United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, THURSDAY, JULY 16, 2009 *No. 107*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

O God, our refuge and strength whose compassion encompasses humanity and whose mercy never fails, empower our Senators to be partners with You in Your redeeming purposes for this Earth. Remind them that the only greatness they will ever know is linked to Your transforming might. As they strive to please You, make them seekers after peace, justice, and freedom. Transform this storied Chamber of our legislative branch into a place of vision, a lighthouse of hope, and a source of solace for those battered by the raging floods of life. May the Members of this body become architects of a new order of peace and justice for the people of our world.

We pray in your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 2009.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, there will be a period of morning business today for 1 hour. The Republicans will control the first 30 minutes, and the majority will control the second 30 minutes.

Following that morning business, the Senate will resume consideration of the Defense bill. Today we have two matters that are pending. One is the F–22. In the bill there is a provision to provide an extra $1.75 billion for more F–22s. Senators LEVIN and MCCAIN, the two managers of the bill, have offered an amendment to strike that. I would hope we can have a vote on that today. That has been pending for several days. In addition to that amendment, we will have a vote in the next 14 hours on the hate crime amendment to this legislation. We can either do it earlier today or after midnight tonight, but we are going to do it before we adjourn here today.

HONORING THE CAPITOL POLICE

Mr. REID. Madam President, I have five children. As they have grown, we have moved on a number of occasions. But I have been able to keep, as one of my prized possessions and bring back memories of my younger days, a number of things. If you have children, as the Presiding Officer knows, it is hard to keep things from being broken or misplaced. But I have a number of things I have been able to keep. One is the badge I wore when I was a Capitol policeman here on Capitol Hill. I still have that. It is in my conference room, and occasionally I will look up and see it. It reminds me of my days here in a different capacity as a police officer.

I came to Washington, DC, as a young man to get my law degree. I had a wife and a little baby. I worked from 3 to 11 every night except Sunday. I went to law school full time. But my time as a Capitol policeman was something I will always remember. We did not have the training the police officers have today. That is a gross understatement. We had very little training. But I carried my six-shooter and my uniform, of which I still have some pictures. I am very proud of that. I did not do anything dangerous. I have said here on the Senate floor before, the most dangerous thing I did was direct traffic. I say that because the old streetcar tracks caused the cars to bounce around, and you sometimes would wonder if they would get you because they were going fast up Constitution.

So having had little experience as a police officer, in the sense that we now see these police officers protecting us, I have a deep and genuine appreciation for the sacrifice the men and women who are Capitol police officers make. When I was a Capitol policeman—all men, no women. But now, all over the Capitol complex, there are hundreds of women who help protect us.

The reason I make this brief introduction is yesterday afternoon, our Capitol police once again did their jobs with great bravery and skill. Fortuitously, this came at such an interesting time. Next week, a week from tomorrow, we are going to have a ceremony here in the Capitol, as we do every year—I believe this is the 11th year—where we recognize the bravery

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

of two Capitol police officers who were killed, Officers Chestnut and Gibson.

Gibson I knew. We were on a Senate retreat in Virginia, and my wife became ill. Gibson is the man who ran with all of the paraphernalia to make sure she was going to be OK. He was profusely perspiring. I can still remember very clearly this wonderful hardworking man. He came to save my wife.

Well, these two officers were killed. In the process of their being murdered by a madman, we do not know how many people's lives were saved in the Capitol complex. But it was the impetus that caused us to complete this great Capitol Visitor Center that we have, in the sacrifice that they certainly did not intend to make but they did make because of their training and skill.

Yesterday, an armed man fled a traffic stop, driving erratically around Capitol Hill. We do not know all of the details, but we do know that he struck a parked car, we understand now a motorcycle and a police car, a Capitol police car, and he almost ran over two police officers.

But when he got out of the car, a block from where we are right now, he came with an Uzi-type weapon, semiautomatic weapon, and started firing at the police and anyone else around them.

Fortunately, the Capitol police officers stopped him before he had a chance to do any harm. He was shot numerous times as was required under the circumstances. But the interesting part about this is what did the police officers do when the firing stopped, when they could no longer hear the bullets. They immediately ran over and administered first aid to this domestic terrorist. They tried to save the life of a man who seconds earlier tried to take theirs.

I do not know how we define heroism, but I think that is a pretty good description. An investigation is, of course, underway. We do not know all of the details, nor can we know how many lives these officers saved yesterday. And we cannot sufficiently thank them for what they did. But on behalf of the entire Senate, we appreciate each of them. I admire what you do. Wherever we go on this Capitol complex, there are people looking over us. That is not the way it always was, but now with terrorism, with there being a war that is being waged against our great country, we have had to have all of these police officers protect not only us but all of the people who come here on a daily basis.

We have people whom we can see in uniform. We have people we do not know are police officers; they are in plain clothing. We deeply value the honorable work these men and women do for us every day, putting their lives on the line to protect people they do not know.

RECOGNITION OF THE MINORITY LEADER

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

HONORING THE CAPITOL POLICE

Mr. MCCONNELL. Madam President, I join my colleague, the majority leader, in extending my appreciation this morning to our marvelous Capitol police force. We were reminded in a very vivid way yesterday that they are on constant alert and that they are in constant danger.

Fortunately, incidents such as the one that took place yesterday are rare. We are all glad for that. And we are glad we have such a professional, well-trained, and courageous group of men and women to keep us safe day in and day out. They are always ready. On behalf of the entire Senate family, I want to express my appreciation for their hard work and their courage in the line of duty.

HEALTH CARE WK VI, DAY IV

Mr. MCCONNELL. Mr. President, for the past several weeks I have come down to the Senate floor just about every day we have been in session, and I have brought a simple message: Americans want health care reform, and both parties want to deliver that reform. What Americans do not want is a government takeover masked as a reform that leaves them paying more for less. And they don't want us to rush something as important and as personal as health care reform just to have something to brag about at a parade or a press conference.

So it was perplexing to hear the President say yesterday that the ''status quo . . . is not an option.'' I cannot think of a single person in Washington who disagrees with that statement. No one is defending the status quo, no one. What we are defending is the right of the American people to know what they are getting into: the exact details and the cost.

That leads me to another distressing aspect of the administration's approach to this debate, the artificial timeline for reform. The President has said he wants to see a health care reform bill out of the Senate in 3 weeks and on his desk in October. His rationale seems to be the same as it was during the debate over the stimulus. The economy's in bad shape, so health care reform has to happen right away.

Certainly the two are connected. But the problem is that many of the Democrat proposals we have seen would not make the situation better, they would make it even worse. And due to our current financial situation, we need to be even more careful about how we spend our money, not less. We saw the consequences of carelessness on the stimulus bill. We rushed that, and Americans got burned. We must not make that mistake again.

But we can start with a point of real agreement: Americans want reform, but they want us to be careful.

An artificial deadline virtually guarantees a defective product—virtually guarantees a defective product. Look no further than the drafts coming out of the House and Senate this very week. Both of them are shot through with weaknesses and deficiencies typical of a rush job. First, they cost way too much. According to early estimates, the House bill would cost more than $1 trillion over the next 10 years and yet—listen to this—it still wouldn't cover all the uninsured; $1 trillion and it wouldn't cover all the uninsured. It includes a new tax on small business that could keep companies from hiring low-wage employees. It creates a new nationwide government-run health plan that could force millions off their current insurance. One of the worst parts is that advocates of the House bill want small businesses and seniors to pay for it; small businesses and seniors they want to pay for it. Businesses would pay through new taxes, seniors through cuts to Medicare, cuts that hospitals in my home State simply cannot sustain.

I have talked to the hospitals in Kentucky that are worried about the impact these Medicare cuts would have on the services Kentucky hospitals currently provide to seniors. I encourage all of my colleagues to talk to the people who care for patients day in and day out at hospitals in their own States and see what they have to say about this proposal. It may be a lot different than what some of the interest groups here in Washington are saying.

