in any contract market within the jurisdiction and control of the Commodity Futures Trading Commission, on or through which energy futures or swaps are traded, and to eliminate excessive speculation, price distortion, sudden or unreason-

able fluctuations or unwarranted changes in prices, or other unlawful activity that is causing major market disturbances that prevent the market from accurately reflecting the forces of supply and demand for energy commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY):

S. 3206. A bill to amend titles V, XVIII, and XIX of the Social Security Act to promote cessation of tobacco use under the Medicare program, the Medicaid program, and the maternal and child health services block grant program; to the Committee on Finance.

By Mr. VITTER (for himself, Mr. BURR, Mr. DEMINT, Mr. STEVENS, and Mr. ENSIGN):

S. 3207. A bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 3208. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for clean coal technology, and for other purposes; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. ENZI, Mr. STEVENS, Mr. VOINOVICH, Ms. MURKOWSKI, Mrs. DOLE, and Mr. CORNYN):

S. 3209. A bill to amend title VII of the Civil Rights Act of 1964 to clarify the filing period applicable to charges of discrimination, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY:

S. 3210. A bill to establish the Centennial Historic District in the Commonwealth of Pennsylvania; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself, Mr. JOHNSON, Mr. TESTER, and Mr. THUNE):

S. 3211. A bill to amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to clarify eligibility for livestock indemnity payments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN (for herself and Mr. BENNETT):

S. 3212. A bill to amend the Help America Vote Act of 2002 to provide for auditable, independent verification of ballots, to ensure the security of voting systems, and for other purposes; to the Committee on Rules and Administration.

By Mr. BINGAMAN:

S. 3213. A bill to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; read the first time.

By Mr. BARRASSO:

S. 3214. A bill to provide for a program for circulating quarter dollar coins that are emblematic of a national park or other national site in each State, the District of Columbia, and each territory of the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself, Mr. SESSIONS, Ms. LANDRIEU, and Ms. MURKOWSKI):

S. 3215. A bill to require the Secretary of Energy to enter into cooperative agreements with private entities to share the cost of obtaining construction and operating licenses for certain types of recycling facilities, and

for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCONNELL:

S. 3216. A bill to provide for the introduction of pay-for-performance compensation mechanisms into contracts of the Department of Veterans Affairs with community-based outpatient clinics for the provision of health care services, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. GRAHAM, Mr. KERRY, Mr. CORNYN, Mr. PRYOR, Mrs. DOLE, Ms. LANDRIEU, Mr. COCHRAN, Mr. CARPER, Mrs. MCCASKILL, and Mrs. FEINSTEIN):

S. 3217. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

By Mr. BIDEN (for himself and Mr. HATCH):

S. 3218. A bill to extend the pilot program for volunteer groups to obtain criminal history background checks; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NELSON of Florida (for himself, Mr. SMITH, Mr. CARDIN, Mr. COLEMAN, and Mr. MENENDEZ):

S. Res. 603. 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 Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 604. A resolution congratulating the California State University, Fresno Bulldogs baseball team for winning the 2008 National Collegiate Athletics Association Division I College World Series; considered and agreed to.

By Mr. DEMINT (for himself and Mr. BAYH):

S. Res. 605. A resolution commemorating the 60th anniversary of the Berlin Airlift and honoring the veterans of Operation Vittles; considered and agreed to.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. Con. Res. 92. A concurrent resolution recognizing the importance of homeownership for Americans; to the Committee on Banking, Housing, and Urban Affairs.

#### ADDITIONAL COSPONSORS

S. 334

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 334, a bill to provide affordable, guaranteed private health coverage that will make Americans healthier and can never be taken away.

S. 612

At the request of Ms. SNOWE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 612, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 937

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr.

DURBIN) was added as a cosponsor of S. 937, a bill to improve support and services for individuals with autism and their families.

S. 1212

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1212, a bill to amend title XVIII of the Social Security Act to permit direct payment under the Medicare program for clinical social worker services provided to residents of skilled nursing facilities.

S. 1492

At the request of Mr. INOUE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1492, a bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

S. 1748

At the request of Mr. COLEMAN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1748, a bill to prevent the Federal Communications Commission from repromulgating the fairness doctrine.

S. 1842

At the request of Mr. KERRY, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1842, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the Medicare Program.

S. 1996

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 1996, a bill to reauthorize the Enhancing Education Through Technology Act of 2001, and for other purposes.

S. 2067

At the request of Mr. MARTINEZ, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 2067, a bill to amend the Federal Water Pollution Control Act relating to recreational vessels.

S. 2238

At the request of Mr. AKAKA, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2238, a bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

S. 2504

At the request of Mr. NELSON of Florida, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2510

At the request of Ms. LANDRIEU, the name of the Senator from Oregon (Mr.

WYDEN) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2608

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2608, a bill to make improvements to the Small Business Act.

S. 2645

At the request of Mr. SMITH, his name was added as a cosponsor of S. 2645, a bill to require the Commandant of the Coast Guard, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, to conduct an evaluation and review of certain vessel discharges.

S. 2668

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2760

At the request of Mr. BOND, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 2760, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 2773

At the request of Mr. BROWN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2773, a bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia.

S. 2920

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2920, a bill to reauthorize and improve the financing and entrepreneurial development programs of the Small Business Administration, and for other purposes.

S. 3007

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3007, a bill to hold the surviving Nazi war criminals accountable for the war crimes, genocide, and crimes against

humanity they committed during World War II, by encouraging foreign governments to more efficiently prosecute and extradite wanted criminals.

S. 3073

At the request of Mr. CORNYN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3073, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

S. 3080

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3080, a bill to ensure parity between the temporary duty imposed on ethanol and tax credits provided on ethanol.

S. 3143

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3143, a bill to assist law enforcement agencies in locating, arresting, and prosecuting fugitives from justice.

S. 3150

At the request of Mr. SCHUMER, the names of the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 3150, a bill to prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from conducting auctions, implementing congestion pricing, limiting airport operations, or charging certain use fees at airports.

S. 3167

At the request of Mr. BURR, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. 3185

At the request of Ms. CANTWELL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3185, a bill to provide for regulation of certain transactions involving energy commodities, to strengthen the enforcement authorities of the Federal Energy Regulatory Commission under the Natural Gas Act and the Federal Power Act, and for other purposes.

S. 3186

At the request of Mr. SANDERS, the names of the Senator from Maine (Ms. SNOWE), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Minnesota (Mr. COLEMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Maine (Ms. COLLINS), the Senator from Massachusetts (Mr. KEN-

NEDY) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 3186, a bill to provide funding for the Low-Income Home Energy Assistance Program.

S.J. RES. 43

At the request of Mr. WICKER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S.J. Res. 43, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 75

At the request of Mr. COLEMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. Con. Res. 75, a concurrent resolution expressing the sense of Congress that the Secretary of Defense should take immediate steps to appoint doctors of chiropractic as commissioned officers in the Armed Forces.

S. RES. 580

At the request of Mr. BAYH, the names of the Senator from Florida (Mr. NELSON) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

At the request of Mr. DORGAN, his name was added as a cosponsor of S. Res. 580, *supra*.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5040

At the request of Ms. LANDRIEU, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Mr. VITTER), the Senator from Illinois (Mr. OBAMA), the Senator from Nebraska (Mr. NELSON) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 5040 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BENNETT, Mr. BOND, Mr. BROWBACK, Mr. BUNNING, Mr. BURR, Mr.

CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Mr. CORKER, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mrs. DOLE, Mr. DOMENICI, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. LUGAR, Mr. MARTINEZ, Ms. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WICKER):

S. 3202. A bill to address record high gas prices at the pump, and for other purposes; read the first time.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 3202

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Gas Price Reduction Act of 2008”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—DEEP SEA EXPLORATION

Sec. 101. Publication of projected State lines on outer Continental Shelf.

Sec. 102. Production of oil and natural gas in new producing areas.

Sec. 103. Conforming amendments.

#### TITLE II—WESTERN STATE OIL SHALE EXPLORATION

Sec. 201. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.

#### TITLE III—PLUG-IN ELECTRIC CARS AND TRUCKS

Sec. 301. Advanced batteries for electric drive vehicles.

#### TITLE IV—ENERGY COMMODITY MARKETS

Sec. 401. Study of international regulation of energy commodity markets.

Sec. 402. Foreign boards of trade.

Sec. 403. Index traders and swap dealers; disaggregation of index funds.

Sec. 404. Improved oversight and enforcement.

#### TITLE I—DEEP SEA EXPLORATION

##### SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: “not later than 90 days after the date of enactment of the Gas Price Reduction Act of 2008”; and

(3) by inserting after clause (i) (as so designated) the following:

“(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

“(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

“(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.”.

#### **SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

#### **“SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

“(a) DEFINITIONS.—In this section:

“(1) COASTAL POLITICAL SUBDIVISION.—The term ‘coastal political subdivision’ means a political subdivision of a new producing State any part of which political subdivision is—

“(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

“(B) not more than 200 nautical miles from the geographic center of any leased tract.

“(2) MORATORIUM AREA.—

“(A) IN GENERAL.—The term ‘moratorium area’ means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

“(B) EXCLUSION.—The term ‘moratorium area’ does not include an area located in the Gulf of Mexico.

“(3) NEW PRODUCING AREA.—The term ‘new producing area’ means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

“(4) NEW PRODUCING STATE.—The term ‘new producing State’ means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

“(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term ‘offshore administrative boundaries’ means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

“(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

“(A) IN GENERAL.—The term ‘qualified outer Continental Shelf revenues’ means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

“(B) EXCLUSIONS.—The term ‘qualified outer Continental Shelf revenues’ does not include—

“(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

“(ii) revenues from civil penalties;

“(iii) royalties taken by the Secretary in-kind and not sold;

“(iv) revenues generated from leases subject to section 8(g); or

“(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109-432).

“(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

“(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State, with the concurrence of the legislature of the State, with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

“(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

“(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

“(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

“(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

“(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

“(i) 75 percent to new producing States in accordance with paragraph (2); and

“(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 4601–5).

“(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

“(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

“(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

“(1) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

“(2) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with the regulations promulgated under subparagraph (A).

“(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available for the fiscal year under paragraph (1)(B)(i).

“(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

“(5) AUTHORIZED USES.—

“(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

“(i) Projects and activities for the purposes of coastal protection, including conserva-

tion, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

“(ii) Mitigation of damage to fish, wildlife, or natural resources.

“(iii) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan.

“(iv) Funding of onshore infrastructure projects.

“(v) Planning assistance and the administrative costs of complying with this section.

“(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

“(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

“(A) be made available, without further appropriation, in accordance with this subsection;

“(B) remain available until expended; and

“(C) be in addition to any amounts appropriated under—

“(i) other provisions of this Act;

“(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.); or

“(iii) any other provision of law.

“(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

“(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

“(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.”.

#### **SEC. 103. CONFORMING AMENDMENTS.**

Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2118) are amended by striking “No funds” each place it appears and inserting “Except as provided in section 32 of the Outer Continental Shelf Lands Act, no funds”.

#### **TITLE II—WESTERN STATE OIL SHALE EXPLORATION**

#### **SEC. 201. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110-161; 121 Stat. 2152) is repealed.

#### **TITLE III—PLUG-IN ELECTRIC CARS AND TRUCKS**

#### **SEC. 301. ADVANCED BATTERIES FOR ELECTRIC DRIVE VEHICLES.**

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term “advanced battery” means an electrical storage device that is suitable for a vehicle application.

(2) ENGINEERING INTEGRATION COSTS.—The term “engineering integration costs” includes the cost of engineering tasks relating to—

(A) the incorporation of qualifying components into the design of an advanced battery; and

(B) the design of tooling and equipment and the development of manufacturing processes and material for suppliers of production facilities that produce qualifying components or advanced batteries.

(3) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) ADVANCED BATTERY RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—The Secretary shall—

(A) expand and accelerate research and development efforts for advanced batteries; and

(B) emphasize lower cost means of producing abuse-tolerant advanced batteries with the appropriate balance of power and energy capacity to meet market requirements.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$100,000,000 for each of fiscal years 2010 through 2014.

(c) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriated funds, not later than 1 year after the date of enactment of this Act, the Secretary shall carry out a program to provide a total of not more than \$250,000,000 in loans to eligible individuals and entities for not more than 30 percent of the costs of 1 or more of—

(A) reequipping a manufacturing facility in the United States to produce advanced batteries;

(B) expanding a manufacturing facility in the United States to produce advanced batteries; or

(C) establishing a manufacturing facility in the United States to produce advanced batteries.

(2) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to obtain a loan under this subsection, an individual or entity shall—

(i) be financially viable without the receipt of additional Federal funding associated with a proposed project under this subsection;

(ii) provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(iii) meet such other criteria as may be established and published by the Secretary.

(B) CONSIDERATION.—In selecting eligible individuals or entities for loans under this subsection, the Secretary may consider whether the proposed project of an eligible individual or entity under this subsection would—

(i) reduce manufacturing time;

(ii) reduce manufacturing energy intensity;

(iii) reduce negative environmental impacts or byproducts; or

(iv) increase spent battery or component recycling

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term that is equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; or

(ii) 25 years; and

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary.

(4) PERIOD OF AVAILABILITY.—A loan under this subsection shall be available for—

(A) facilities and equipment placed in service before December 30, 2020; and

(B) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(5) FEES.—The cost of administering a loan made under this subsection shall not exceed \$100,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2009 through 2013.

(d) SENSE OF THE SENATE ON PURCHASE OF PLUG-IN ELECTRIC DRIVE VEHICLES.—It is the sense of the Senate that, to the maximum extent practicable, the Federal Government should implement policies to increase the purchase of plug-in electric drive vehicles by the Federal Government.

#### TITLE IV—ENERGY COMMODITY MARKETS

##### SEC. 401. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission shall jointly conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation as described in section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the heads of the Federal agencies described in subsection (a) shall jointly submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market.