Small businesses are worried too. At a time when the unemployment rate is already approaching 10 percent, the new tax on small business will inevitably lead to even more job losses. Business groups across the country that have seen the details of the House bill are warning that it would certainly kill jobs. Under the House bill, taxes on some small businesses could rise as high as roughly 45 percent. Let me say that again: Taxes on small business up to 45 percent, meaning their tax rate would be about 30 percent higher than the rate for big corporations. So small businesses, which have created approximately two out of three new jobs over the past decade, get a bigger tax increase than big corporations. It is worth asking why small businesses, which created about two-thirds of the new jobs in this country over the last 10 years, get hit so hard under the House bill. Is it because they can't fight back as hard as big businesses? Either way, the House bill would lead to some small businesses paying higher taxes than big businesses, even though the U.S. corporate rate for all of our corporations is already one of the highest in the world.

The Senate bill is as bad. As currently written, the HELP Committee bill would increase the Federal deficit by at least $645 billion, at least that

much. If we add all the Medicaid changes the HELP Committee anticipates, it increases the Federal deficit by more than $1 trillion at a time when we are already spending about $500 million a day on interest on the national debt so far this year—$500 million a day in interest on the national debt so far this year. It too would kill jobs by requiring businesses to either insure all of their employees or pay a tax if they do not. It would levy a tax on those Americans who don't have or cannot afford health insurance. It also fails to reform malpractice laws. It spends billions of dollars on projects unrelated to the crisis at hand. It forces millions of Americans off of their current plans—forces millions of Americans off of their current plans—despite repeated assurances from the administration that it does not. And like the House bill, it creates a nationwide government plan that could lead to the same kind of denial, delay, and rationing of care that we see in other countries.

Health care reform is vital but it is not easy. If the House bill and the HELP bill are any indication, it is certainly not something that should be rushed. Both bills are too expensive, particularly for small businesses and seniors. They are too disruptive of the health care Americans currently have, and they are ineffective in addressing the health care problem in its entirety.

Americans have a right to expect that we will take enough time on this legislation not to make the same mistake we made on the stimulus. The House and Senate bills we have seen this week show we are not there yet, not even close. We need to slow down and let the American people see what they are getting into with these so-called reforms. We all want reform, but we want the right reform.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half.

The Senator from Tennessee.

HEALTH CARE REFORM

Mr. CORKER. Madam President, I rise to speak about where we find ourselves today. This is a momentous time in our country's history, as all of us in both bodies on both sides of the aisle find ourselves focused on the issue of health care reform. In the middle 1990s, I had the tremendous honor of serving the State of Tennessee in a position that allowed me to oversee the State's Medicaid Program and many other programs in our State that focused on the needs of many of the underserved. Since that time, I have been convinced that we, all of us, have a moral responsibility to do everything we can to ensure that Americans of all walks of life have the opportunity for affordable, quality private health insurance.

I have probably attended 50 meetings in the last 90 days working with others toward that end. I am convinced that there are at least 90 people in this body who share the goal of ensuring that Americans of all walks of life have the opportunity for affordable quality health care. It is my hope that we will end up with a bipartisan solution.

I have been disappointed in the results, though, of legislation that has come forward thus far. My sense is that the House of Representatives is promoting a bill that does not meet the mark. The HELP Committee just passed out, on a party-line vote, a bill that, again, does not meet the mark. What concerns me is there are so much that we could agree on, yet we tend to focus on what is out of bounds and does not take us to the place we would all like to be. It is to that end that I rise to talk about this issue.

All of us know that our country has seen unprecedented debt levels. The leader of the Senate Republicans just spoke about that issue. The President in some ways found himself in this place, but on the other hand, since being in office, he has accumulated debt on top of debt for future generations. All of us understand that our biggest obligations exist in entitlements, with Medicare and Social Security. Most of us thought, as we came into this Congress, that one of our major focuses would have to be to get entitlements under control so that while we are doing this unprecedented short-term spending, which I oppose, at least the world community would realize we are trying to tackle our long-term obligations so they would continue to buy our bonds in order that we could go on here in this country.

I hoped strongly we would focus on that, and last Congress we had a bipartisan bill, by the way, supported by Republicans and Democrats, to do that.

What has happened, though—and this is pretty unfathomable to me—is that during health care reform, what has been focused on is Medicare, which has a $38 trillion unfunded liability, a program where the trustees have said that it is insolvent and is going to go into the hole in a huge way in 8 years. What is being discussed in this body, and what has already been agreed to by many on the House side, is taking money from Medicare, a program which is insolvent, one that, instead of taking money from, we should be trying to make solvent, but we are taking money from that program to create a whole new set of entitlements that will add incredible amounts of debt to our country's balance sheet.

It is almost unfathomable to believe that people in this body would be looking to make a program that is insolvent even more insolvent by leveraging it to create another program.

For that reason, because I know the Finance Committee is in meetings, in small groups but also as a committee, to try to figure out a way to solve this health care problem—and it is my hope that they will do it in a way that makes sense, in a way that builds bipartisan support—I have delivered today to the majority leader a letter signed by 35 Senators making this body, making the President aware of the fact that we will not support further jeopardizing the Medicare Program by using it to leverage a new entitlement. It is my hope that in delivering this letter, while we have 35 signatures at this moment, there will be more added. While these are all Republican signatures, I actually think there are many on the other side of the aisle who question leveraging an insolvent program for a new program. I have delivered this letter in the hopes that the Finance Committee, the leadership on the Democratic side of the Senate, and the President will seek a solution that is different than taking money from this insolvent program that aids our seniors to create a new entitlement.

One of the most discouraging issues is, it is my understanding—and I hope I am wrong—that the folks who are talking about using Medicare money to create a new entitlement are not even dealing with SGR. Every 18 months, we sit down and discuss the doc fix. Doctors all across the country call us wanting to make sure that their payments are not going to be cut by 21 percent this year. So each year we kick the can down the road and solve that for a year, year and a half, because of budgetary constraints. It is my understanding that what is being discussed at this moment is taking money from Medicare, leveraging a new program which will add increasing debt, and not solving that problem even during the 10-year budget window this legislation will deal with.

Again, I have attended every meeting I have been asked to. I went to the White House yesterday. I met with a bipartisan group last night. I believe that this country does need to figure out a way so that all Americans can access affordable quality health care. I know all Americans are concerned about the cost of health care. I stand here as one Senator committed to

doing that in the right way, but I also stand here with 35 other Senators saying that to do that and make another program that exists more insolvent is not acceptable. I oppose that. I hope that is not used to create a new entitlement.

Madam President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. NELSON of Nebraska. Madam President, I also ask unanimous consent that the Republican time be preserved.

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

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent to have about 6 minutes to address the body on national defense.

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

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. NELSON of Nebraska. Madam President, I wish to begin my comments on this year's national defense authorization by first thanking all the members of the Personnel Subcommittee. And I particularly would like to thank the subcommittee's ranking member, Senator LINDSEY GRAHAM. He and I have worked together for several years on this subcommittee, changing the chairmanship back and forth, and I have always found our time on the subcommittee is decidedly nonpartisan, bipartisan, regardless of who currently chairs it.

All the Members of the Personnel Subcommittee strive to do what is right by servicemembers and their families, and any disagreements we have are minimal, and are always focused on how best to serve those who serve us.

The annual National Defense Authorization Act is one of the most important pieces of legislation that Congress passes every year. It provides authority for everything the Department of Defense does, from the ships and planes it buys, to the pay and compensation of servicemembers, to retirement and disability benefits. So I look forward to this year, once again, passing a Defense Authorization Act for the 48th year in a row.

As in past years, the committee has focused heavily on personnel issues, including taking care of the families of servicemembers. There is an old axiom in the military that you recruit the soldier but you retain the family. So providing support to those families is more important now than ever before. I am happy with the bill, and I recommend it to my fellow Senators. I wish to emphasize that the committee also voted this bill out of committee unanimously.

The bill before us authorizes $135.6 billion for military personnel, including pay, allowances, bonuses, death benefits, and permanent change of station moves. The bill contains many important provisions that will improve the quality of life of our men and women in uniform and their families.

First and foremost, the bill would authorize a 3.4-percent pay raise, which is half a percent higher than the increase in the Employment Cost Index and the administration's request and reauthorizes over 25 types of bonuses and special pays aimed at encouraging enlistment and reenlistment.

The bill also addresses the administration's request to increase the permanent end strengths of all the services over last year's authorization. The bill authorizes fiscal year 2010 end strengths of 547,400 for the Army; 202,100 for the Marine Corps; 331,700 for the Air Force; and 328,800 for the Navy. The Active Duty end strength of every service will increase over last year's levels. Moreover, the bill authorizes additional Army Active Duty end strength in fiscal years 2011 and 2012, if needed.

The bill also authorizes pay for travel and transportation expenses for Reserve component members to go home when training has been suspended at their temporary duty station. Operation Airlift, as we call it, came to my attention when members of the 110th Medical Battalion, based in Lincoln, NE, were stranded at Fort Lewis, WA, when training was suspended and the base was shut down for the holidays. Military rules prohibited using military funds to pay for their travel back to Nebraska until training resumed. This measure addresses this problem which has occurred in many other States and to many other reservists and guardsmen and demands that the military commands appropriately plan and schedule training exercises.

The bill also supports the continued provision of world-class health care to our servicemembers and their families, authorizing $27.9 billion for the Defense Health Program.

The bill authorizes TRICARE standard coverage for National Guard and Reserve retirees previously in an uncovered so-called gray area. The TRICARE gray area retiree measure ensures nearly 225,226 eligible retirees nationwide will have the opportunity to purchase coverage under the military's TRICARE health care program.

In support of our increasing number of wounded warriors, the bill authorizes special compensation for caregivers for the time and assistance they provide to servicemembers with combat-related catastrophic injuries or illnesses requiring assistance in everyday living. Additional support is provided through this bill which authorizes travel and transportation allowances for nonmedical attendants of very seriously wounded, ill or injured servicemembers.

To ensure we continue to increase the care of our wounded warriors, this bill requires the establishment of a task force to assess the effectiveness of the policies and programs to assist and support the care, management, and transition of recovering wounded, ill, and injured servicemembers.

To help resolve the dire shortage of physicians needed to care for the mental health of combat proven servicemembers, the bill authorizes the service Secretaries to add up to 25 officers each year as students at accredited schools of psychology for training leading to the degree of doctor of psychology in clinical psychology. In an effort to ensure our servicemembers get the mental health care they need and to help overcome the stigma associated with seeking mental health care, the bill requires person-to-person mental health assessments at designated intervals for servicemembers deployed in connection with contingency operations.

The bill also requires initiatives to increase the number of military and civilian behavioral health personnel at the Department of Defense.

Continuing our efforts to support wounded warriors and their families, the bill requires the Secretary of Defense to undertake a comprehensive assessment of the impacts of military deployment on dependent children of servicemembers, and a review of the mental health care and counseling services available to military children.

Finally, the bill authorizes $45 million in impact aid to local school districts, including $5 million for educational services for severely disabled children, and $10 million for districts experiencing rapid increases in the number of students due to rebasing, activation of new military units or base realignment and closure.

These are just some of the highlights. There were over 60 legislative provisions affecting personnel policy, pay, end strength, health care, and family support. It is paramount we take care of our servicemembers by ensuring their pay and compensation is what it should be, and needs to be, to sustain the All-Volunteer Force and enable them to fight and win the Nation's wars and to take care of them and their families when they return home injured and wounded.

So, again, I would like to thank Senator GRAHAM and all the members of the Personnel Subcommittee of the Armed Services Committee. I look forward to working with our colleagues to pass this extremely important legislation as we continue the process of authorization of the parent bill.

With that, I conclude my remarks.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Madam President, I understand we have up to 10 minutes each?

The ACTING PRESIDENT pro tempore. That is correct.

(The remarks of Ms. LANDRIEU pertaining to the introduction of S. 1458 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

FOREIGN ADOPTED CHILDREN EQUALITY ACT

Ms. LANDRIEU. Madam President, I wish to speak for a moment about another bill Senator INHOFE and I introduced earlier: the Foreign Adopted Children Equality Act. This would make a small but important change in the way orphans are identified or classified when they are adopted overseas so that they can become automatic citizens.

I was very proud to work with Senator KENNEDY on this issue, with Senator Don Nickles from Oklahoma when he served in the body. We worked very hard to find a way, when families go overseas to adopt, once that adoption is final—we believe the active adoption itself puts that child in automatic custody of that parent. That parent, being an American citizen, should automatically be able to transfer that citizenship to that adopted child just as if you are born in the United States to an American citizen or you are born in the United States, you are an automatic American citizen; and most certainly if you are born overseas, but if your parents are citizens, you are an automatic citizen of the United States. You don't need any extra paperwork done on your behalf because we believe the act of adoption should be treated the same way as the act of birth. We believe this right should be transferred to orphan children adopted overseas.

Right now, there is a little bit of a glitch in the law that is not allowing this. This act would correct that.

I will finally end with one of my most wonderful memories of my time in the Senate, which was in Faneuil Hall in Boston with Senator KENNEDY and with Congressman DELAHUNT, when we, on one special day, were able to swear in as citizens of the United States thousands of children who had been waiting to become citizens, having been adopted by American families. That was a very proud moment of mine and something many of us worked on. But this bill will take that to a new level. When families travel overseas to adopt, as my sister and many relatives and friends of Members of Congress took the opportunity to do, at the time the adoption is official in that country, the child becomes an automatic citizen of the United States, which is a great benefit.

As I grow older in my life, I realize what an extraordinary privilege it is to be a citizen of the United States of America. So as our families adopt, that citizenship will be automatically transferred to their adopted children.

So I thank you. Again, it is the Foreign Adopted Children Equality Act I am speaking about this morning and introducing for consideration of the body the Families for Orphans Act.

Thank you, Madam President. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Madam President, I ask unanimous consent that I be recognized for 20 minutes in morning business.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

HEALTH CARE REFORM

Mr. CASEY. Madam President, I rise to speak of two topics. The first is health care.

We had a significant development yesterday in the Health, Education, Labor, and Pensions Committee, of which I am a member, where we actually voted the bill out of the committee. It is the first time in many years that a major piece of health care legislation, other than major initiatives such as children's health insurance, has been voted out of the Senate committee.

We have a long way to go. We have the Senate Finance Committee working on this, the House is working on this, and President Obama has made this a major priority of his administration and I believe part of his economic recovery short-term and especially long-term. I commend two people for their work: Chairman DODD, working in place of our chairman, Senator KENNEDY. Between the two of them, they did a great job of leading this effort, not just in the course of some 60 hours of hearings and probably another 20 or more hours prior to the hearings—prior to the markup when we were offering amendments—but many months and weeks and, in the case of both of these Senators, years working on health care. I also commend the staffs, and my staff, especially Morna Murray, who did great work.

I say all that because it was a significant development. We know it is just one chapter in a long book. We have a long way to go. I think it is significant that a bill is out of a committee and moving through the Senate.

I wish to focus in particular on a couple of aspects of the bill and then move to some reactions on the question of health care that we get from across Pennsylvania.

The bill itself has as its foundation this principle: The status quo is not only unacceptable, it is, in fact, unsustainable. We cannot continue to ignore the issue of health care. We have to act on it this year—not next year or the year after but this year, 2009—at long last tackling a problem the American people have been debating for decades now across the country. Now we have a President who is leading, with the opportunity to finally make progress.

The bill does a lot. First, as part of its foundation, it covers 97 percent of the American people. It is critical that we make that part of the final bill. Secondly, in terms of the overall impact of the bill, it will reduce costs, it will preserve choices, and it will, in fact, enhance quality. All of the issues we have talked about for years are now going to be part of this bill.

People have been frustrated by the unfairness of the failure of insurance companies to cover preexisting conditions. It is right there in the bill. Preexisting conditions, in the bill, will no longer be a bar to treatment and to the curing of disease and the treatment of individuals.