##### SEC. 402. FOREIGN BOARDS OF TRADE.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

“(e) FOREIGN BOARDS OF TRADE.—

“(1) IN GENERAL.—The Commission shall not permit a foreign board of trade's members or other participants located in the United States to enter trades directly into the foreign board of trade's trade matching system with respect to an agreement, contract, or transaction in an energy commodity (as defined by the Commission) that settles against any price, including the daily or final settlement price, of a contract or contracts listed for trading on a registered entity, unless—

“(A) the foreign board of trade makes public daily information on settlement prices, volume, open interest, and opening and closing ranges for the agreement, contract, or transaction that is comparable to the daily trade information published by the registered entity for the contract or contracts against which it settles;

“(B) the foreign board of trade or a foreign futures authority adopts position limitations (including related hedge exemption provisions) or position accountability for speculators for the agreement, contract, or transaction that are comparable to the position limitations (including related hedge exemp-

tion provisions) or position accountability adopted by the registered entity for the contract or contracts against which it settles; and

“(C) the foreign board of trade or a foreign futures authority provides such information to the Commission regarding the extent of speculative and non-speculative trading in the agreement, contract, or transaction that is comparable to the information the Commission determines is necessary to publish its weekly report of traders (commonly known as the Commitments of Traders report) for the contract or contracts against which it settles.

“(2) EXISTING FOREIGN BOARDS OF TRADE.—Paragraph (1) shall become effective 1 year after the date of enactment of this subsection with respect to any agreement, contract, or transaction in an energy commodity (as defined by the Commission) conducted on a foreign board of trade for which the Commission's staff had granted relief from the requirements of this Act prior to the date of enactment of this subsection.”.

##### SEC. 403. INDEX TRADERS AND SWAP DEALERS; DISAGGREGATION OF INDEX FUNDS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 3) is amended by adding at the end the following:

“(f) INDEX TRADERS AND SWAP DEALERS.—

“(1) REPORTING.—The Commission shall—

“(A) issue a proposed rule regarding routine reporting requirements for index traders and swap dealers (as those terms are defined by the Commission) in energy and agricultural transactions (as those terms are defined by the Commission) within the jurisdiction of the Commission not later than 180 days after the date of enactment of this subsection, and issue a final rule regarding such reporting requirements not later than 270 days after the date of enactment of this subsection; and

“(B) subject to the provisions of section 8, disaggregate and make public monthly information on the positions and value of index funds and other passive, long-only positions in the energy and agricultural futures markets.

“(2) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report regarding—

“(A) the scope of commodity index trading in the futures markets;

“(B) whether classification of index traders and swap dealers in the futures markets can be improved for regulatory and reporting purposes; and

“(C) whether, based on a review of the trading practices for index traders in the futures markets—

“(i) index trading activity is adversely impacting the price discovery process in the futures markets; and

“(ii) different practices and controls should be required.”.

##### SEC. 404. IMPROVED OVERSIGHT AND ENFORCEMENT.

(a) FINDINGS.—The Senate finds that—

(1) crude oil prices are at record levels and consumers in the United States are paying record prices for gasoline;

(2) funding for the Commodity Futures Trading Commission has been insufficient to cover the significant growth of the futures markets;

(3) since the establishment of the Commodity Futures Trading Commission, the volume of trading on futures exchanges has grown 8,000 percent while staffing numbers have decreased 12 percent; and



(4) in today's dynamic market environment, it is essential that the Commodity Futures Trading Commission receive the funding necessary to enforce existing authority to ensure that all commodity markets, including energy markets, are properly monitored for market manipulation.

(b) **ADDITIONAL EMPLOYEES.**—As soon as practicable after the date of enactment of this Act, the Commodity Futures Trading Commission shall hire at least 100 additional full-time employees—

(1) to increase the public transparency of operations in energy futures markets;

(2) to improve the enforcement in those markets; and

(3) to carry out such other duties as are prescribed by the Commission.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to any other funds made available to carry out the Commodity Exchange Act (7 U.S.C. 1 et seq.), there are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 2009.

By Mr. DURBIN (for himself, Mr. LAUTENBERG, and Mr. KENNEDY):

S. 3206. A bill to amend titles V, XVIII, and XIX of the Social Security Act to promote cessation of tobacco use under the Medicare program, the Medicaid program, and the maternal and child health services block grant program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce legislation to help millions of Americans overcome a deadly addiction: the addiction to tobacco. The Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2008 will help make smoking cessation therapy available to recipients of Medicare, Medicaid, and the Maternal and Child Health, MCH, Program.

More than 45 million adults in the United States smoke cigarettes. Approximately 90 percent started smoking before the age of 14. Despite the fact that we have known for decades that cigarette smoking are the leading preventable cause of death, 1,600 adults become regular smokers each day, including 4,000 kids. Depending on your race/ethnicity, socioeconomic status, even where you live, the likelihood that you are a smoker varies greatly. African-Americans are twice as likely as the general population to smoke. Communities in the South are more likely to be smoker-friendly than other communities in the U.S. While 22.5 percent of the general adult population in the U.S. are current smokers, the percentage is about 50 percent higher among Medicaid recipients. Thirty-six percent of adults covered by Medicaid smoke.

We have a moral argument and an economic argument to end the addiction to nicotine. Morally, how do we ignore the deaths of 438,000 smokers or 8.6 million Americans living with serious smoking-related illnesses? Smoking causes virtually all cases of lung cancer and contributes to primary heart disease, peripheral vascular disease, chronic obstructive pulmonary disease, COPD, and other deadly health ailments. It is too often a bleak future

for smokers and their families. An American Legacy Foundation report reminds us that second-hand smoke in children of smokers leads to asthma and chronic ear infections in children but also that 43,000 children are orphaned every year because of tobacco-related deaths.

We are not only paying a heavy health toll, but an economic price as well. According to the Campaign for Tobacco Free Kids, health care expenditures caused by smoking is approaching \$100 billion. Our federal government pays \$17.6 billion in smoking-caused Medicaid payments and \$27.4 billion in smoking-caused Medicare expenditures.

Ironically, we do not hear that much about how many smokers America—70 percent—want to quit. Unfortunately, they face long odds—in 2000, only about 5 percent of smokers were successful in quitting long-term. Overcoming an addiction to tobacco is arguably one of the single most important lifestyle changes that can improve and extend lives. However, most smokers who want to quit don't appreciate how hard it really is to break an addiction to nicotine.

This is why it is essential that we make this decision and the courage that it takes as easy as possible. States are already stepping up to the plate when it comes to smoking cessation. Last year in my home State of Illinois, a record-breaking 36 cities and counties enacted smoke-free laws, more than any other State in the Nation. More and more Illinoisans and Americans nationwide are realizing that life without smoking is possible. And the support for cessation does not end there. In fact, in 2003, 37 States had some form of coverage under Medicaid for at least one evidence-based treatment for smoking addiction. States like New Jersey and Oregon now have some of the lowest smoking-related Medicaid costs.

Studies have shown that reducing adult smoking through tobacco use treatment pays immediate dividends, both in terms of health improvements and cost savings. Shortly after quitting smoking, blood circulation improves, carbon monoxide levels in the blood decrease, the risk of heart attack decreases, lung function and breathing are improved, and coughing decreases.

Pregnant women who quit smoking before their second trimester decrease the chances that they will give birth to a low-birth-weight baby. Over the long term, quitting will reduce a person's risk of heart disease and stroke, improve symptoms of COPD, reduce the risk of developing smoking-caused cancer, and extend life expectancy.

We are fortunate to have identified clinically proven, effective strategies to help smokers quit. Advancements in treating tobacco use and nicotine addiction using pharmacotherapy and counseling have helped millions kick the habit. An updated clinical practice guideline released in May of 2008 by the

U.S. Public Health Service urges health care insurers and purchasers to include counseling and FDA-approved pharmacologic treatments as a covered benefit. The Guideline also emphasizes the role that counseling, especially in conjunction with medication, increases the odds of success in quitting. As we urge healthcare insurers and purchasers to offer this important benefit, so too should our government sponsored health programs keep pace.

I am proud to be joined by my colleagues Senators KENNEDY and LAUTENBERG to introduce the Medicare, Medicaid and MCH Smoking Cessation Promotion Act of 2008 and require government-sponsored health programs to cover this important benefit. The Medicare, Medicaid, and MCH Smoking Cessation Promotion Act of 2008 makes it easier for people to have access to smoking cessation treatment therapies. It does three meaningful things.

First, this bill adds a smoking cessation counseling benefit and coverage of FDA-approved tobacco cessation drugs to Medicare. By 2020, 17 percent of the U.S. population will be 65 years of age or older. It is estimated that Medicare will pay \$800 billion to treat tobacco related diseases over the next 20 years.

Second, this bill provides coverage for counseling, prescription and non-prescription smoking cessation drugs in the Medicaid program. The bill eliminates the provision in current federal law that allows States to exclude FDA-approved smoking cessation therapies from coverage under Medicaid. Despite the fact that the States have received payments from their successful Federal lawsuit against the tobacco industry, less than half the States provide coverage for smoking cessation in their Medicaid program. Even if Medicaid covered cessation products and services exclusively to pregnant women, we would see significant cost savings and health improvements. Children whose mothers smoke during pregnancy are almost twice as likely to develop asthma as those whose mothers did not. Over 7 years, reducing smoking prevalence by just one percentage point among pregnant women would prevent 57,200 low birth weight births and save \$572 million in direct medical costs.

Third, this bill ensures that the Maternal and Child Health Program recognizes that medications used to promote smoking cessation and the inclusion of anti-tobacco messages in health promotion are considered part of quality maternal and child health services.

As Congress begins to examine more closely the impact of tobacco on our country—considering regulation by the FDA or raising taxes to pay for public health priorities—we must make sure we assist those fighting this deadly addiction. I hope my colleagues will join me in cosponsoring this legislation and taking a stand for the public health of our Nation.



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. 3206

*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 “Medicare, Medicaid, and MCH Tobacco Cessation Promotion Act of 2008”.

#### SEC. 2. MEDICARE COVERAGE OF COUNSELING FOR CESSATION OF TOBACCO USE.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (Z), by striking “and” at the end;

(2) in subparagraph (AA)(iii), by inserting “and” at the end; and

(3) by adding at the end the following new subparagraph:

“(BB) counseling for cessation of tobacco use (as defined in subsection (ddd));”.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

“(ddd) COUNSELING FOR CESSATION OF TOBACCO USE.—(1)(A) Subject to subparagraph (B), the term ‘counseling for cessation of tobacco use’ means diagnostic, therapy, and counseling services for cessation of tobacco use for individuals who use tobacco products or who are being treated for tobacco use which are furnished—

“(i) by or under the supervision of a physician;

“(ii) by a practitioner described in clause (i), (iii), (iv), (v) or (vi) of section 1842(b)(18)(C); or

“(iii) by a licensed tobacco cessation counselor (as defined in paragraph (2)).

“(B) Such term is limited to—

“(i) services recommended in ‘Treating Tobacco Use and Dependence: A Clinical Practice Guideline’, published by the Public Health Service in May 2008, or any subsequent modification of such Guideline; and

“(ii) such other services that the Secretary recognizes to be effective.

“(2) In this subsection, the term ‘licensed tobacco cessation counselor’ means a tobacco cessation counselor who—

“(A) is licensed as such by the State (or in a State which does not license tobacco cessation counselors as such, is legally authorized to perform the services of a tobacco cessation counselor in the jurisdiction in which the counselor performs such services); and

“(B) meets uniform minimum standards relating to basic knowledge, qualification training, continuing education, and documentation that are established by the Secretary for purposes of this subsection.”.

(c) PAYMENT AND ELIMINATION OF COST-SHARING FOR COUNSELING FOR CESSATION OF TOBACCO USE.—

(1) PAYMENT AND ELIMINATION OF COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking “and” before “(V)”;

(B) by inserting before the semicolon at the end the following: “, and (W) with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd)), the amount paid shall be 100 percent of the lesser of the actual charge for the service or the amount determined by a fee schedule established by the Secretary for purposes of this subparagraph”.

(2) ELIMINATION OF COINSURANCE IN OUTPATIENT HOSPITAL SETTINGS.—

(A) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) of the Social Security Act (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by striking “and diagnostic mammography” and inserting “, diagnostic mammography, or counseling for cessation of tobacco use (as defined in section 1861(ddd))”.

(B) CONFORMING AMENDMENTS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (F), by striking “and” after the semicolon at the end;

(ii) in subparagraph (G)(ii), by striking the comma at the end and inserting “; and”; and

(iii) by inserting after subparagraph (G)(ii) the following new subparagraph:

“(H) with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd)) furnished by an outpatient department of a hospital, the amount determined under paragraph (1)(W).”.

(3) ELIMINATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking “and” before “(8)”;

(B) by inserting before the period the following: “, and (9) such deductible shall not apply with respect to counseling for cessation of tobacco use (as defined in section 1861(ddd))”.

(d) APPLICATION OF LIMITS ON BILLING.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clause:

“(vii) A licensed tobacco cessation counselor (as defined in section 1861(ddd)(2)).”.

(e) INCLUSION AS PART OF INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(w)(2) of the Social Security Act (42 U.S.C. 1395x(w)(2)) is amended by adding at the end the following new subparagraph:

“(M) Counseling for cessation of tobacco use (as defined in subsection (ddd)).”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

#### SEC. 3. MEDICARE COVERAGE OF TOBACCO CESSATION PHARMACOTHERAPY.

(a) INCLUSION OF TOBACCO CESSATION AGENTS AS COVERED DRUGS.—Section 1860D-2(e)(1) of the Social Security Act (42 U.S.C. 1395w-102(e)(1)) is amended—

(1) in subparagraph (A), by striking “or” after the semicolon at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting “; or”; and

(3) by inserting after subparagraph (B) the following new subparagraph:

“(C) any agent approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation that may be dispensed without a prescription (commonly referred to as an ‘over-the-counter’ drug), but only if such an agent is prescribed by a physician (or other person authorized to prescribe under State law).”.