It also has as a foundation to it the question of what to do to preserve choice? The American people have a right to not only keep the health care they like, but also they should have a choice—if they don't like what they have or if they have no insurance at all, they ought to be given a choice. I believe part of that choice isn't just within the framework of private insurance, the insurance companies, but, in fact, a public option, preserving not just choice for the American people but also enhancing competition and bringing down costs. That is essential. Even as we are concerned about the almost 50 million Americans, including 5 million children, who don't have coverage, we have to make sure we are preserving that choice.

So reducing costs, preserving choice, and enhancing quality are very much a part of the bill that does change the status quo. At some point, people in Washington are going to have to join one team or the other—the status quo team, the ''can't do it now, satisfied with the current system'' team, or the side of changing the status quo, the side of reform, the team that is working with President Obama to at long last address the question of quality, the question of access, and the question of bringing down the cost of care for our families and our businesses. So they have to choose their team. In my judgment, there are two teams: the status quo team and the reform change team with President Obama.

I wish to highlight just two excerpts of letters I have received from constituents in Pennsylvania. I will read a sentence from each. Before I do that, I want to cite an element of one recent report. This is a recent report from Families USA. I will read one line to make this point:

. . . 44,230 more people are losing health care coverage each week.

That is 44,230 people, every single week, who are losing their health insurance. With that data staring us in the face—and you can point to other data in Pennsylvania and across the country—can anyone really make the argument that we should slow down and maybe not get this done this year, wait a little longer, a year, another 2 years? In fact, if you do that, you are talking about waiting 10 or 20 years. We cannot do that. We have to act with a sense of urgency and a sense of common purpose.

I will read two lines from two letters. One is from a gentleman in Pennsylvania and, secondly, a letter from another constituent of mine. They put this into sharp focus. This letter says, in part:

I, for one, find it impossible to understand how the Nation that sent men to the moon, invented atomic energy, and won the largest conflict in history [a reference to World War II] cannot provide the basic right to medical care to all, and most importantly, its neediest citizens.

That is a pretty wise summation of why we have to get this done this year.

Here is a brief line from another letter I received from a constituent in Pennsylvania. She speaks of the economic pressure she and so many families feel with the status quo, the current health care system:

I am only trying to keep my family from becoming another statistic.

Another statistic like 44,230 families losing their health care coverage every single week, a statistic like the number of families going into bankruptcy every week and every month because of one issue principally for many families—not all but many—the issue of health care.

I think we have to remember the wisdom and also the real-life experiences of the people who write to me, representing Pennsylvania, or any other State.

I have two more points.

The question is of premiums. There was a recent report that indicates that if we don't take action on the issue of health care reform, if we don't act now and finally, at long last deal with quality, cost, access, and preserving choice—this is a report by the New America Foundation, issued at the end of last year. It said:

In Pennsylvania, family health insurance with a price tag of $26,879 in 2016 would consume 51.7 percent of the projected Pennsylvania median family income.

The national number is very similar to that. So if you look at it over a 10-year period or an 8-year period, what we are looking at here, if we don't tackle this issue, is families in Pennsylvania and across the country will be paying half or more than half of their income for health care. That is the reality. That is why there is a sense of urgency and purpose and a resolute focus on this issue this year. We cannot sustain this. Our economy cannot continue to go in this direction. We have to begin to tackle it this year.

Finally, before I move to my second topic, is the issue of children. I have made, along with Senator DODD and so many others—this a central priority when we are doing health care reform. We are very happy this bill is moving forward, that health care is in sharp focus. One of the things we have to make sure of as we move through the process is that no children, especially poor children and those with special needs, come out of this worse off than they have been. One of my themes is ''No child worse off.'' Just four words: ''No child worse off.'' I add as a corollary: especially poor and special needs children.

Unfortunately, we have some ideas in Washington floating around that run contrary to that. I urge those who are ignoring the question of children, who are forgetting about the impact of this bill on children—and it is a very positive impact—to remember that line from Scripture where it says that ''a faithful friend is a sturdy shelter.'' We have a lot of people in Washington who do a lot of talking about being a friend of children, being advocates for children, and standing up for children. It is wonderful that they say that. But if we are going to prove ourselves to be a faithful friend to children by being that sturdy shelter that protects them, not only from the ravages of a bad economy, not only from the other horrors so many children face, but even protecting them from unintended consequences of health care legislation, if that is what we say we are going to do, we should prove it through the work we do in the bill.

I have a couple of points about that. One of the things I worked very hard on in the bill, working with Senator DODD, was to make sure that enrollment in care, either through the so-called gateway, which is part of the health care bill, or through Medicaid or CHIP, is done in a way that we are actively assisting—actively assisting—families to get them enrolled and not just saying: You are on your own and try to figure it out—actively seeking to help families, especially poor families, get enrolled.

I have worked with Senator DODD on a requirement that pediatric preventive care be included in the list of mandatory preventive services that insurance plans offer, with minimum cost-sharing requirements for families.

I have also worked with Senator DODD on ensuring that medical homes—which, as we know, is not a place but an approach to care, patient- and family-centered care that is comprehensive and coordinated; that is what I mean by ''medical home''—that there is a medical home as well for children. Pediatric medical homes for children are part of the bill.

Finally, we ensure the establishment of an oral health care prevention education campaign at the Centers for Disease Control focusing on preventive measures targeted toward children and pregnant women.

For all these reasons and more, we have to continue to focus on getting health care legislation passed at long last.

I was honored to be with the Presiding Officer yesterday at a discussion about preventive health care. That is a central part of this bill. I commend her work in this area. It is a central feature of this health care bill.

GLOBAL FOOD SECURITY

Mr. CASEY. Madam President, let me move to a second topic in the remaining time I have, in addition to health care, and that is actually a related issue, the issue of hunger and food security, but on the scale of the world, the international stage. I wish to speak briefly on the subject of a significant achievement from last week's G8 summit held in Italy.

The G8 leaders agreed to commit $20 billion over the next 3 years to international agricultural development, of which the United States will pledge a minimum of $3.5 billion over this period.

As the President, the White House, noted, that comprises more than doubling of current U.S. levels of agricultural development assistance and represents a dramatic shift in the way our government conceives of global food security.

For too long, the United States has relied on the traditional emergency aid model, a testament, of course, to the charity and generosity of the American people, but also an inefficient and often delayed response to hunger overseas.

A real investment in international agricultural development can help the developing world grow self-sufficient in agriculture and provide a livelihood for the significant share of the population that are small farmers across the world.

Everyone is familiar with the old saying: Give a man a fish and you feed him for today. Teach a man to fish, and you have fed him for a lifetime. We should bear that in mind when we think about this policy of global food security. That is exactly what the international community, led by the G8 and President Obama, is seeking to do, with an emphasis on several key principles, at least three: strategic coordination of assistance to ensure that aid is provided in a fashion that maximizes effectiveness and efficiency; investment in country-owned plans to provide genuine domestic ownership and inclusion of benchmarks and other standards of accountability; and a sustained commitment with follow-through at future summits to ensure

that the leading States are carrying through on their pledges.

This G8 initiative is a complement to the Global Food Security Act, introduced earlier this year by the ranking member of the Senate Foreign Relations Committee, Senator LUGAR, and myself. As of today, eight other Members have cosponsored the Global Food Security Act, and I was pleased that Secretary of State Clinton recently offered her general endorsement of this legislation.

This bill would achieve three major objectives. No. 1, enhance coordination within the U.S. Government so that USAID, the Agriculture Department, and other entities are not working at cross-purposes. We do that by establishing a new position, a special coordinator for food security, in the White House who would report directly to the President and would forge a comprehensive U.S. food security strategy.

No. 2, the bill expands U.S. investment in the agricultural productivity of developing nations so that nations facing escalating food prices can rely on emergency food assistance and instead take steps to expand their own crop production. A leading agricultural expert recently estimated that every dollar invested in agricultural R&D generates $9 worth of food in the developing world.

I am grateful to Senator LUGAR for his bold proposal by the acronym HECTARE to establish a network of universities around the world to cooperate on agricultural research.

No. 3, the bill would modernize our system of emergency food assistance so that it is more flexible and can provide aid on short notice. We do this by authorizing a new $500 million fund for U.S. emergency food assistance.