(b) ESTABLISHMENT OF CATEGORIES AND CLASSES CONSISTING OF TOBACCO CESSATION AGENTS.—Section 1860D-4(b)(3)(C) of the Social Security Act (42 U.S.C. 1395w-104(b)(3)(C)) is amended by adding at the end the following new clause:

“(iv) CATEGORIES AND CLASSES OF TOBACCO CESSATION AGENTS.—There shall be a therapeutic category or class of covered part D drugs consisting of agents approved by the Food and Drug Administration for cessation of tobacco use. Such category or class shall include tobacco cessation agents described in subparagraphs (A) and (C) of section 1860D-2(e)(1).”.

(c) CONFORMING AMENDMENT.—Section 1860D-2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w-102(e)(2)(A)) is amended by striking “, other than subparagraph (E) of such section (relating to smoking cessation agents).”.

#### SEC. 4. PROMOTING CESSATION OF TOBACCO USE UNDER THE MEDICAID PROGRAM.

(a) COVERAGE OF TOBACCO CESSATION COUNSELING SERVICES.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) in paragraph (27), by striking “and” after the semicolon at the end;

(B) in paragraph (28), by striking the comma at the end and inserting “; and”; and

(C) by inserting after paragraph (28) the following new paragraph:

“(29) at the option of the State, counseling for cessation of tobacco use (as defined in section 1861(ddd)).”.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by inserting “or (29)” after “(24)”.

(b) ELIMINATION OF OPTIONAL EXCLUSION FROM MEDICAID PRESCRIPTION DRUG COVERAGE FOR TOBACCO CESSATION MEDICATIONS.—Section 1927(d)(2) of the Social Security Act (42 U.S.C. 1396r-8(d)(2)) is amended—

(1) by striking subparagraph (E);

(2) by redesignating subparagraphs (F) through (J) as subparagraphs (E) through (I), respectively; and

(3) in subparagraph (F) (as redesignated by paragraph (2)), by inserting before the period at the end the following: “, other than agents approved by the Food and Drug Administration for purposes of promoting, and when used to promote, tobacco cessation”.

(c) REMOVAL OF COST-SHARING FOR TOBACCO CESSATION COUNSELING SERVICES AND MEDICATIONS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396g) are each amended—

(1) in subparagraph (D), by striking “or” after the comma at the end;

(2) in subparagraph (E), by striking “; and” and inserting “, or”; and

(3) by adding at the end the following new subparagraph:

“(F)(i) counseling for cessation of tobacco use described in section 1905(a)(29); or

“(ii) covered outpatient drugs (as defined in paragraph (2) of section 1927(k), and including nonprescription drugs described in paragraph (4) of such section) that are prescribed for purposes of promoting, and when used to promote, tobacco cessation; and”.

(d) INCREASED FMAP FOR TOBACCO CESSATION COUNSELING SERVICES AND MEDICATIONS.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking “and” before “(4)”;

(2) by inserting before the period the following: “, and (5) for purposes of this title, the Federal medical assistance percentage shall be 80 percent with respect to amounts expended as medical assistance for counseling for cessation of tobacco use described in subsection (a)(29) and for covered outpatient drugs (as defined in paragraph (2) of section 1927(k), and including nonprescription drugs described in paragraph (4) of such section) that are prescribed for purposes of promoting, and when used to promote, tobacco cessation”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date that is 1 year after the date of enactment of this Act.

#### SEC. 5. PROMOTING CESSATION OF TOBACCO USE UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM.

(a) QUALITY MATERNAL AND CHILD HEALTH SERVICES INCLUDES TOBACCO CESSATION COUNSELING AND MEDICATIONS.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended by adding at the end the following new subsection:

“(d) For purposes of this title, quality maternal and child health services include the following:

“(1) Counseling for cessation of tobacco use (as defined in section 1861(ddd)).

“(2) The encouragement of the prescribing and use of agents approved by the Food and Drug Administration for purposes of tobacco cessation.

“(3) The inclusion of messages that discourage tobacco use in health promotion counseling.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of enactment of this Act.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 3208. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for clean coal technology, and for other purposes; to the Committee on Finance.

Mr. CONRAD. Mr. President, I would like to discuss a bill that I am introducing along with Senator HATCH today, the Carbon Reduction Technology Bridge Act of 2008.

This bill is designed to develop the technologies that will enable us to use coal in a manner that helps address the threat of climate change.

Our country depends on coal to provide half of our electricity. In North Dakota, coal accounts for over 90 percent of our power. This is the power we need for lighting and heating our homes, powering our businesses, and, in the future, charging our cars.

The U.S. has vast resources of coal, enough to last over 250 years. We need to ensure that we can continue to enjoy the affordable electricity provided by coal, while developing technologies that will lower the greenhouse gas emissions that result from coal use.

We need to advance carbon capture and storage technologies to address the reality of climate change. The scientific evidence is clear that human activity is increasing the concentration of greenhouse gases in the atmosphere, which contributes to warming temperatures. The increased occurrence of severe weather and other effects that we have seen to date are small in comparison to what scientists say are the likely consequences of continued warming.

This bill will help jumpstart investment in technologies to capture and store carbon. It provides tax credits to the first generation of highly efficient advanced coal plants that capture carbon dioxide. It helps companies make the first investments in carbon capture and storage equipment on the first existing plants. It also provides credits for each ton of carbon dioxide captured and stored underground. It provides a number of other incentives to advance coal technology.

The science on climate change is clear, but what is not proven is the technology that can provide the solution. This bill sets ambitious but achievable goals for those companies willing to be the first to address this

challenge head-on and build and install these technologies. Under this bill, a typical new coal plant would be required to capture 65 percent of its carbon dioxide emissions. After the first generation of projects supported by this bill, we will have tested and refined the technologies to enable an even higher rate of capture on future plants.

This bill will provide an important step toward affordable, low-carbon power. I welcome comments from my colleagues on this proposal and hope that they will join me in sponsoring this bill.

Mr. BINGAMAN:

S. 3213. A bill to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes; read the first time.

Mr. BINGAMAN. Mr. President, today I am introducing the Omnibus Public Land Management Act of 2008, a collection of over 90 individual bills that have been reported by the Committee on Energy and Natural Resources. This legislation follows enactment of the Consolidated Natural Resources Act, Public Law 110-229, which was signed into law last month. That act was successful in combining together several bills which were not able to pass the Senate individually. It is my hope that the Omnibus Public Land Management Act will similarly facilitate the passage of the remaining bills which have been reported by the Energy and Natural Resources Committee during this Congress.

For the information of the Senate and the public, I ask unanimous consent that the table of contents listing the various measures included in this bill be printed in the RECORD.

There bein no objection, the material as ordered to be placed in the RECORD, as follows:

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Sec. 2. Table of Contents

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Sec. 253 Nevada Cancer Institute Land Conveyance (H.R. 1311)

Sec. 254 Turnabout Ranch Land Conveyance, Utah (S. 832)

Sec. 255 Boy Scouts Land Exchange, Utah (S. 900)

Sec. 256 Douglas County, Washington, Land Conveyance (H.R. 523)

#### TITLE III—FOREST SERVICE AUTHORIZATIONS

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Sec. 332 Beaverhead-Deerlodge N.F. Land Conveyance, Montana (S. 2124)

Sec. 333 Santa Fe National Forest Pecos National Historical Park Land Exchange, New Mexico (S. 216)

Sec. 334 Santa Fe National Forest Land Conveyance, New Mexico (S. 1939)

Sec. 335 Kittitas County, Washington Land Conveyance (H.R. 1285)

Sec. 336 Mammoth Community Water District Use Restrictions (H.R. 356)

#### TITLE IV—FOREST LANDSCAPE RESTORATION (S. 2593)

#### TITLE V—RIVERS AND TRAILS

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Sec. 502 Snake River Headwaters, Wyoming (S. 1281)

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Sec. 512 New England National Scenic Trail (RR. 1528)

Sec. 513 Ice Age Floods National Geologic Trail (S. 268)

Sec. 514 Washington-Rochambeau Revolutionary Route National Historic Trail (S. 686)

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Sec. 521 National Trail System Willing Seller Authority (S. 168)

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#### TITLE VI—DEPARTMENT OF THE INTERIOR AUTHORIZATIONS

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- Subtitle B Competitive Status for Federal Employees in Alaska (S. 1433)  
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#### TITLE VII—NATIONAL PARK SERVICE AUTHORIZATIONS

- Subtitle A Additions to the National Park System  
 Sec. 701 Paterson National Historical Park, New Jersey (H.R. 189)  
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 Sec. 1204 Additional Assistant Secretary for Department of Energy (S. 1203)

By Mr. DOMENICI (for himself, Mr. SESSIONS, Ms. LANDRIEU, and Ms. MURKOWSKI):

S. 3215. A bill to require the Secretary of Energy to enter into cooperative agreements with private entities to share the cost of obtaining construction and operating licenses for certain types of recycling facilities, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I rise today to introduce, on behalf of myself and Senators SESSIONS, MURKOWSKI, and LANDRIEU, a bill that establishes the foundation for a sustainable nuclear fuel cycle for the U.S. A sustainable nuclear fuel cycle is the key to nuclear energy reaching its full potential to provide the large scale base load electrical generating capacity our country needs, while reducing greenhouse gas emissions. Today, nuclear energy provides nearly 20 percent of our electricity generation capacity and does so more reliably, and with a lower cost per kilowatt hour than coal, with essentially no greenhouse gas emissions. In the decades to come, we will need nuclear energy to play an even greater role, not only in electrical generation, but also in the transportation and industrial sectors, if we are to achieve the reductions in greenhouse gas emissions needed to address the challenge of global climate change. The Strengthening Management of Advanced Recycling Technologies Act, or SMART Act, represents the first important step in building the bridge to that future.

The SMART Act promotes the establishment of privately owned and operated used nuclear fuel storage and recycling facilities. These facilities will help resolve the current deadlock in spent nuclear fuel management while providing a means to extract additional energy from used nuclear fuel. I believe that a commercially viable used fuel recycling strategy, combined with a responsible waste disposition strategy, will enable the expansion of nuclear energy necessary to meet all our goals for the future of nuclear energy. The SMART Act advances this vision through incentives—rather than mandates—for both industry and local communities.

The SMART Act establishes a competitive 50–50 cost share program between the Department of Energy and private industry to finance engineering and design work and the development of license applications for up to 2 spent fuel recycling facilities. The SMART Act restricts facility designs to commercial scale facilities that do not separate pure plutonium. The recycling technology must also reduce the burden on geologic repositories used for ultimate disposal of waste and promote extraction of additional energy from used fuel stocks. Beyond these restrictions, the choice of recycling technology is left up to industry.

The resulting reference licenses for recycling facilities may then be used by industry to construct domestic used nuclear fuel recycling capacity. To assist industry in securing the necessary financing for these facilities, the SMART Act authorizes DOE to offer long term contracts for spent fuel recycling services. All construction and financing costs, however, would be born by industry.

Although ultimate geologic disposition of waste will always be needed, interim storage of used nuclear fuel is a

necessary component of the nuclear fuel cycle infrastructure. To encourage development of interim storage facilities the SMART Act establishes an economic incentive program for communities and states that wish to host a facility within their jurisdiction. All interim storage facilities would be privately owned and operated and licensed by the Nuclear Regulatory Commission. The SMART Act incentives are designed to encourage the development of two large scale facilities with enough capacity to accommodate our annual domestic used nuclear fuel generation.

As with the used fuel recycling facilities, the SMART act authorizes the Department of Energy to enter into long term contracts with storage facility operators. In addition, the SMART Act allows the Department of Energy to enter into agreements with utilities for the settlement of all future claims against the department for failure to take title to spent nuclear fuel by 1998.

Currently, the Nuclear Waste Fund established by the Nuclear Waste Policy Act of 1982 has a balance of approximately \$20 billion and is growing by nearly \$1.8 billion annually from fees paid by the utilities and interest on the fund. Unfortunately, this fund is currently "on budget" and amounts to little more than an IOU to the U.S. ratepayers. The SMART Act will allow access to a small portion of this fund so that it can begin working to resolve the nuclear waste issue as it was intended.

The SMART Act establishes a revolving fund from \$1 billion of the current waste fund as well as the annual interest on the fund. The remaining 95 percent of the current waste fund, as well as all future fees, would be placed in a legacy fund for the purposes of constructing a geologic repository. Expenditures from the revolving fund for the provisions of the act could be made without further appropriations but would be subject to limitations in appropriations acts. In this way the revolving fund could be put to use without being subject to the uncertainty of the annual appropriations process while still retaining the authority of Congress to oversee the fund.

The resolution of the used nuclear fuel issue has been deadlocked for decades. Fortunately time has been on our side since nuclear energy produces so little waste. For example the nuclear waste generated by a family of four during their entire lives is only a couple of pounds. Some have even said that we do not need to begin recycling used nuclear fuel for 30 or 40 years. I do not believe we can wait that long before we resolve the used nuclear fuel issue, however. We must begin taking steps today that will place us on the path to a secure and sustainable nuclear energy industry in the future. We must demonstrate to industry and financial institutions the Government's commitment to resolving the used nuclear fuel issue. The SMART bill will place us on that path to the future.

By Mr. MCCONNELL:

S. 3216. A bill to provide for the introduction of pay-for-performance compensation mechanisms into contracts of the Department of Veterans Affairs with community-based outpatient clinics for the provision of health care services, and for other purposes; to the Committee on Veterans' Affairs.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 3216

*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 "Veterans Health Care Improvement Act of 2008".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Veterans of the Armed Forces have made tremendous sacrifices in the defense of freedom and liberty.

(2) Congress recognizes these great sacrifices and reaffirms America's strong commitment to its veterans.

(3) As part of the on-going congressional effort to recognize the sacrifices made by America's veterans, Congress has dramatically increased funding for the Department of Veterans Affairs for veterans health care in the years since September 11, 2001.

(4) Part of the funding for the Department of Veterans Affairs for veterans health care is allocated toward community-based outpatient clinics (CBOCs).

(5) Many CBOCs are administered by private contractors.

(6) CBOCs administered by private contractors operate on a capitated basis.

(7) Some current contracts for CBOCs may create an incentive for contractors to sign up as many veterans as possible, without ensuring timely access to high quality health care for such veterans.

(8) The top priorities for CBOCs should be to provide quality health care and patient satisfaction for America's veterans.

(9) The Department of Veterans Affairs currently tracks the quality of patient care through its Computerized Patient Record System. However, fees paid to contractors are not currently adjusted automatically to reflect the quality of care provided to patients.

(10) A pay-for-performance payment model offers a promising approach to health care delivery by aligning the payment of fees to contractors with the achievement of better health outcomes for patients.

(11) The Department of Veterans Affairs should begin to emphasize pay-for-performance in its contracts with CBOCs.

**SEC. 3. PAY-FOR-PERFORMANCE UNDER DEPARTMENT OF VETERANS AFFAIRS CONTRACTS WITH COMMUNITY-BASED OUTPATIENT HEALTH CARE CLINICS.**

(a) **PLAN REQUIRED.**—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to Congress a plan to introduce pay-for-performance measures into contracts which compensate contractors of the Department of Veterans Affairs for the provision of health care services through community-based outpatient clinics (CBOCs).

(b) **ELEMENTS.**—The plan required by subsection (a) shall include the following:

(1) Measures to ensure that contracts of the Department for the provision of health

care services through CBOCs begin to utilize pay-for-performance compensation mechanisms for compensating contractors for the provision of such services through such clinics, including mechanisms as follows:

(A) To provide incentives for clinics that provide high-quality health care.

(B) To provide incentives to better assure patient satisfaction.

(C) To impose penalties (including termination of contract) for clinics that provide substandard care.

(2) Mechanisms to collect and evaluate data on the outcomes of the services generally provided by CBOCs in order to provide for an assessment of the quality of health care provided by such clinics.

(3) Mechanisms to eliminate abuses in the provision of health care services by CBOCs under contracts that continue to utilize capitated-basis compensation mechanisms for compensating contractors.

(c) **IMPLEMENTATION.**—The Secretary shall commence the implementation of the plan required by subsection (a) unless Congress enacts an Act, not later than 60 days after the date of the submittal of the plan, prohibiting or modifying implementation of the plan. In implementing the plan, the Secretary may initially carry out one or more pilot programs to assess the feasibility and advisability of mechanisms under the plan.

(d) **REPORTS.**—Not later than 180 days after the date of the enactment of this Act and every 180 days thereafter, the Secretary shall submit to Congress a report setting forth the recommendations of the Secretary as to the feasibility and advisability of utilizing pay-for-performance compensation mechanisms in the provision of health care services by the Department by means in addition to CBOCs.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. GRAHAM, Mr. KERRY, Mr. CORNYN, Mr. PRYOR, Mrs. DOLE, Ms. LANDRIEU, Mr. COCHRAN, Mr. CARPER, Mrs. MCCASKILL, and Mrs. FEINSTEIN):

S. 3217. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Attorney-Client Privilege Protection Act of 2008, which is a modified version of my earlier legislation by the same name. This legislation, which adds original cosponsors, continues to address the Department of Justice's corporate prosecution guidelines. Those guidelines, last revised by former Deputy Attorney General Paul McNulty in December 2006, erode the attorney-client relationship by allowing prosecutors to request privileged information backed by the hammer of prosecution if the request is denied.

Like my previous bill, S. 186, this bill will protect the sanctity of the attorney-client relationship by prohibiting federal prosecutors and investigators from requesting waiver of attorney-client privilege and attorney work product protections in corporate investigations. The bill would similarly prohibit the government from conditioning charging decisions or any adverse treatment on an organization's payment of employee legal fees, invocation

of the attorney-client privilege, or agreement to a joint defense agreement.

The new version of the bill makes many subtle improvements, including defining "organization" to make clear that continuing criminal enterprises and terrorist organizations will not benefit from the bill's protections. The bill also clarifies language that the Department of Justice had previously criticized as ambiguous. The bill also makes clear in its findings that its prohibition on informal privilege waiver demands is far from unprecedented. The bill states: "Congress recognized that law enforcement can effectively investigate without attorney-client privileged information when it banned Attorney General demands for privileged materials in the Racketeer Influenced and Corrupt Organizations Act. See 18 U.S.C. § 1968(c)(2)."

There is no need to wait to see how the McNulty memorandum will operate in practice. There is similarly no need to wait for another internal Department of Justice reform that will likely fall short and be the fifth policy in the last 10 years. Any such internal reform will not address the privilege waiver policies of other government agencies that refer matters to the Department of Justice and allow in through the window what isn't allowed through the door.

As I said when I introduced S. 186, the right to counsel is too important to be passed over for prosecutorial convenience. It has been engrained in American jurisprudence since the 18th century when the Bill of Rights was adopted. The 6th Amendment is a fundamental right afforded to individuals charged with a crime and guarantees proper representation by counsel throughout a prosecution. However, the right to counsel is largely ineffective unless the confidential communications made by a client to his or her lawyer are protected by law. As the Supreme Court observed in *Upjohn Co. v. United States*, "the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law." When the *Upjohn* Court affirmed that attorney-client privilege protections apply to corporate internal legal dialogue, the Court manifested in the law the importance of the attorney-client privilege in encouraging full and frank communication between attorneys and their clients, as well as the broader public interests the privilege serves in fostering the observance of law and the administration of justice. The *Upjohn* Court also made clear that the value of legal advice and advocacy depends on the lawyer having been fully informed by the client.

In addition to the importance of the right to counsel, it is also fundamental that the Government has the burden of investigating and proving its own case. Privilege waiver tends to transfer this burden to the organization under investigation. As a former prosecutor, I am

well aware of the enormous power and tools a prosecutor has at his or her disposal. The prosecutor has enough power without the coercive tools of the privilege waiver, whether that waiver policy is embodied in the Holder, Thompson, McCallum, McNulty—or a future Filip—memorandum.

As in S. 186, this bill amends title 18 of the United States Code by adding a new section, §3014, that would prohibit any agent or attorney of the U.S. Government in any criminal or civil case to demand or request the disclosure of any communication protected by the attorney-client privilege or attorney work product. The bill would also prohibit government lawyers and agents from basing any charge or adverse treatment on whether an organization pays attorneys' fees for its employees or signs a joint defense agreement.

This legislation is needed to ensure that basic protections of the attorney-client relationship are preserved in Federal prosecutions and investigations.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 603—EX-PRESSING 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, Mr. SMITH, Mr. CARDIN, Mr. COLEMAN, and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Foreign Relations:

##### S. RES. 603

Whereas many East European countries were dominated for parts of the last century by Nazi or communist regimes, without the consent of their people;

Whereas victims of Nazi persecution included individuals persecuted or targeted for persecution by the Nazi or Nazi-allied governments based on their religious, ethnic, or cultural identity, 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 compensa-

tion due on pre-war policies, because control of those companies or their East European subsidiaries had passed to the government;

Whereas East 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 the Paris Declaration of the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly in July 2001 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 the private property that is taken for public use;

Whereas the OSCE Parliamentary Assembly has called on the OSCE participating States to ensure that they implement appropriate legislation to secure the restitution of or compensation for property losses of victims of Nazi persecution and property losses of communal organizations and institutions during the Nazi era, irrespective of the current citizenship or place of residence of victims or their heirs or the relevant successor 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 or 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 or collaborators during World War II or subsequently seized by communist governments after World War II;

Whereas, at the 1998 Washington Conference on Holocaust-Era Assets, 44 countries adopted 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 so far the current Government of Poland has not adopted 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 countries in Europe 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, non-discriminatory 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, and just legislation so that victims of Nazi persecution (or the heirs of such persons) who had their private property looted and wrongly confiscated by the Nazis during World War II and in turn 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, and just legislation so that communities that had communal and religious property looted and wrongly confiscated by the Nazis during World War II and in turn seized by a communist government (or the relevant successors to the communal and religious 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 which 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 a country in Europe to host in 2009 a follow-up international conference a decade after the Washington Conference on Holocaust-Era Assets, for governments and non-governmental organizations, which would—

(A) address the issues of restitution of or compensation for real property, personal property (including art and cultural property), and financial assets wrongly confiscated by the Nazis and their allies or collaborators and the subsequent wrongful confiscations by communist regimes; and

(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.

Mr. NELSON of Florida. Mr. President, last month I chaired a hearing in the Senate Foreign Relations Committee to consider a difficult but extremely important issue—compensating Holocaust survivors and their heirs for the value of Holocaust-era insurance policies they held before the war but lost or had stolen from them by the Nazi regime.

Although this hearing was the first time a Senate committee had met specifically to consider Holocaust-era insurance compensation issues, I have been involved in the issue for more than a decade. As Florida's insurance commissioner in the late 1990's, 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 for 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 the 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 Claims, ICHEC, 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 ICHEC, 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 ICHEC nor contributed to any of the insurance compensation efforts that have taken place. ICHEC nonetheless paid claims on those Eastern European policies from out of the humanitarian funds that were contributed by the ICHEC

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.

Today, Senator SMITH and I, joined by our colleagues Senators CARDIN, COLEMAN, and MENENDEZ, are introducing a bi-partisan resolution urging 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 has received overwhelming support from the survivor community. 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 six 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 a Holocaust survivor from England 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 our 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. Justice and memory demand nothing less.

I ask unanimous consent that this statement be placed in the appropriate place in the RECORD and ask that the text of the resolution be printed in the RECORD.

Mr. SMITH. Mr. President, I rise today to submit a resolution with my friend and colleague, the senior Senator from Florida, urging the restitution of property looted from victims of the Holocaust.

Though it was inflicted over 60 years ago, the persecution of Europe's Jews still defies belief. Never before in history had a nation committed the scope and breadth of the Holocaust's crimes against its own citizens, some of whom were even decorated German veterans of WWI. Never before had a state policy of atrocity encompassed such a horrifying thoroughness as it did during those terrible years of Nazi rule. Crimes against the Jews took all forms—from genocide to theft—and for those who survived, the scars remain today.

There are many of us now who look back, and wonder how the civilized world could have stood by, and let this thing happen; but we are not wholly without responsibility ourselves. Many of the victims of the Holocaust still seek property which was stolen from them during the years of Nazi and Nazi-allied rule in Germany and Eastern Europe. For these survivors and their kin, the persecution of the Jews is not a 60-year-old horror story in a history textbook, but a constant struggle to extract justice from those who would prefer to forget. While some countries have taken active steps to recompense victims of the wholesale Nazi confiscation, others have not.

I am proud to have been engaged in this issue throughout my tenure in the Senate, serving in 1999 as a Commissioner on the Presidential Advisory Commission on Holocaust Assets in the United States. I also introduced with Senator CLINTON the Holocaust Victims Assets, Restitution Policy, and Remembrance Act in 2001 and again in 2003. This legislation aimed to establish a Foundation to research Holocaust-era property restitution, and promote innovative solutions restitution issues. I am confident that my resolution introduced today will help establish a follow-up conference to the previous Holocaust restitution conference in 1998. I would further like to thank the Claims Conference for all the great work they've done with us on this

issue, and in furthering the cause of justice for Holocaust victims.

I recognize that this issue is complex. It is a matter of enacting legislation for restitution in countries that do not yet have it, and using the existing legislation in those that do. Our resolution calls for such action. It also calls for a second conference on Holocaust restitution to be held in Europe next year, more than a decade after the first. These steps would represent meaningful action on an issue which has gone unaddressed for far too long.

I also recognize that most of the countries in question have different governments than they did during the Nazi and Communist eras. As a result, I believe that the restitution process can be achieved in a positive spirit of cooperation with our European allies.

I thus sincerely hope that these European friends will work with us to resolve some of the last loose ends of the Nazis' crimes; and so do our own small part to make redress for the inaction of those who came before.

#### SENATE RESOLUTION 604—CONGRATULATING THE CALIFORNIA STATE UNIVERSITY, FRESNO BULLDOGS BASEBALL TEAM FOR WINNING THE 2008 NATIONAL COLLEGIATE ATHLETICS ASSOCIATION DIVISION I COLLEGE WORLD SERIES

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 604

Whereas on June 25, 2008, the student athletes of the California State University, Fresno Bulldogs baseball team, in the sixth elimination game faced by the Fresno State Bulldogs, finished a true Cinderella story season, winning the 2008 National Collegiate Athletics Association Division I College World Series Championship (referred to in this preamble as the "2008 NCAA College World Series") by defeating the University of Georgia Bulldogs, 2 games to 1, in a best-of-3 championship;

Whereas the 2008 NCAA College World Series is the second championship for the California State University;

Whereas the Fresno State Bulldogs are the lowest-seeded team in college sports history to win a championship;

Whereas the Fresno State Bulldogs won 6 elimination games to win the 2008 NCAA College World Series, which is a testament to the resilience, fortitude, and "never say die" attitude of the team;

Whereas the Fresno State Bulldogs beat number 3-ranked Arizona State University, number 6-ranked Rice University, number 2-ranked University of North Carolina, and number 8-ranked University of Georgia to win the 2008 NCAA College World Series;

Whereas the Fresno State Bulldogs tied the record of most runs, 62, in the College World Series;

Whereas the Fresno State Bulldogs elimination game, a 19-10 win against Georgia just 1 day earlier, produced College World Series records for most runs in a game by 1 team, most combined runs, most hits by 1 team, most combined hits, and longest game;

Whereas the Fresno State Bulldogs played 78 games this year, more than any other team in the United States;

Whereas playing with a torn ligament in his left thumb, right fielder Steve Detwiler had 4 hits in 4 at-bats, including 2 home runs and 6 runs batted in, during the championship game;

Whereas Justin Wilson, the winning pitcher, pitching on just 3 days rest, was able to pitch 129 pitches, 86 of which were strikes over 8 strong innings, allowing just 5 hits, 1 run, and striking out 9 batters;

Whereas Tommy Mendonca, third baseman for the 2008 NCAA College World Series champion Fresno State Bulldogs, was named the "Most Outstanding Player", tying the College World Series record with 4 home runs;

Whereas the Fresno State Bulldogs have 5 players on the 2008 NCAA College World Series all-tournament team, including third baseman Tommy Mendonca, second baseman Erik Wetzell, outfielder Steve Susdorf, outfielder Steve Detwiler, and pitcher Justin Wilson;

Whereas the Fresno State Bulldogs have shown great character, comradery, resilience, and sportsmanship on the way to winning the national championship;

Whereas the fellow students, families, alumni, faculty, and fans of the Fresno State Bulldogs have been a great part of this championship, showing great support with many individuals wearing "Underdogs to Wonderdogs" t-shirts; and

Whereas the Fresno State Bulldogs have instilled within the City of Fresno and the State of California great pride and excitement: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the California State University Fresno Bulldogs baseball team for winning the 2008 National Collegiate Athletics Association Division I College World Series; and

(2) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication made winning the championship possible.