This bill has been worked on and marked up in the Foreign Relations Committee and reported out. I am working with Senator LUGAR to bring this legislation to the floor so the full Senate can take it up and pass it.

We should not wait—as I said about health care earlier—we should not wait for another massive food crisis such as the one that hit the world last summer, before taking action on this legislation. Global food security is not only a humanitarian issue, of course—and that is of immense proportions—but it is also a national and international security issue. Hunger breeds instability, and instability can set the stage for failed states.

Madam 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 bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, I ask to speak in morning business.

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

ENGAGING THE ISSUES

Mr. DURBIN. Madam President, there are many things going on in the Capitol today. As a member of the Senate Judiciary Committee, I left the confirmation hearing of Judge Sonia Sotomayor, President Obama's nominee to the Supreme Court. I believe this is her fourth day of hearings before the committee. It appears we will be able to wrap up today or perhaps tomorrow.

I think she has done an extraordinarily good job. She comes to this nomination with a remarkable life story: rising from public housing in the Bronx, NY, losing her father when she was 9 years old, being raised by a determined and capable mother, a brother who became a doctor. She went on to law school after academic success in an Ivy League institution, and now has served for 17 years on the Federal bench.

We have many good witnesses before the Judiciary Committee, but I think she has set a high standard in terms of answering questions with a clear understanding of the law and a clear understanding of her responsibility if she is given this awesome assignment of serving on the highest Court in the land.

I cannot help but watch at these hearings as her family sits through hour after weary hour of Senators' questions. They are clearly in her corner and cheering her on; her mother, nodding in agreement when her daughter tells of their life story; others there in testimony to her wonderful life, her professional life as an attorney and judge.

I hope the Senate will bring her nomination before us in a timely fashion so that if she is approved—and I believe she will be approved by the Senate—she can cross the street to the U.S. Supreme Court and be there in September to make certain that the Court has a full complement of Justices to consider important cases.

At the same time on the floor, we have the Defense authorization bill, an annual exercise to authorize important expenditures for our national defense. There is a pending amendment relative to hate crimes, as to whether there will be a Federal cause of action against those who are guilty of physically assaulting and hurting people because of their sexual orientation, their gender, their race, their ethnic origin.

And, of course, there is another major debate underway about the future of health care in America. I have said that I think this debate over health care may be the biggest domestic undertaking of Congress in its history. In sheer numbers, the impact of this legislation will touch every single American immediately.

We have considered big issues in the past, issues such as Social Security, but that was a program, when it was conceived and passed, that would affect senior citizens at a later date and only a few people initially. It was passed at a time when few people lived to be age 65, the qualifying age for Social Security. So it was an insurance policy for a small group of Americans. There was a payroll tax imposed on most workers in the country to pay for it.

Some 60 years later, President Lyndon Johnson considered the Medicare Program, another far-reaching program which today provides health insurance for 45 million Americans. It, too, is paid for primarily by a payroll tax, but it reached retirees. This debate on health care goes far beyond retirees. It affects all of us, every single one of us.

There have been so many things said about this debate. Some of the things that have been said at the outset are plain wrong. I was sent an e-mail by my brother who lives in California. I don't know the source of this e-mail, but it is one with wide subscription. It was loaded with mistakes and errors, suggesting that Members of Congress have some elite health care policies that pay for things ordinary Americans could never consider.

For the record, speaking for myself and most Members of Congress, we are under exactly the same health care plan as 8 million Federal employees and their families. But make no mistake, it is a good one. Because we have such a good bargaining pool, for over 40 years, private insurance companies have been anxious to get in and offer health insurance to not only Members of Congress but virtually every other Federal employee. It is a plan that engages us with private health insurance companies. My wife and I can choose from nine different private health insurance companies that offer coverage to residents of Illinois who are Federal employees. We can pick a plan that has limited coverage or one that has more coverage. My payroll deduction depends on the type of plan I choose.

The good news is once a year there is open enrollment. If I don't like the way I have been treated in the plan, I can move to a different company that might give me different benefits or better coverage. Every American should be so lucky as every Federal employee and Members of Congress. But we don't have an elite plan.

Other things that have been said are plain wrong. Members of Congress do not pay into Social Security. I can tell you when I was elected in 1982, in the House of Representatives, that was a fact. That was quickly changed within a year so that Members of Congress do pay into Social Security, as most Americans do today. These are all things that need to be set aside, and we need to get to the heart of the issue.

I listened as Republican Senators have come to the floor and talked about this health care debate. I cannot for the life of me understand how most of these Senators feel about the issue of health care.

The overwhelming majority of Americans believe we need to change the current system. If they have a good health insurance policy, they want to keep it, and the law we propose will allow them to do that, but there is a sense that the cost of health insurance is going up too fast and you can't earn enough money to keep up with it. Just over the last several years, the cost of health insurance premiums has risen three times faster than the wages of Americans. I have heard about it in Illinois; others have heard about it as well.

Those who want to keep the current system have to answer the most basic question: How will individuals and families and businesses be able to afford health insurance if we don't change? How can we deal with the deficits and debt that are being created by these inflated health care costs? The United States is the most expensive Nation in the world when it comes to health care. We spend, on average, per person more than twice as much as most other countries. Yet we don't have the medical results to point to which demonstrate that money is being well spent.

Some of the Republicans who have come to the floor—for instance, Senator MCCONNELL from Kentucky, the Republican leader—talk about the failure of a plan in Maine, a public plan called—I may mispronounce this; I hope I don't—it looks like Dirigo. This Dirigo relied on private insurance with very few health insurance companies. Maine would benefit from the increased competition provided by a public option that we are talking about in the current national health care reform.

I think States across the Nation have done a good job in exploring creative innovations, but there are some limits as to what a State can do on its own, and many are financial. It is not realistic to expect them to solve health care problems State by State. States don't have the access to the financing levers that the Federal Government has. That makes sustainability difficult over the long term. And cost is difficult to control on a State basis. States don't have access to the Medicare Program, the largest buyer of health care in America. Medicare needs to be a leader in quality and cost control initiatives if we are going to make health care affordable. The States have tried to do their best, but without Federal leadership in addressing the skyrocketing costs of health care, the States are in an impossible position.

Health care reform isn't going to be easy, but we need to do it. Fortunately, we have a President—President Obama—who has said this is his highest priority. He is prepared to spend the political capital necessary to make this change, knowing it has been very difficult in the past.

What most Americans want to see is a system where you can walk in the doctor's office and not have to fill out the same form over and over and over again; a system where doctors give the time to see their patients, can make the right diagnosis, and work through the questions that the patient might have; a system where patients aren't surprised by a medical bill they thought was covered under their insurance plan and ends up not being covered; a current system where doctors don't have to hassle with insurance companies for approval of medically necessary treatment; a system where you are not denied coverage because of an illness you had 5 years ago or because of your age; a system where health care is affordable; where it will cost less and cover more.

That is what 85 percent of the American people say they want out of this debate. This is what I would bet even the 77 percent of the American people who are satisfied with their health care today want to make sure is guaranteed in the future.

Some of my colleagues on the other side of the aisle seem to agree with the idea of the need for change, the need for health care reform. Some of them have focused on medical malpractice. I know a little about this. Before I was elected to Congress many years ago, I handled medical malpractice cases as an attorney in Springfield, IL. For a long time, I defended doctors and hospitals. And then, with a new practice, I was on the plaintiff side, representing the injured—the patients who were suing the doctors and hospitals. I have seen it from both sides of the table.

It is unfortunate when these lawsuits are filed. It is even more unfortunate when innocent people have become victims of medical negligence. There are an awful lot of them each year, and we need to do more to reduce the incidence of medical negligence. Many of these people just went to the doctor, did exactly what they were told, and ended up in a situation where their health was compromised and where they incurred massive health care costs because a mistake was made. Sometimes it is an innocent mistake, but other times, clear negligence and worse on the part of medical providers.

Don't get me wrong. I have the highest regard for the medical profession. And if it is my health or the health of someone in my family or someone I love, I want that doctor, the very best person there, to help, and I want to give them the benefit of the doubt; that they do not work miracles; they can only do the best they can, and I am prepared to accept that. In some cases, though, negligence happens. Malpractice occurs. Terrible things happen. And to close the courtroom doors to those who are injured and face a lifetime of pain, suffering, scars, limitations, disability, and health care costs is fundamentally unfair.