#### SENATE RESOLUTION 605—COMMEMORATING THE 60TH ANNIVERSARY OF THE BERLIN AIRLIFT AND HONORING THE VETERANS OF OPERATION VITTLES

Mr. DEMINT (for himself and Mr. BAYH) submitted the following resolution; which was considered and agreed to:

S. RES. 605

Whereas in spring of 1948 Berlin was isolated within the Soviet occupation zone and had only 35 days' worth of food and 45 days' worth of coal remaining for the city;

Whereas military planners in the United States and the United Kingdom determined that 1,534 tons of flour, wheat, fish, milk, and other food items would be required daily to feed the 2,000,000 residents of Berlin;

Whereas military planners determined that 3,475 tons of coal and gasoline would be required daily to keep the city of Berlin heated and powered;

Whereas, on June 1, 1948, the United States Air Force created the Military Air Transport Service, the predecessor to Air Mobility Command, to organize and conduct airlift missions;

Whereas, on June 26, 1948, "Operation Vittles" began when 32 United States Air Force C-47 Dakotas departed West Germany for Berlin hauling 80 tons of cargo, and the first British aircraft launched on June 28, 1948;

Whereas Major General William H. Tunner, a veteran of the aerial supply line over the



Himalayas in World War II, took command of "Operation Vittles" on July 28, 1948;

Whereas Major General Tunner pioneered many new and innovative tactics and procedures for the airlift, including the creation of air corridors for ingress and egress, staggering altitudes of the aircraft, and implementing instrument flight rules which allowed aircraft to land as frequently as every 3 minutes;

Whereas one pilot, 1st Lieutenant Gail S. Halvorsen, who became known as the "Candy Bomber", initiated "Operation Little Vittles" to bring hope to the children of Berlin, by dropping handkerchief parachutes containing chocolate and chewing gum as a symbol of American goodwill, ultimately resulting in more than 3 tons of candy being dropped in more than 250,000 miniature parachutes;

Whereas, on Easter Sunday, April 17, 1949, airlifters reached the pinnacle of "Operation Vittles" by delivering 13,000 tons of cargo, including the equivalent of 600 railroad cars full of coal, setting the single day record for the Berlin Airlift;

Whereas 39 British and 31 American airmen made the ultimate sacrifice during the Berlin Airlift, and 8 British and 17 American aircraft were lost;

Whereas airlifters delivered more than 2,300,000 tons of food and supplies on 278,228 total flights into Berlin;

Whereas the Soviet Union was forced to lift the blockade in light of the success of the 15-month airlift operation;

Whereas the Berlin Airlift marked the first use of airpower to provide hope and humanitarian assistance, and to win a strategic victory against enemy aggression and intimidation;

Whereas the enormous effort and cooperation of the Berlin Airlift laid the foundation for a deep and lasting friendship between the people of the United States and the people of Germany; and

Whereas, today, air mobility continues to play a vital role in United States foreign policy by helping to advance freedom and alleviate suffering around the world: Now, therefore, be it

*Resolved*, That Congress—

(1) recognizes the 60th anniversary of the Berlin Airlift as the largest and longest running humanitarian airlift operation in history;

(2) honors the service and sacrifice of the men and women who participated in and supported the Berlin Airlift;

(3) commends the close friendship forged between the American, British, and German people through the Berlin Airlift; and

(4) applauds the men and women of the United States Air Force's Air Mobility Command, who, in the best traditions of the Berlin Airlift, still work diligently to provide hope, save lives, and deliver freedom around the world in support of the United States's foreign policy objectives.

#### SENATE CONCURRENT RESOLUTION 92—RECOGNIZING THE IMPORTANCE OF HOMEOWNERSHIP FOR AMERICANS

Mr. JOHNSON (for himself and Mr. THUNE) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 92

Whereas the United States promotes and encourages the creation and revitalization of sustainable and strong neighborhoods in partnership with States, cities, and local communities and in conjunction with the

independent and collective actions of private citizens and organizations;

Whereas establishing a housing infrastructure strengthens neighborhoods and local economies and nurtures the families who reside in them;

Whereas an integral element of a strong community is a sufficient supply of affordable housing;

Whereas affordable housing may be provided in many forms, including apartment buildings, transitional and temporary homes, condominiums, cooperatives, and single family homes;

Whereas, for many families, a home is not merely shelter, but also provides an opportunity for growth, prosperity, and security;

Whereas homeownership spurs the production and sale of goods and services, generates new jobs, encourages savings and investment, promotes economic and civic responsibility, and enhances the financial security of all people in the United States;

Whereas, although the United States is the first nation in the world to make owning a home a reality for a vast majority of families, 1/3 of homeowners in the United States are severely cost-burdened homeowners;

Whereas Habitat for Humanity is able to sell homes to working families at 30 percent to 60 percent of median income;

Whereas the community-building activities of neighborhood-based nonprofit organizations empower individuals to improve their lives and make communities safer and healthier for families;

Whereas one of the best known nonprofit housing organizations is Habitat for Humanity, which builds simple but adequate housing for less fortunate families and symbolizes the self-help approach to homeownership;

Whereas studies show that homeownership has a positive impact on the lives of family members, including improved physical and mental health;

Whereas Habitat for Humanity is organized in all 50 States and the District of Columbia;

Whereas Habitat for Humanity has built over 275,000 houses worldwide and endeavors to complete another 100,000 homes by the end of 2009;

Whereas Habitat for Humanity provides opportunities for people from every segment of society to volunteer to help make the American dream a reality for families who otherwise would not own a home; and

Whereas June has been designated National Homeownership Month: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of Congress that—

(1) everyone in the United States should have a decent home in which to live;

(2) Members of the Senate and the House of Representatives should demonstrate the importance of volunteerism;

(3) during the 110th, 111th, and 112th Congresses, Members of the Senate and the House of Representatives are encouraged to participate in Congress Building America, a program in which congressional delegations work with Habitat for Humanity affiliates to build homes in their districts and States; and

(4) these occasions should be used to emphasize and focus on the importance of providing decent homes for all of the people in the United States.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 5060. Mr. WHITEHOUSE (for himself, Mrs. FEINSTEIN, and Mr. NELSON, of Florida) submitted an amendment intended to be pro-

posed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table.

SA 5061. Ms. SNOWE (for herself, Mr. WHITEHOUSE, Mr. VITTER, Mr. SUNUNU, Mr. CARDIN, Ms. LANDRIEU, Ms. COLLINS, Mr. KENNEDY, and Mr. REED) submitted an amendment intended to be proposed by her to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 5062. Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 5063. Mr. SMITH (for himself, Mr. BAYH, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5064. Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. REID, Mr. HARKIN, Mrs. BOXER, Mr. SANDERS, Mr. WYDEN, Mr. KENNEDY, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 5060.** Mr. WHITEHOUSE (for himself, Mrs. FEINSTEIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, strike line 13, and insert the following:

“(ii) determined to be lawful; and

“(C) provided based on the good faith and reasonable belief of the electronic communication service provider that compliance with a written request or directive described in subparagraph (B) was lawful; or

**SA 5061.** Ms. SNOWE (for herself, Mr. WHITEHOUSE, Mr. VITTER, Mr. SUNUNU, Mr. CARDIN, Ms. LANDRIEU, Ms. COLLINS, Mr. KENNEDY, and Mr. REED) submitted an amendment intended to be proposed by her to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for Operations, Research, and Facilities for necessary expenses related to economic impacts associated with commercial fishery failures, fishery resource disasters, and regulations on commercial fishing industries, \$75,000,000, to remain available until September 30, 2009.

**SA 5062.** Mr. CARPER submitted an amendment intended to be proposed by him to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —GI BILL FINANCING  
PROVISION**

**SEC. \_\_\_\_ . GI BILL FINANCING PROVISION.**

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

**“SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS TO FINANCE THE GI BILL.**

“(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 0.47 percent of so much of modified adjusted gross income as exceeds \$500,000 (\$1,000,000 in the case of a joint return or a surviving spouse (as defined in section 2(a))).

“(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

“(c) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

“(d) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

“(e) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 1 the following new item:

“Sec. 1A. Increase in tax on high income individuals to finance the GI bill.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(d) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

**SA 5063.** Mr. SMITH (for himself, Mr. BAYH, and Mr. NELSON of Florida) submitted an amendment intended to be

proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, add the following:

**SEC. 634. TRAVEL AND TRANSPORTATION OF FAMILY MEMBERS INCIDENT TO SERIOUS MENTAL DISORDERS OF MEMBERS OF THE UNIFORMED SERVICES.**

(a) IN GENERAL.—Subsection (a)(2)(B)(i) of section 411h of title 37, United States Code, is amended by inserting “(including having a serious mental disorder)” after “seriously injured”.

(b) SERIOUS MENTAL DISORDER DEFINED.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(4)(A) In this section, the term ‘serious mental disorder’, in the case of a member, means that the member has been diagnosed with a mental disorder that requires intensive mental health treatment or hospitalization.

“(B) The circumstances in which a member shall be considered to have a serious mental disorder for purposes of this section shall include, but not be limited to, the following:

“(i) The member is considered to be a potential danger to self or others as a result of a diagnosed mental disorder that requires intensive mental health treatment or hospitalization.

“(ii) The member is diagnosed with a mental disorder and has psychotic symptoms that require intensive mental health treatment or hospitalization.

“(iii) The member is diagnosed with a mental disorder and has severe symptoms or severe impairment in functioning that require intensive mental health treatment or hospitalization.”.

**SA 5064.** Mr. DODD (for himself, Mr. FEINGOLD, Mr. LEAHY, Mr. REID, Mr. HARKIN, Mrs. BOXER, Mr. SANDERS, Mr. WYDEN, Mr. KENNEDY, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 6304, to amend the Foreign Intelligence Surveillance Act of 1978 to establish a procedure for authorizing certain acquisitions of foreign intelligence, and for other purposes; which was ordered to lie on the table; as follows:

**NOTICE OF HEARING**

**COMMITTEE ON ENERGY AND NATURAL  
RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power. The hearing will be held on Tuesday, July 8, 2008, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 2842, to require the Secretary of the Interior to carry out annual inspections of canals, levees, tunnels, dikes, pumping plants, dams, and reservoirs

under the jurisdiction of the Secretary, and for other purposes; S. 2974, to provide for the construction of the Arkansas Valley Conduit in the State of Colorado; H.R. 3323, to authorize the Secretary of the Interior to convey a water distribution system to the Goleta Water District, and for other purposes.; and S. 3189, to amend Public Law 106-392 to require the Administrator of the Western Area Power Administration and the Commissioner of Reclamation to maintain sufficient revenues in the Upper Colorado River Basin Fund, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by e-mail to Gina.Weinstock@energy.senate.gov.

For further information, please contact Michael Connor at (202) 224-5479 or Gina Weinstock at (202) 224-5684.

**AUTHORITY FOR COMMITTEES TO  
MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 26, 2008, at 9:30 a.m.

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

**COMMITTEE ON FINANCE**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 26, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

**COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS**

Mr. ROCKEFELLER. 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, to conduct a hearing entitled “Protecting Children, Strengthening Families: Reauthorizing CAPTA” on Thursday, June 26, 2008. The hearing will commence at 2:30 p.m. in room 430 of the Dirksen Senate Office Building.

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

**COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS**

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, June 26, 2008, at 10 a.m. to conduct a hearing entitled “Nuclear Terrorism: Providing Medical Care and Meeting Basic Needs in the Aftermath—the Federal Response.”

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

#### COMMITTEE ON INDIAN AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, June 26, at 9:30 a.m. in room 562 of the Dirksen Senate Office Building.

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

#### COMMITTEE ON THE JUDICIARY

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, June 26, 2008, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building.

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

#### COMMITTEE ON VETERANS' AFFAIRS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Thursday, June 26. The Committee will meet in room 418 of the Russell Senate Office Building, at 9:30 a.m.

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

#### SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, June 26, 2008, at 2:30 p.m. to conduct a hearing entitled, "In the Red: Addressing the Nation's Financial Challenges".

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

#### FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY ACT OF 2007

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 833, S. 2565.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2565) to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal, State, and Local law enforcement officers.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Congressional Badge of Bravery Act of 2008".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **FEDERAL AGENCY HEAD.**—The term "Federal agency head" means the head of any executive, legislative, or judicial branch Government entity that employs Federal law enforcement officers.

(2) **FEDERAL BOARD.**—The term "Federal Board" means the Federal Law Enforcement Congressional Badge of Bravery Board established under section 103(a).

(3) **FEDERAL BOARD MEMBERS.**—The term "Federal Board members" means the members of the Federal Board appointed under section 103(c).

(4) **FEDERAL LAW ENFORCEMENT BADGE.**—The term "Federal Law Enforcement Badge" means the Federal Law Enforcement Congressional Badge of Bravery described in section 101.

(5) **FEDERAL LAW ENFORCEMENT OFFICER.**—The term "Federal law enforcement officer"—

(A) means a Federal employee—

(i) who has statutory authority to make arrests or apprehensions;

(ii) who is authorized by the agency of the employee to carry firearms; and

(iii) whose duties are primarily—

(I) engagement in or supervision of the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law; or

(II) the protection of Federal, State, local, or foreign government officials against threats to personal safety; and

(B) includes a law enforcement officer employed by the Amtrak Police Department or Federal Reserve.

(6) **OFFICE.**—The term "Office" means the Congressional Badge of Bravery Office established under section 301(a).

(7) **STATE AND LOCAL BOARD.**—The term "State and Local Board" means the State and Local Law Enforcement Congressional Badge of Bravery Board established under section 203(a).

(8) **STATE AND LOCAL BOARD MEMBERS.**—The term "State and Local Board members" means the members of the State and Local Board appointed under section 203(c).

(9) **STATE AND LOCAL LAW ENFORCEMENT BADGE.**—The term "State and Local Law Enforcement Badge" means the State and Local Law Enforcement Congressional Badge of Bravery described in section 201.

(10) **STATE OR LOCAL AGENCY HEAD.**—The term "State or local agency head" means the head of any executive, legislative, or judicial branch entity of a State or local government that employs State or local law enforcement officers.

(11) **STATE OR LOCAL LAW ENFORCEMENT OFFICER.**—The term "State or local law enforcement officer" means an employee of a State or local government—

(A) who has statutory authority to make arrests or apprehensions;

(B) who is authorized by the agency of the employee to carry firearms; and

(C) whose duties are primarily—

(i) engagement in or supervision of the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law; or

(ii) the protection of Federal, State, local, or foreign government officials against threats to personal safety.

#### TITLE I—FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY

##### SEC. 101. AUTHORIZATION OF A BADGE.

The Attorney General may award, and a Member of Congress or the Attorney General may present, in the name of Congress a Federal Law Enforcement Congressional Badge of Bravery to a Federal law enforcement officer who is cited by the Attorney General, upon the recommendation of the Federal Board, for performing an act of bravery while in the line of duty.

##### SEC. 102. NOMINATIONS.

(a) **IN GENERAL.**—A Federal agency head may nominate for a Federal Law Enforcement Badge an individual—

(1) who is a Federal law enforcement officer working within the agency of the Federal agency head making the nomination; and

(2) who—

(A)(i) sustained a physical injury while—

(I) engaged in the lawful duties of the individual; and

(II) performing an act characterized as bravery by the Federal agency head making the nomination; and

(ii) put the individual at personal risk when the injury described in clause (i) occurred; or

(B) while not injured, performed an act characterized as bravery by the Federal agency head making the nomination that placed the individual at risk of serious physical injury or death.

(b) **CONTENTS.**—A nomination under subsection (a) shall include—

(1) a written narrative, of not more than 2 pages, describing the circumstances under which the nominee performed the act of bravery described in subsection (a) and how the circumstances meet the criteria described in such subsection;

(2) the full name of the nominee;

(3) the home mailing address of the nominee;

(4) the agency in which the nominee served on the date when such nominee performed the act of bravery described in subsection (a);

(5) the occupational title and grade or rank of the nominee;

(6) the field office address of the nominee on the date when such nominee performed the act of bravery described in subsection (a); and

(7) the number of years of Government service by the nominee as of the date when such nominee performed the act of bravery described in subsection (a).

(c) **SUBMISSION DEADLINE.**—A Federal agency head shall submit each nomination under subsection (a) to the Office not later than February 15 of the year following the date on which the nominee performed the act of bravery described in subsection (a).

#### SEC. 103. FEDERAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY BOARD.

(a) **ESTABLISHMENT.**—There is established within the Department of Justice a Federal Law Enforcement Congressional Badge of Bravery Board.

(b) **DUTIES.**—The Federal Board shall do the following:

(1) Design the Federal Law Enforcement Badge with appropriate ribbons and appurtenances.

(2) Select an engraver to produce each Federal Law Enforcement Badge.

(3) Recommend recipients of the Federal Law Enforcement Badge from among those nominations timely submitted to the Office.

(4) Annually present to the Attorney General the names of Federal law enforcement officers who the Federal Board recommends as Federal Law Enforcement Badge recipients in accordance with the criteria described in section 102(a).

(5) After approval by the Attorney General—

(A) procure the Federal Law Enforcement Badges from the engraver selected under paragraph (2);

(B) send a letter announcing the award of each Federal Law Enforcement Badge to the Federal agency head who nominated the recipient of such Federal Law Enforcement Badge;

(C) send a letter to each Member of Congress representing the congressional district where the recipient of each Federal Law Enforcement Badge resides to offer such Member an opportunity to present such Federal Law Enforcement Badge; and

(D) make or facilitate arrangements for presenting each Federal Law Enforcement Badge in accordance with section 104.

(6) Set an annual timetable for fulfilling the duties described in this subsection.

(c) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The Federal Board shall be composed of 7 members appointed as follows:

(A) One member jointly appointed by the majority leader and minority leader of the Senate.

(B) One member jointly appointed by the Speaker and minority leader of the House of Representatives.

(C) One member from the Department of Justice appointed by the Attorney General.

(D) Two members of the Federal Law Enforcement Officers Association appointed by the Executive Board of the Federal Law Enforcement Officers Association.

(E) Two members of the Fraternal Order of Police appointed by the Executive Board of the Fraternal Order of Police.

(2) **LIMITATION.**—Not more than—

(A) 2 Federal Board members may be members of the Federal Law Enforcement Officers Association; and

(B) 2 Federal Board members may be members of the Fraternal Order of Police.

(3) **QUALIFICATIONS.**—Federal Board members shall be individuals with knowledge or expertise, whether by experience or training, in the field of Federal law enforcement.

(4) **TERMS AND VACANCIES.**—Each Federal Board member shall be appointed for 2 years and may be reappointed. A vacancy in the Federal Board shall not affect the powers of the Federal Board and shall be filled in the same manner as the original appointment.

(d) **OPERATIONS.**—

(1) **CHAIRPERSON.**—The Chairperson of the Federal Board shall be a Federal Board member elected by a majority of the Federal Board.

(2) **MEETINGS.**—The Federal Board shall conduct its first meeting not later than 90 days after the appointment of a majority of Federal Board members. Thereafter, the Federal Board shall meet at the call of the Chairperson, or in the case of a vacancy of the position of Chairperson, at the call of the Attorney General.

(3) **VOTING AND RULES.**—A majority of Federal Board members shall constitute a quorum to conduct business, but the Federal Board may establish a lesser quorum for conducting hearings scheduled by the Federal Board. The Federal Board may establish by majority vote any other rules for the conduct of the business of the Federal Board, if such rules are not inconsistent with this title or other applicable law.

(e) **POWERS.**—

(1) **HEARINGS.**—

(A) **IN GENERAL.**—The Federal Board may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Federal Board considers appropriate to carry out the duties of the Federal Board under this title. The Federal Board may administer oaths or affirmations to witnesses appearing before it.

(B) **WITNESS EXPENSES.**—Witnesses requested to appear before the Federal Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Federal Board.

(2) **INFORMATION FROM FEDERAL AGENCIES.**—Subject to sections 552, 552a, and 552b of title 5, United States Code—

(A) the Federal Board may secure directly from any Federal department or agency information necessary to enable it to carry out this title; and

(B) upon request of the Federal Board, the head of that department or agency shall furnish the information to the Federal Board.

(3) **INFORMATION TO BE KEPT CONFIDENTIAL.**—The Federal Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

(f) **COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), each Federal Board member shall be compensated at a rate equal to the daily equivalent

of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such Federal Board member is engaged in the performance of the duties of the Federal Board.

(2) **PROHIBITION OF COMPENSATION FOR GOVERNMENT EMPLOYEES.**—Federal Board members who serve as officers or employees of the Federal Government or a State or a local government may not receive additional pay, allowances, or benefits by reason of their service on the Federal Board.

(3) **TRAVEL EXPENSES.**—Each Federal Board member 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.

#### **SEC. 104. PRESENTATION OF FEDERAL LAW ENFORCEMENT BADGES.**

(a) **PRESENTATION BY MEMBER OF CONGRESS.**—A Member of Congress may present a Federal Law Enforcement Badge to any Federal Law Enforcement Badge recipient who resides in such Member's congressional district. If both a Senator and Representative choose to present a Federal Law Enforcement Badge, such Senator and Representative shall make a joint presentation.

(b) **PRESENTATION BY ATTORNEY GENERAL.**—If no Member of Congress chooses to present the Federal Law Enforcement Badge as described in subsection (a), the Attorney General, or a designee of the Attorney General, shall present such Federal Law Enforcement Badge.

(c) **PRESENTATION ARRANGEMENTS.**—The office of the Member of Congress presenting each Federal Law Enforcement Badge may make arrangements for the presentation of such Federal Law Enforcement Badge, and if a Senator and Representative choose to participate jointly as described in subsection (a), the Members shall make joint arrangements. The Federal Board shall facilitate any such presentation arrangements as requested by the congressional office presenting the Federal Law Enforcement Badge and shall make arrangements in cases not undertaken by Members of Congress.

#### **TITLE II—STATE AND LOCAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY**

##### **SEC. 201. AUTHORIZATION OF A BADGE.**

The Attorney General may award, and a Member of Congress or the Attorney General may present, in the name of Congress a State and Local Law Enforcement Congressional Badge of Bravery to a State or local law enforcement officer who is cited by the Attorney General, upon the recommendation of the State and Local Board, for performing an act of bravery while in the line of duty.

##### **SEC. 202. NOMINATIONS.**

(a) **IN GENERAL.**—A State or local agency head may nominate for a State and Local Law Enforcement Badge an individual—

(1) who is a State or local law enforcement officer working within the agency of the State or local agency head making the nomination; and

(2) who—

(A) (i) sustained a physical injury while—

(I) engaged in the lawful duties of the individual; and

(II) performing an act characterized as bravery by the State or local agency head making the nomination; and

(B) while not injured, performed an act characterized as bravery by the State or local agency head making the nomination that placed the individual at risk of serious physical injury or death.

(b) **CONTENTS.**—A nomination under subsection (a) shall include—

(1) a written narrative, of not more than 2 pages, describing the circumstances under which the nominee performed the act of bravery described

in subsection (a) and how the circumstances meet the criteria described in such subsection;

(2) the full name of the nominee;

(3) the home mailing address of the nominee;

(4) the agency in which the nominee served on the date when such nominee performed the act of bravery described in subsection (a);

(5) the occupational title and grade or rank of the nominee;

(6) the field office address of the nominee on the date when such nominee performed the act of bravery described in subsection (a); and

(7) the number of years of government service by the nominee as of the date when such nominee performed the act of bravery described in subsection (a).

(c) **SUBMISSION DEADLINE.**—A State or local agency head shall submit each nomination under subsection (a) to the Office not later than February 15 of the year following the date on which the nominee performed the act of bravery described in subsection (a).

#### **SEC. 203. STATE AND LOCAL LAW ENFORCEMENT CONGRESSIONAL BADGE OF BRAVERY BOARD.**

(a) **ESTABLISHMENT.**—There is established within the Department of Justice a State and Local Law Enforcement Congressional Badge of Bravery Board.

(b) **DUTIES.**—The State and Local Board shall do the following:

(1) Design the State and Local Law Enforcement Badge with appropriate ribbons and appurtenances.

(2) Select an engraver to produce each State and Local Law Enforcement Badge.

(3) Recommend recipients of the State and Local Law Enforcement Badge from among those nominations timely submitted to the Office.

(4) Annually present to the Attorney General the names of State or local law enforcement officers who the State and Local Board recommends as State and Local Law Enforcement Badge recipients in accordance with the criteria described in section 202(a).

(5) After approval by the Attorney General—

(A) procure the State and Local Law Enforcement Badges from the engraver selected under paragraph (2);

(B) send a letter announcing the award of each State and Local Law Enforcement Badge to the State or local agency head who nominated the recipient of such State and Local Law Enforcement Badge;

(C) send a letter to each Member of Congress representing the congressional district where the recipient of each State and Local Law Enforcement Badge resides to offer such Member an opportunity to present such State and Local Law Enforcement Badge; and

(D) make or facilitate arrangements for presenting each State and Local Law Enforcement Badge in accordance with section 204.

(6) Set an annual timetable for fulfilling the duties described in this subsection.

(c) **MEMBERSHIP.**—

(1) **NUMBER AND APPOINTMENT.**—The State and Local Board shall be composed of 9 members appointed as follows:

(A) One member jointly appointed by the majority leader and minority leader of the Senate.

(B) One member jointly appointed by the Speaker and minority leader of the House of Representatives.

(C) One member from the Department of Justice appointed by the Attorney General.

(D) Two members of the Fraternal Order of Police appointed by the Executive Board of the Fraternal Order of Police.

(E) One member of the National Association of Police Organizations appointed by the Executive Board of the National Association of Police Organizations.

(F) One member of the National Organization of Black Law Enforcement Executives appointed by the Executive Board of the National Organization of Black Law Enforcement Executives.

(G) One member of the International Association of Chiefs of Police appointed by the Board of Officers of the International Association of Chiefs of Police.

(H) One member of the National Sheriffs' Association appointed by the Executive Committee of the National Sheriffs' Association.

(2) **LIMITATION.**—Not more than 5 State and Local Board members may be members of the Fraternal Order of Police.

(3) **QUALIFICATIONS.**—State and Local Board members shall be individuals with knowledge or expertise, whether by experience or training, in the field of State and local law enforcement.