The Congressional Budget Office thinks that medical malpractice costs amount to less than 2 percent of health care spending. Government economists estimate that restricting all patients' rights to go to court would only lower health care costs less than ½ of 1 percent. So when we talk about changing the health care system, of course let's have a conversation about patient safety and reducing the medical errors and making sure that doctors who are not guilty of malpractice don't face lawsuits that never should have been filed, but let's be honest about it. This is a very small part of the issue.

We also need to make sure that a public option is available. Health insurance companies are some of the most profitable companies in America. A public option will make sure there is an option, a choice, a voluntary alternative for every American to choose a public option plan, a plan that is a not-for-profit, government-oriented plan—such as Medicare—that doesn't have high administrative costs, doesn't take a profit out of what they are charging you, and doesn't have a lot of costs for marketing. That, to me, is a way to guarantee honesty and more competition.

We know if we fail to act that many millions of Americans will continue to have no health insurance, and others will find the cost of health insurance going up dramatically. The cost today is overwhelming for some Americans.

If you went to Wrigley Field last weekend to watch the Cards and Cubs play, there were about 41,000 people seated in the stands. It is a great rivalry, a terrific baseball rivalry that draws people from St. Louis and from Chicago and all points in between. If that attendance at the stadium was representative of America, 2,000 of those 4,000 people seated in the stands are currently paying health care costs of more than 25 percent of their income. That is a back-breaking number. And we have to understand that the costs keep going up, beyond the reach of a lot of good people who are trying hard to provide the most basic health care for their families.

I notice that my colleague is here from the State of Delaware, and I am going to yield in 1 moment, but I wish to say before I yield that we have a chance here. Some of the Members of the Senate are going to see these bills coming out of committees and say, this isn't the bill I would write; in fact, there are parts of this bill I don't like at all. I am sure that is the case for me, too. I know what I would like to write. But I understand the process too.

I also understand one other thing. This may be the last time in the political careers of every Senator on the floor that we can honestly take on this health care issue. If we don't do it in a bipartisan fashion, if we don't follow the guidance of those who are telling us this current system is unsustainable, there may never be another chance. I urge my colleagues, even if you disagree with some of the key elements of the bill coming out of one committee or the other, keep the process moving forward. Let us work together, debate the issues, vote on the

amendments, and keep the process moving forward. At the end of the day, if we end up emptyhanded, it will be a great loss for America. We will have to come back again under even worse circumstances, where there is a lot more suffering and a lot fewer people with good insurance in America.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1390, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1390) to authorize appropriations for fiscal year 2010 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.

Pending:

Reid (for Leahy) amendment No. 1511, to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes.

Reid (for Kennedy) amendment No. 1539 (to amendment No. 1511), to require comprehensive study and support for criminal investigations and prosecutions by State and local law enforcement officials.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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

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

IN PRAISE OF JEFFREY KNOX

Mr. KAUFMAN. Mr. President, last week, I spoke about the founding generation of Americans and the legacy they passed down to us of sacrifice and service above self. These are the values that constitute the foundation of our civil service, and it is these values that motivate our Federal employees. It is what drives each of them, each day, to perform the small miracles that make the American Government work. Without their dedicated efforts and important contributions, we could not have a government that is responsive and representative. That is the birthright the Founders left for us—that the people should be represented not only by officials they have elected but by civil servants entrusted to carry out the people's business.

In thinking about these ideas and about the Founders, I cannot help but think of those who risk their safety working as Federal law enforcement officers and prosecutors. One such Federal prosecutor is Jeffrey Knox. As an assistant U.S. Attorney from the Eastern District of New York's Violent Crimes and Terrorism Division, Jeffrey is on the front line in both the war on crime and the war on terror.

At age 36, Jeffrey has already achieved distinction for prosecuting a number of important cases. He has become one of the Nation's preeminent prosecutors trying suspects in terrorism cases. In his role as head of the Violent Crimes and Terrorism Division, Jeffrey has been a leader in investigations of terror groups such as al-Qaida, Hamas, and LTTE. His colleagues have praised him for his roll-up-your-sleeves, get-your-hands-dirty philosophy, and he has traveled to dangerous hot spots in pursuit of evidence.

One of Jeffrey's landmark cases was the successful investigation, arrest, and indictment of four suspects who were charged with plotting to attack the fuel tanks at JFK Airport. The attack they had planned was intended to be as devastating as September 11. Jeffrey worked closely with the military, the intelligence community, foreign governments, and local law enforcement agencies in an 18-month-long investigation.

In another high-profile case, he successfully obtained the convictions of a group of conspirators who were attempting to deliver missiles and other weapons to the LTTE in Sri Lanka. He also worked to put behind bars an Iraqi translator who stole classified defense information and passed it to insurgents targeting our troops. Jeffrey has prosecuted violent street gangs in New York City as well.

What inspires me most about Jeffrey is that he did not start as a criminal prosecutor. Before September 11, he was a corporate lawyer on Wall Street. After that terrible day, Jeffrey was motivated to leave Wall Street and work in the Federal Government as an assistant U.S. attorney. When asked why he gave up such a lucrative position on Wall Street for a tough job prosecuting terrorists and gang members, Jeffrey said:

If you can put a dangerous individual behind bars so that individual will never have the ability to jeopardize another person's life again, then it's all worth it.

Jeffrey Knox is just one of many Federal prosecutors and law enforcement officials who risk their lives every day to keep Americans safe. The sacrifices they make all too often go unrecognized. I urge my colleagues to join me in honoring their service and sacrifices, and I join all Americans in thanking them for the important contribution they make to our Nation.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 1511

Mrs. GILLIBRAND. Mr. President, I rise today in support of the Matthew Shepard Hate Crimes Prevention Act of 2009. I am proud to join Senator KENNEDY as an original cosponsor of this important legislation. This legislation condemns the poisonous message that some human beings deserve to be victimized solely based on their sexual orientation, gender, gender identity, or disability.

Hate crimes are serious and well-documented problems that remain inadequately prosecuted and recognized. Current Federal hate crimes law affords important protections against crimes motivated by a person's race, color, religion, or national origin. It fails to protect a significant number of Americans when victims are targeted based on their actual or perceived sexual orientation, gender, gender identity, or disability. This legislation will expand protection to these groups, ensuring that all Americans are afforded equal protection under the law.

In addition to recognizing and prosecuting all forms of hate crimes, we must also provide local law enforcement agencies with the requisite tools to successfully combat these heinous acts. This legislation provides significant support to local law enforcement agencies across the Nation, including critical technical, forensic, prosecutorial, and other assistance to State, local, and tribal law enforcement officials for hate crime investigations and prosecutions.

It is essential that we send the message that these crimes will not be condoned. When we fail to prosecute violence driven by hatred and protect Americans' human rights, we risk escalation of such activities.

New York State has recently had numerous examples of hate crimes that would be prosecuted under this legislation. Within 3 weeks, three communities in Queens and Long Island—within an hour's drive—have experienced violent hate crimes targeted at gay, lesbian, and transgender victims. In each instance, the victims were the targets of violent attacks while the assailants communicated homophobic slurs.

During one of the incidents in Queens, a transgender female was brutally attacked while walking to her home. As she walked down her residential block, she was repeatedly taunted by two men who only ended their taunting with homophobic slurs so they could focus on beating her with a metal belt buckle. Her anguished cries for help were met with laughter as the two men removed all of her clothing and left her naked and bleeding in the middle of the street.

Unfortunately, this case was not investigated as a hate crime because current law does not provide protection for gender identity. This victim, like many others around the Nation, was a target of violence because of who she was. This must end.

In 2007, there were 500 such incidents in New York State alone. This is a reflection of a larger national trend where we see that the number of documented hate crimes is on the rise. In 1991, the Federal Bureau of Investigation began collecting hate crimes statistics, and since then the number of reported crimes motivated by sexual orientation has more than tripled.