(4) **TERMS AND VACANCIES.**—Each State and Local Board member shall be appointed for 2 years and may be reappointed. A vacancy in the State and Local Board shall not affect the powers of the State and Local Board and shall be filled in the same manner as the original appointment.

(d) **OPERATIONS.**—

(1) **CHAIRPERSON.**—The Chairperson of the State and Local Board shall be a State and Local Board member elected by a majority of the State and Local Board.

(2) **MEETINGS.**—The State and Local Board shall conduct its first meeting not later than 90 days after the appointment of a majority of State and Local Board members. Thereafter, the State and Local Board shall meet at the call of the Chairperson, or in the case of a vacancy of the position of Chairperson, at the call of the Attorney General.

(3) **VOTING AND RULES.**—A majority of State and Local Board members shall constitute a quorum to conduct business, but the State and Local Board may establish a lesser quorum for conducting hearings scheduled by the State and Local Board. The State and Local Board may establish by majority vote any other rules for the conduct of the business of the State and Local Board, if such rules are not inconsistent with this title or other applicable law.

(e) **POWERS.**—

(1) **HEARINGS.**—

(A) **IN GENERAL.**—The State and Local Board may hold hearings, sit and act at times and places, take testimony, and receive evidence as the State and Local Board considers appropriate to carry out the duties of the State and Local Board under this title. The State and Local Board may administer oaths or affirmations to witnesses appearing before it.

(B) **WITNESS EXPENSES.**—Witnesses requested to appear before the State and Local Board may be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the State and Local Board.

(2) **INFORMATION FROM FEDERAL AGENCIES.**—Subject to sections 552, 552a, and 552b of title 5, United States Code—

(A) the State and Local Board may secure directly from any Federal department or agency information necessary to enable it to carry out this title; and

(B) upon request of the State and Local Board, the head of that department or agency shall furnish the information to the State and Local Board.

(3) **INFORMATION TO BE KEPT CONFIDENTIAL.**—The State and Local Board shall not disclose any information which may compromise an ongoing law enforcement investigation or is otherwise required by law to be kept confidential.

(f) **COMPENSATION.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), each State and Local Board member shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such State and Local Board member is engaged in the performance of the duties of the State and Local Board.

(2) **PROHIBITION OF COMPENSATION FOR GOVERNMENT EMPLOYEES.**—State and Local Board members who serve as officers or employees of the Federal Government or a State or a local government may not receive additional pay, allowances, or benefits by reason of their service on the State and Local Board.

(3) **TRAVEL EXPENSES.**—Each State and Local Board member 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.

#### **SEC. 204. PRESENTATION OF STATE AND LOCAL LAW ENFORCEMENT BADGES.**

(a) **PRESENTATION BY MEMBER OF CONGRESS.**—A Member of Congress may present a State and Local Law Enforcement Badge to any State and Local Law Enforcement Badge recipient who resides in such Member's congressional district. If both a Senator and Representative choose to present a State and Local Law Enforcement Badge, such Senator and Representative shall make a joint presentation.

(b) **PRESENTATION BY ATTORNEY GENERAL.**—If no Member of Congress chooses to present the State and Local Law Enforcement Badge as described in subsection (a), the Attorney General, or a designee of the Attorney General, shall present such State and Local Law Enforcement Badge.

(c) **PRESENTATION ARRANGEMENTS.**—The office of the Member of Congress presenting each State and Local Law Enforcement Badge may make arrangements for the presentation of such State and Local Law Enforcement Badge, and if a Senator and Representative choose to participate jointly as described in subsection (a), the Members shall make joint arrangements. The State and Local Board shall facilitate any such presentation arrangements as requested by the congressional office presenting the State and Local Law Enforcement Badge and shall make arrangements in cases not undertaken by Members of Congress.

#### **TITLE III—CONGRESSIONAL BADGE OF BRAVERY OFFICE**

##### **SEC. 301. CONGRESSIONAL BADGE OF BRAVERY OFFICE.**

(a) **ESTABLISHMENT.**—There is established within the Department of Justice a Congressional Badge of Bravery Office.

(b) **DUTIES.**—The Office shall—

(1) receive nominations from Federal agency heads on behalf of the Federal Board and deliver such nominations to the Federal Board at Federal Board meetings described in section 103(d)(2);

(2) receive nominations from State or local agency heads on behalf of the State and Local Board and deliver such nominations to the State and Local Board at State and Local Board meetings described in section 203(d)(2); and

(3) provide staff support to the Federal Board and the State and Local Board to carry out the duties described in section 103(b) and section 203(b), respectively.

Amend the title so as to read: "A bill to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal, State, and local law enforcement officers."

Mr. DODD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill as amended be read the third time, and passed, the amendment to the title be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2565), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read:

"A bill to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal, State, and local law enforcement officers."

#### **JOHN F. KENNEDY CENTER REAUTHORIZATION ACT OF 2007**

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 765, H.R. 3986.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3986) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

H.R. 3986

*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 "John F. Kennedy Center Reauthorization Act of 2007".]

##### **SEC. 2. TECHNICAL AMENDMENT.**

[Section 2(a)(2)(J)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)(2)(J)(ii)) is amended by striking "Public Works and Transportation" and inserting "Transportation and Infrastructure".]

##### **SEC. 3. PHOTOVOLTAIC SYSTEM.**

[The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended by inserting after section 6 the following:

##### **["SEC. 7. PHOTOVOLTAIC SYSTEM.**

["(a) **IN GENERAL.**—The Board is authorized to study, plan, design, engineer, and construct a photovoltaic system for the main roof of the John F. Kennedy Center for the Performing Arts.

["(b) **REPORT.**—Not later than 60 days before beginning construction of the photovoltaic system pursuant to subsection (a), the Board shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate on the feasibility and design of the project.".]

##### **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

[Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended—

[(1) by striking subsections (a) and (b) and inserting the following:

["(a) **MAINTENANCE, REPAIR, AND SECURITY.**—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

["(1) \$20,200,000 for fiscal year 2008;

["(2) \$21,800,000 for fiscal year 2009; and

["(3) \$22,500,000 for fiscal year 2010.

["(b) **CAPITAL PROJECTS.**—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

["(1) \$23,150,000 for fiscal year 2008;

“(2) \$16,000,000 for fiscal year 2009; and  
 “(3) \$17,000,000 for fiscal year 2010.”; and  
 “(2) by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following:

“(d) PHOTOVOLTAIC SYSTEM.—There are authorized to be appropriated to the Board such sums as may be necessary to carry out section 7, with such sums to remain available until expended.”.

#### SEC. 5. EXISTING AUTHORITIES.

[Nothing in this Act shall be construed to limit or affect the authority or responsibility of the National Capital Planning Commission or the Commission of Fine Arts.]

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “John F. Kennedy Center Reauthorization Act of 2008”.

#### SEC. 2. TECHNICAL AMENDMENT.

Section 2(a)(2)(J)(ii) of the John F. Kennedy Center Act (20 U.S.C. 76h(a)(2)(J)(ii)) is amended by striking “Public Works and Transportation” and inserting “Transportation and Infrastructure”.

#### SEC. 3. PHOTOVOLTAIC SYSTEM.

The John F. Kennedy Center Act is amended by inserting after section 6 (20 U.S.C. 76l) the following:

#### “SEC. 7. PHOTOVOLTAIC SYSTEM.

“(a) IN GENERAL.—The Board may study, plan, design, engineer, and construct a photovoltaic system for the main roof of the John F. Kennedy Center for the Performing Arts.

“(b) REPORT.—Not later than 60 days before beginning construction of the photovoltaic system pursuant to subsection (a), the Board shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the feasibility and design of the project.”.

#### SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

“(1) \$20,200,000 for fiscal year 2008;  
 “(2) \$21,800,000 for fiscal year 2009;  
 “(3) \$22,500,000 for fiscal year 2010;  
 “(4) \$23,500,000 for fiscal year 2011; and  
 “(5) \$24,500,000 for fiscal year 2012.

“(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

“(1) \$23,150,000 for fiscal year 2008;  
 “(2) \$16,000,000 for fiscal year 2009;  
 “(3) \$17,000,000 for fiscal year 2010;  
 “(4) \$17,000,000 for fiscal year 2011; and  
 “(5) \$18,500,000 for fiscal year 2012.”;

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

“(d) PHOTOVOLTAIC SYSTEM.—There are authorized to be appropriated to the Board such sums as are necessary to carry out section 7, to remain available until expended.”.

#### SEC. 5. EXISTING AUTHORITIES.

Nothing in this Act limits or otherwise affects the authority or responsibility of the National Capital Planning Commission or the Commission of Fine Arts.

Mr. DODD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

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

The bill (H.R. 3986), as amended, was read the third time, and passed.

### MARITIME POLLUTION PREVENTION ACT OF 2008

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 828, H.R. 802.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 802) to amend the Act to Prevent Pollution from Ships to implement MARPOL Annex VI.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science and Transportation with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

H.R. 802

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Maritime Pollution Prevention Act of 2008”.

#### SEC. 2. REFERENCES.

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

#### SEC. 3. DEFINITIONS.

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency;”;

(3) in paragraph (5) (as so redesignated) by striking “and V” and inserting “V, and VI”;

(4) in paragraph (6) (as so redesignated) by striking “‘discharge’ and ‘garbage’ and ‘harmful substance’ and ‘incident’” and inserting “‘discharge’, ‘emission’, ‘garbage’, ‘harmful substance’, and ‘incident’”; and

(5) by redesignating paragraphs (7) through (13) (as redesignated) as paragraphs (8) through (14), respectively, and inserting after paragraph (6) (as redesignated) the following:

“(7) ‘navigable waters’ includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States;”.

#### SEC. 4. APPLICABILITY.

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following:

“(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

“(A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;

“(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

“(i) the navigable waters or the exclusive economic zone of the United States;

“(ii) an emission control area designated pursuant to section 4; or

“(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

“(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

“(i) the navigable waters or the exclusive economic zone of the United States;

“(ii) an emission control area designated under section 4; or

“(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

“(D) to any other ship, to the extent that, and in the same manner as, such ship may be boarded by the Secretary to implement or enforce any other law of the United States or Annex I, II, or V of the Convention, and is in—

“(i) the exclusive economic zone of the United States;

“(ii) the navigable waters of the United States;

“(iii) an emission control area designated under section 4; or

“(iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.”;

(2) in subsection (b)—

(A) in paragraph (1) by striking “paragraph (2),” and inserting “paragraphs (2) and (3),”; and

(B) by adding at the end the following:

“(3) With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this Act, may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does not apply during time of war or during a declared national emergency.”;

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

“(c) APPLICATION TO OTHER PERSONS.—This Act shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.”;

(4) in subsection (e), as redesignated—

(A) by inserting “or the Administrator, consistent with section 4 of this Act,” after “Secretary”;

(B) by striking “of section (3),” and inserting “of this section,”; and

(C) by striking “Protocol, including regulations conforming to and giving effect to the requirements of Annex V” and inserting “Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI”; and

(5) by adding at the end thereof the following:

“(i) SAVINGS CLAUSE.—Nothing in this section shall be construed to restrict in a manner inconsistent with international law navigational rights and freedoms as defined by United States law, treaty, convention, or customary international law.”.

#### SEC. 5. ADMINISTRATION AND ENFORCEMENT.

Section 4 (33 U.S.C. 1903) is amended—



(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) the following:

“(b) **DUTY OF THE ADMINISTRATOR.**—In addition to other duties specified in this Act, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

“(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization’s Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116 of title 46, United States Code. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act or regulations prescribed under that Act.

“(2) The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) The Administrator shall, only as specified in section 8(f), have authority to enforce Annex VI of the Convention.”;

(2) in subsection (c), as redesignated, by redesignating paragraph (2) as paragraph (4), and inserting after paragraph (1) the following:

“(2) In addition to the authority the Secretary has to prescribe regulations under this Act, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and with respect to regulation 19, with the Secretary of the Interior.”; and

(3) by adding at the end of subsection (c), as redesignated, the following:

“(5) No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.”.

#### SEC. 6. CERTIFICATES.

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a) by striking “The Secretary” and inserting “Except as provided in section 4(b)(1), the Secretary”;

(2) in subsection (b) by striking “Secretary under the authority of the MARPOL protocol.” and inserting “Secretary or the Administrator under the authority of this Act.”; and

(3) in subsection (e) by striking “environment.” and inserting “environment or the public health and welfare.”.

#### SEC. 7. RECEPTION FACILITIES.

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following:

“(3) The Secretary and the Administrator, after consulting with appropriate Federal agencies, shall jointly prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that reception facilities are available, in accordance with those regulations. The Secretary and the Administrator may jointly prescribe regulations to certify, and may issue certificates to the effect, that a port’s or terminal’s facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.”;

(2) in subsection (b) by inserting “or the Administrator” after “Secretary”;

(3) in subsection (e) by striking paragraph (2) and inserting the following:

“(2) The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this Act, or regulations prescribed under this section relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or those regulations.”;

(4) in subsection (f)(1) by striking “Secretary is” and inserting “Secretary and the Administrator are”; and

(5) in subsection (f)(2) by striking “(A)”.

#### SEC. 8. INSPECTIONS.

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

“(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

“(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

“(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject of the action and in any other matter referred to the Administrator by the Secretary.”.

#### SEC. 9. AMENDMENTS TO THE PROTOCOL.

Section 10(b) (33 U.S.C. 1909(b)) is amended—

(1) by striking “Annex I, II, or V” and inserting “Annex I, II, V, or VI”; and

(2) by inserting “or the Administrator as provided for in this Act,” after “Secretary.”.