This legislation, which has received bipartisan support before, is supported by more than 300 civil rights, law enforcement, and civil and religious organizations in addition to the vast majority of the American people. It is important we ensure that all Americans and all States are covered under this comprehensive hate crimes legislation.

There is some concern this bill would impact the first amendment. It does not. The Matthew Shepard Hate Crimes Prevention Act of 2009 covers only violent acts or attempted violent acts that result in death or bodily injury. It does not prohibit or punish speech, expression, or association in any way. Thoughts and speech are explicitly protected in this bill. This bill is not infringing upon freedom of speech. It is about safeguarding Americans' human rights and equal justice.

As Dr. Martin Luther King once said, ''injustice anywhere is the threat to justice everywhere.''

I strongly believe freedom and equality are inalienable American rights and should not be ascribed based on gender or race, religion or sexual orientation or gender identity. This legislation is an important step toward expanding human dignity and respect for all Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, although I have been an active participant in the Judiciary Committee's Sotomayor confirmation hearings, I have followed with great interest the floor debate on continuing the production of the F–22A Raptor.

Unfortunately, over the years I have heard a number of incorrect assertions made about this aircraft, and I have tried to correct them. But after listening to this week's debate and reading misleading articles, especially in the Washington Post, about the F–22's performance and capabilities, I believe the Raptor's opponents have hit bottom—and have begun to dig.

Therefore, I would like to set the record straight about the F–22 and its extraordinary war-winning capabilities.

Fact No. 1: The F–22 is, and will continue to be, the preeminent fighter/bomber for the next 40 years.

The F–22 is the stealthiest aircraft flying today. Unlike the F–117 Nighthawk and the B–2 bomber the F–22s can be deployed on stealth flight operations not just at night, but 24 hours a day. This one-of-a-kind capability provides our combatant commanders with unprecedented flexibility to engage ground and air targets at a time of their choosing—thus denying any respite to the enemy.

The Raptor is equipped with supercruise engines that are unique because they do not need to go to after-burner to achieve supersonic flight. This provides the F–22 with a strategic advantage by enabling supersonic speeds to be maintained for a far greater length of time. By comparison, all other fighters require their engines to go to afterburner to achieve supersonic speeds, thus consuming a tremendous amount of fuel and greatly limiting their range.

The F–22 is the deadliest fighter flying today. During a recent military exercise in Alaska, the Raptor dispatched 144 adversaries versus the loss of only one aircraft.

Further advantage resides in the F–22's radar and avionics. When entering hostile airspace, the F–22's sensor-fused avionics can detect and engage enemy aircraft and surface threats far before an enemy can hope to engage the F–22. At the same time, its advanced sensors enable the F–22 to be a forward-surveillance platform capable of gathering crucial intelligence on the enemy.

Often overlooked, the F–22 is a very capable bomber. It can carry two GPS-guided, 1,000-pound joint direct attack munition bombs or eight small-diameter bombers.

Fact No. 2: The F–22 is not a Cold War dinosaur. It is designed to meet and eliminate the threats of today and tomorrow.

As the longest-serving member of the Senate Intelligence Committee, I know full well the greatest air threat of today and tomorrow is, and will continue to be, the advanced integrated air defense system.

Such a system is composed of two parts. The first component is advanced surface-to-air missile systems such as the Russian-made S–300, which has a range of over 100 miles. The second are highly maneuverable and sophisticated fighters like the Su-30, which have been sold to China and India. Coupled together, these anti-access systems make penetrating hostile airspace extremely difficult, if not deadly, for those aircraft lacking the F–22's advanced stealth technology and sustained supersonic speeds made possible by its supercruise engine. It is also important to remember the mainstays of our aerial fleet, the F–15, F–16 and F/A–18, are not stealth aircraft and are not equipped with supercruise engines.

Unfortunately, integrated air defense systems are relatively inexpensive, placing them within the purchasing potential of nations such as Iran with its seeming insistence on developing nuclear weapons.

The advanced integrated air defense system is exactly the threat the F–22 was designed to neutralize. In addition, the F–22 will almost simultaneously be able to turn its attention to other ground targets that threaten the national security of the U.S. and our allies.

In a related argument, some argue the United States should devote more of its military resources toward bolstering its counterinsurgency capabilities.

This is a fair point. Unwisely, the United States did permit its counterinsurgency capabilities to atrophy after the Vietnam war. As events in Iraq and Afghanistan have shown, we continue to pay dearly for that error. However, as we reconstitute our ability to successful prosecute counterinsurgency campaigns, we cannot make a similar mistake and undermine one of the fundamental foundations of our military strength: hegemony in the air.

Even Defense Secretary Robert Gates said this January, ''Our military must be prepared for a full spectrum of operations, including the type of combat we're facing in Iraq and Afghanistan as well as large scale threats that we face from places like North Korea and Iran.'' I could not agree more, and the aircraft that will enable our Nation to decisively defeat our adversaries in the air is the F–22.

Mr. President, others point out the F–22 has not been deployed in support of our operations in Iraq and Afghanistan. This is true. However, there were recent plans to deploy the F–22 to the Persian Gulf. But according to the July 9, 2008, edition of the widely respected Defense News, the Pentagon overruled those plans, citing concerns about ''strategic dislocation.'' This means the F–22 is hardly a dinosaur. It is a weapon that can change the balance of power in a region and deter our adversaries.

Fact No. 3: 187 F–22s is an insufficient number to meet the minimum requirements of our national military strategy.

Our Nation's military requirements are decided upon in detailed studies of the threats our Nation and its allies confront. These studies also recommend force structures to deter and, if necessary, defeat threats to our national security. Accordingly, the Department of Defense and the Air Force have conducted a number of studies to determine how many F–22s are required to meet our national military strategy.

I am unaware of any comprehensive study that has concluded F–22 production should cease at 187 aircraft. Specifically, unclassified excerpts from the Air Force's sustaining air dominance study stated ''180 F–22s was not enough,'' and the Department of Defense TACAIR optimization study concluded the procurement of additional Raptors ''was the best option.'' On April 16, these conclusions were reinforced by comments made by GEN Norton A. Schwartz, the Chief of Staff of the Air Force, after the F–22 procurement termination was announced. General Schwartz stated, ''243 [Raptors] is the military requirement.''

Opponents of the Raptor will most likely dispute this, pointing to comments made by General Cartwright during his July 9 testimony before the Senate Armed Services Committee.

During his testimony the general stated the decision to terminate production of the F–22 is supported by a ''study in the Joint staff that we just completed and partnered with the Air Force.'' However, my staff has inquired about this study and was informed a recently completed comprehensive, analytic study does not exist.

No doubt, the Joint Staff has prepared some justification for F–22 termination.Yet I believe it is only natural to question the objectivity of any assessment which justifies previously reached decisions.

Unfortunately, yesterday, my suspicions about this so-called analysis were proven correct when Geoffrey Morrell, the Pentagon's press secretary, stated General Cartwright was referring to ''not so much a study [as a] work product.''

Therefore, I believe the Congress should place great significance on the June 9 letter by GEN John Corley, the commander of air combat command, who stated ''at Air Combat Command we have a need for 381 F–22s to deliver a tailored package of air superiority to our Combatant Commanders and provide a potent, globally arrayed, asymmetric deterrent against potential adversaries. In my opinion, a fleet of 187 F–22s puts execution of our current national military strategy at high risk in the near to mid-term. To my knowledge, there are no studies that demonstrate 187 F–22s are adequate to support our national military strategy.''

I believe these are important words from the four-star general who is responsible for the Air Force command which is the primary provider of combat airpower to America's war-fighting commands.

Fact No. 4: The Washington Post article that alleged technical and maintenance difficulties of the F–22 was misleading and inaccurate.

In fact, the Air Force has written two rebuttals to this article. After viewing the first rebuttal, I found it striking the Air Force stated six of the points made in the article were false, four were misleading, and two were not true.