#### SEC. 10. PENALTIES.

Section 9 (33 U.S.C. 1908) is amended—

(1) by striking “Protocol,” each place it appears and inserting “Protocol,”;

(2) in subsection (b)—

(A) by inserting “or the Administrator as provided for in this Act,” after “Secretary,” the first place it appears;

(B) in paragraph (2), by inserting “, or the Administrator as provided for in this Act,” after “Secretary”; and

(C) in the matter after paragraph (2)—

(i) by inserting “or the Administrator as provided for in this Act” after “Secretary,” the first place it appears; and

(ii) by inserting “, or the Administrator as provided for in this Act,” after “Secretary” the second and third places it appears;

(3) in subsection (c), by inserting “, or the Administrator as provided for in this Act,” after “Secretary” each place it appears; and

(4) in subsection (f), by inserting “or the Administrator as provided for in this Act” after “Secretary,” the first place appears.

#### SEC. 11. EFFECT ON OTHER LAWS.

Section 15 (33 U.S.C. 1911) is amended to read as follows:

#### “SEC. 15. EFFECT ON OTHER LAWS.

“Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.”.

#### SEC. 12. LEGAL ACTIONS.

Section 11 (33 U.S.C. 1910) is amended—

(1) by redesignating paragraph (3) of subsection (a) as paragraph (4), and inserting after paragraph (2) the following:

“(3) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary; or”;

(2) by striking “concerned,” in subsection (b)(1) and inserting “concerned or the Administrator.”; and

(3) by inserting “or the Administrator” after “Secretary” in subsection (b)(2).

Mr. DODD. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

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

The bill (H.R. 802), as amended, was read the third time and passed.

#### CONGRATULATING THE CALIFORNIA STATE UNIVERSITY, FRESNO BULLDOGS BASEBALL TEAM

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 604, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 604) congratulating the California State University Fresno Bulldogs baseball team for winning the 2008 National Collegiate Athletics Association Division I College World Series.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The resolution (S. Res. 604) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 604

Whereas on June 25, 2008, the student athletes of the California State University, Fresno Bulldogs baseball team, in the sixth elimination game faced by the Fresno State Bulldogs, finished a true Cinderella story season, winning the 2008 National Collegiate Athletics Association Division I College World Series Championship (referred to in this preamble as the “2008 NCAA College World Series”) by defeating the University of Georgia Bulldogs, 2 games to 1, in a best-of-3 championship;

Whereas the 2008 NCAA College World Series is the second championship for the California State University;

Whereas the Fresno State Bulldogs are the lowest-seeded team in college sports history to win a championship;



Whereas the Fresno State Bulldogs won 6 elimination games to win the 2008 NCAA College World Series, which is a testament to the resilience, fortitude, and “never say die” attitude of the team;

Whereas the Fresno State Bulldogs beat number 3-ranked Arizona State University, number 6-ranked Rice University, number 2-ranked University of North Carolina, and number 8-ranked University of Georgia to win the 2008 NCAA College World Series;

Whereas the Fresno State Bulldogs tied the record of most runs, 62, in the College World Series;

Whereas the Fresno State Bulldogs elimination game, a 19-10 win against Georgia just 1 day earlier, produced College World Series records for most runs in a game by 1 team, most combined runs, most hits by 1 team, most combined hits, and longest game;

Whereas the Fresno State Bulldogs played 78 games this year, more than any other team in the United States;

Whereas playing with a torn ligament in his left thumb, right fielder Steve Detwiler had 4 hits in 4 at-bats, including 2 home runs and 6 runs batted in, during the championship game;

Whereas Justin Wilson, the winning pitcher, pitching on just 3 days rest, was able to pitch 129 pitches, 86 of which were strikes over 8 strong innings, allowing just 5 hits, 1 run, and striking out 9 batters;

Whereas Tommy Mendonca, third baseman for the 2008 NCAA College World Series champion Fresno State Bulldogs, was named the “Most Outstanding Player”, tying the College World Series record with 4 home runs;

Whereas the Fresno State Bulldogs have 5 players on the 2008 NCAA College World Series all-tournament team, including third baseman Tommy Mendonca, second baseman Erik Wetzels, outfielder Steve Susdorf, outfielder Steve Detwiler, and pitcher Justin Wilson;

Whereas the Fresno State Bulldogs have shown great character, comradery, resilience, and sportsmanship on the way to winning the national championship;

Whereas the fellow students, families, alumni, faculty, and fans of the Fresno State Bulldogs have been a great part of this championship, showing great support with many individuals wearing “Underdogs to Wonderdogs” t-shirts; and

Whereas the Fresno State Bulldogs have instilled within the City of Fresno and the State of California great pride and excitement: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates the California State University Fresno Bulldogs baseball team for winning the 2008 National Collegiate Athletics Association Division I College World Series; and

(2) recognizes the achievements of the players, coaches, students, and staff whose hard work and dedication made winning the championship possible.

#### 60TH ANNIVERSARY OF THE BERLIN AIRLIFT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 605, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 605) commemorating the 60th anniversary of the Berlin Airlift and honoring the veterans of Operation Vittles.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 605) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 605

Whereas in spring of 1948 Berlin was isolated within the Soviet occupation zone and had only 35 days' worth of food and 45 days' worth of coal remaining for the city;

Whereas military planners in the United States and the United Kingdom determined that 1,534 tons of flour, wheat, fish, milk, and other food items would be required daily to feed the 2,000,000 residents of Berlin;

Whereas military planners determined that 3,475 tons of coal and gasoline would be required daily to keep the city of Berlin heated and powered;

Whereas, on June 1, 1948, the United States Air Force created the Military Air Transport Service, the predecessor to Air Mobility Command, to organize and conduct airlift missions;

Whereas, on June 26, 1948, “Operation Vittles” began when 32 United States Air Force C-47 Dakotas departed West Germany for Berlin hauling 80 tons of cargo, and the first British aircraft launched on June 28, 1948;

Whereas Major General William H. Tunner, a veteran of the aerial supply line over the Himalayas in World War II, took command of “Operation Vittles” on July 28, 1948;

Whereas Major General Tunner pioneered many new and innovative tactics and procedures for the airlift, including the creation of air corridors for ingress and egress, staggering altitudes of the aircraft, and implementing instrument flight rules which allowed aircraft to land as frequently as every 3 minutes;

Whereas one pilot, 1st Lieutenant Gail S. Halvorsen, who became known as the “Candy Bomber”, initiated “Operation Little Vittles” to bring hope to the children of Berlin, by dropping handkerchief parachutes containing chocolate and chewing gum as a symbol of American goodwill, ultimately resulting in more than 3 tons of candy being dropped in more than 250,000 miniature parachutes;

Whereas, on Easter Sunday, April 17, 1949, airlifters reached the pinnacle of “Operation Vittles” by delivering 13,000 tons of cargo, including the equivalent of 600 railroad cars full of coal, setting the single day record for the Berlin Airlift;

Whereas 39 British and 31 American airmen made the ultimate sacrifice during the Berlin Airlift, and 8 British and 17 American aircraft were lost;

Whereas airlifters delivered more than 2,300,000 tons of food and supplies on 278,228 total flights into Berlin;

Whereas the Soviet Union was forced to lift the blockade in light of the success of the 15-month airlift operation;

Whereas the Berlin Airlift marked the first use of airpower to provide hope and humanitarian assistance, and to win a strategic victory against enemy aggression and intimidation;

Whereas the enormous effort and cooperation of the Berlin Airlift laid the foundation for a deep and lasting friendship between the

people of the United States and the people of Germany; and

Whereas, today, air mobility continues to play a vital role in United States foreign policy by helping to advance freedom and alleviate suffering around the world: Now, therefore, be it

*Resolved*, That Congress—

(1) recognizes the 60th anniversary of the Berlin Airlift as the largest and longest running humanitarian airlift operation in history;

(2) honors the service and sacrifice of the men and women who participated in and supported the Berlin Airlift;

(3) commends the close friendship forged between the American, British, and German people through the Berlin Airlift; and

(4) applauds the men and women of the United States Air Force's Air Mobility Command, who, in the best traditions of the Berlin Airlift, still work diligently to provide hope, save lives, and deliver freedom around the world in support of the United States' foreign policy objectives.

#### CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE AND SENATE

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 379, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 379) providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The concurrent resolution (H. Con. Res. 379) was agreed to, as follows:

#### H. CON. RES. 379

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Thursday, June 26, 2008, or Friday, June 27, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 8, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, June 26, 2008, through Friday, July 4, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 7, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House

and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

#### CRIMINAL HISTORY BACKGROUND CHECKS PILOT EXTENSION ACT OF 2008

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3218, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3218) to extend the pilot program for volunteer groups to obtain criminal history background checks.

There being no objection, the Senate proceeded to consider the bill.

Mr. DODD. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the bill be placed in the RECORD.

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

The bill (S. 3218) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3218

*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 "Criminal History Background Checks Pilot Extension Act of 2008".

#### SEC. 2. EXTENSION OF PILOT PROGRAM.

Section 108(a)(3)(A) of the PROTECT Act (42 U.S.C. 5119a note) is amended by striking "a 60-month" and inserting "a 66-month".

#### MEASURES READ THE FIRST TIME—S. 3202, S. 3213, AND H.R. 3195

Mr. DODD. Mr. President, I understand there are three bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title en bloc.

The assistant legislative clerk read as follows:

A bill (S. 3202) to address record high gas prices at the pump, and for other purposes.

A bill (S. 3213) to designate certain land as components of the National Wilderness Preservation System, to authorize certain programs and activities in the Department of the Interior and the Department of Agriculture, and for other purposes.

A bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990.

Mr. DODD. Mr. President, I ask unanimous consent for a second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

#### UNANIMOUS CONSENT AGREEMENT MODIFICATION—H.R. 6304

Mr. DODD. Mr. President, I ask that the consent be modified with respect to Calendar No. 827, H.R. 6304, in the following way: Provided that the Specter and Bingaman amendments be subject to an affirmative 60-vote threshold; and that if they do not achieve that threshold, then they be withdrawn; if they achieve that threshold, then they be agreed to and the motion to reconsider be laid upon the table.

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

#### THANKING THE MAJORITY LEADER AND STAFF

Mr. DODD. Mr. President, let me say before I read this last section, I commend the majority leader. He has had a very trying week. The floor staff and others have done a remarkable job in getting us to this point. I wouldn't want this evening to pass without noting they do not get the recognition they often deserve, but this institution functions because there are a lot of people whose names are never known who make this happen. It is important, as we begin this Independence Day break, that we recognize the remarkable people who function and work every single day in the Senate, the majority leader's staff, and others who have had to weave through this morass of procedural objections that have allowed us to reach the point we have.

We are going to come back in 10 days. I mentioned the housing bill, but also the Foreign Intelligence Surveillance Act is a source of significant controversy. While I have serious objections to it, and appreciate the opportunity I will have to strike section 2 of that bill dealing with retroactive immunity, I want the record to reflect the deep appreciation I have for the majority leader—I know others do as well—for the way in which he and his office have allowed us to achieve the results we have up to this point.

#### ORDERS FOR FRIDAY, JUNE 27, 2008

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:45 a.m. tomorrow, Friday, June 27; 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 proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each; I further ask that the cloture vote on the motion to concur with respect to H.R. 3221 occur at 5:30 p.m. Monday, July 7, and that the postcloture time count as if the vote had occurred at 5 p.m.

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

#### PROGRAM

Mr. DODD. Mr. President, there will be no rollcall votes tomorrow. The next vote will occur at 5:30 p.m. on Monday, July 7.

#### ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. DODD. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 10:58 p.m., adjourned until Friday, June 27, 2008, at 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### FARM CREDIT ADMINISTRATION

MARK EVERETT KEENUM, OF MISSISSIPPI, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2014, VICE NANCY C. PELLETT, TERM EXPIRED.

##### DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOSEPH F. BADER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 2012. (REAPPOINTMENT)

##### DEPARTMENT OF THE TREASURY

RICHARD A. ANDERSON, OF GEORGIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2013, VICE PAUL JONES, TERM EXPIRING.

##### DEPARTMENT OF STATE

MATTHEW A. REYNOLDS, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF STATE (LEGISLATIVE AFFAIRS), VICE JEFFREY THOMAS BERGNER, RESIGNED.

##### FEDERAL MINE SAFETY AND HEALTH ADMINISTRATION

MARY LUCILLE JORDAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2014. (REAPPOINTMENT)

##### BROADCASTING BOARD OF GOVERNORS

PETER ROBERT KANN, OF NEW JERSEY, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2010, VICE JAMES K. GLASSMAN, RESIGNED.

MICHAEL MEEHAN, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2010, VICE D. JEFFREY HIRSCHBERG, TERM EXPIRED.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

##### To be lieutenant colonel

TAMERA A. HERZOG

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

##### To be major

KERI L. AZUAR  
JEREMY S. BRAGDON  
ROBERTO D. CALDERON  
STEPHEN J. FENTON  
TODD W. GRAY  
TODD R. GREGNER  
GREGG G. MARTYAK  
TIMOTHY M. ROWLAND  
KHURRAM M. SHAHZAD  
JONATHAN STREETER  
DANIEL L. TARBOX  
PAMELA P. WARDDEMO

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

##### To be lieutenant colonel

BRYAN K. WOOD

CONFIRMATIONS

Executive nominations confirmed by  
the Senate Thursday, June 26, 2008:

THE JUDICIARY

WILLIAM T. LAWRENCE, OF INDIANA, TO BE UNITED  
STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT  
OF INDIANA.

G. MURRAY SNOW, OF ARIZONA, TO BE UNITED STATES  
DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

WITHDRAWAL

Executive Message transmitted by  
the President to the Senate on June 26,

2008 withdrawing from further Senate  
consideration the following nomina-  
tion:

D. JEFFREY HIRSCHBERG, OF WISCONSIN, TO BE A  
MEMBER OF THE BROADCASTING BOARD OF GOVERNORS  
FOR A TERM EXPIRING AUGUST 13, 2007, (REAPPOINT-  
MENT), WHICH WAS SENT TO THE SENATE ON JANUARY 9,  
2007.