Specifically, the primary assertion made by the Post was the F–22 cost far more per hour to fly than the aircraft it is replacing, the F–15. However, this is misleading. Only when you include all of the one-time costs that are associated with a new military aircraft is this true. A far more accurate measurement is to compare variable flying hours. The F–22 costs $19,750 per hour to fly versus $17,465 for the F–15. The F–15 costs less to fly, but the 1960s-designed F–15 does not have nearly the capabilities of the F–22.

The article asserts the F–22 has only a 55-percent availability rate for ''guarding U.S. airspace.'' This is misleading. Overall, the F–22 boasts a 70-percent availability rate, and that has been increasing every year over the past 4 years.

Finally, the article states the F–22 requires significant maintenance. This is true. But the Post article misses the critical point: the F–22 is a stealth aircraft. Making an aircraft disappear from radar is not accomplished through magic. It is achieved through precise preparation and exacting attention to detail.

I believe we can all agree it is far better to expend man hours to prepare an airplane that will win wars than to buy replacement aircraft after they have been shot down, not to mention the moral cost of not exposing our pilots to unnecessary dangers.

Fact No. 5: The F–22's detractors argue erroneously that the Raptor's role can be filled by the F–35, also known as the Joint Strike Fighter. But the Raptor and the Joint Strike Fighter were designed to complement each other, not be substituted for each other. The F–22 is the NASCAR racer of this air-dominance team. Fast and unseen, the Raptor will punch a hole in an enemy's defenses, quickly dispatching any challenger in the air and striking at the most important ground targets. The Joint Strike Fighter is the rugged SUV of the team. Impressive, but not as maneuverable or capable of sustained supersonic speeds, the F–35 will exploit the hole opened by the F–22 and attack additional targets and directly support our ground forces. This is not to say the F–35 is not a highly capable stealthy aircraft. But the F–35's role is to supplement the F–22, not substitute for it. Only by utilizing the strengths of both aircraft do we ensure air dominance for the next 40 years.

Fact No. 6: Our allies recognize the critical capabilities of the F–22 and are eager to purchase the aircraft.

This is one of the most compelling reasons for purchasing additional numbers of F–22s. The Japanese and Australian governments have consistently approached our government about purchasing the Raptor for themselves. If the F–22 is such a boondoggle, why would these nations be willing to spend billions of dollars to purchase them. Australia already plans to purchase up to 100 F–35s. Why does it need the Raptor? Perhaps it is because these nations realize a number of the threats to their security can only be defeated using the F–22 Raptor.

In conclusion, we have an opportunity to ensure this and future generations continue to benefit from one of the foundations of our national security: the ability to defeat any air threat and strike any target anywhere in the world. The world is changing; threats are growing. Today we have an opportunity to ensure those air threats are met.

To be honest with you, our young men and women who fly deserve the very best equipment we can give to them, not equipment that is getting old, outmoded, and cannot do the job.

I hope my colleagues will join me in voting against the Levin-McCain amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHANNS. I ask unanimous consent to speak for 10 minutes as in morning business.

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

(The remarks of Mr. JOHANNS pertaining to the submission of S. Res. 212 are located in today's RECORD under ''Submitted Resolutions'').

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

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

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

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

HEALTH CARE REFORM

Mr. BROWN. Madam President, yesterday was a wonderful day for this institution but, more importantly, it was a spectacular day for hundreds of millions of Americans who are concerned about our health care system. The Health, Education, Labor, and Pensions Committee completed the mark-up of its health care reform legislation. The first rule of thumb was that if you are satisfied with the health insurance you have today, you can stay in it. The whole point of health reform is to reduce health care costs and expand access to quality care for all Americans.

Earlier this week, the HELP Committee had a historic opportunity to cut costs for millions of Americans by creating a commonsense pathway for generic versions of what are called biologic drugs. Biologic drugs are live cells, unlike the more old-fashioned but still very, very common chemical drugs that are made and that we have known of for many years. Biologic drugs treat cancer, Parkinson's, diabetes, arthritis, rheumatoid arthritis, Alzheimer's, and other serious conditions.

Earlier this week, the HELP Committee could have limited what are called around here exclusivity rights—better known as monopoly rights—could have limited monopoly rights for biologics to 7 years instead of enabling that monopoly for 12 years. Earlier this week in the committee, consumers lost and the biotech industry won. How can we improve access to health care if people cannot afford their biologic drugs? How can we reduce costs if we don't inject competition into the marketplace, if we grant monopolies and

block any competitors from coming in and competing for these drugs? During the debate, we heard a lot of numbers on how many years the big drug companies should have unchecked monopolies. We heard it should be 13 years or one of them was 13½ years or 12 years or 10 years. I wanted 5 years or maybe 7 years at the most.

Let me include some other numbers as we debate the minutia of health care reform. Let me include some other numbers that are too often yet sometimes deliberately overlooked.

Some 190,000 women will be diagnosed with breast cancer this year. Herceptin is the brand-name biologic that treats breast cancer. It costs $48,000 a year. That is $1,000 a week. If you are lucky enough to have insurance, you might get part of this paid for, but you probably have a 20 percent copay, so then it is $200 a week. That is if you are lucky. If you are not so lucky, you simply can't afford it.

More than 1.3 million Americans live with rheumatoid arthritis. Remicade is the brand-name biologic that treats rheumatoid arthritis. It costs $20,000 a year. If you are lucky enough to have insurance, you are probably paying a 20 percent copay. That would be $4,000 a year just for the biologic drug for your treatment—not counting lost work, not counting paying doctors' bills, not counting trips to the hospital, not counting tests. That is $4,000 a year for that drug, if you are lucky enough to have insurance.

This year, more than 148,000 people will be diagnosed with colon cancer. Avastin is the brand-name biologic that treats colon cancer and costs $100,000 a year, which is $2,000 a week. So if you are lucky enough to have insurance, you pay a copay of $400 per week, which is an awful lot of money.

To put these numbers in perspective, the average annual household income in Ohio is $46,000. So when you look at these drugs—one I mentioned, Herceptin, is $1,000 a week; Remicade for rheumatoid arthritis is $20,000 a year; Avastin for colon cancer is $100,000 a year, $2,000 a week—again, if you are lucky enough to have insurance, your 20-percent copay for that $100,000 a year is $20,000, and an average income in Ohio is $46,000.

Brand-name biologics, these relatively new kinds of treatments, will make up 50 percent of the pharmaceutical market by the year 2020. The prices for most of these drugs are increasing far faster than inflation—far faster even than medical inflation—and we know what that is all about—about 9.3 percent each year. The price for biologic drugs for multiple sclerosis increased by 23 percent last year.

I remember about a dozen years ago, if you had a family member who was suffering from cancer, we were outraged and just so surprised and shocked and upset that Taxol, the chemical cancer drug, in those days cost $4,000 a year. We thought that was outrageous, exorbitant, unaffordable, out of reach, $4,000 a year. But this cancer drug now is $40,000 a year; Herceptin is more than $40,000 a year. So where is the outrage now?

I understand drug companies need to protect their investment and their profit. However, many of these biologics that have been developed came initially from research that all of us as taxpayers funded. We appropriate every year about $31 billion for the National Institutes of Health, something I fought for when I was in the House. I was part of the group that doubled funding for NIH, in those days, from about $12 billion to $25 billion a year. It was a wonderful investment. As we invest in these drugs, invest in this research that is the foundation for these drugs, it is a good thing. Then these companies, at their expense and at their risk, develop them into wonderful medicines and medication. But after building their foundation on taxpayer research, they are charging this much for these biologics, and even if you are lucky enough to have insurance, you simply can't afford them. So I want these drug companies to protect their investment and their profit, but we can't give companies open-ended protection from competition.

The committee voted earlier this week to grant 12 years of monopoly. Orphan drugs get a 7-year monopoly protection. Standard drugs, which have been wonderful for so many people in this country—very important, very complicated drugs; pretty much as complicated as these biologic drugs—get 5 years of monopoly protection. So orphan drugs get 7 years, standard drugs get 5 years. Other products on the market that have patents, as these do, and have those protections don't get additional monopoly protections. But this committee this week—I thought outrageously so—gave 12 years of monopoly protection. That is unacceptable to many of us. President Obama says it should be 7 years. The AARP says it should be 5 to 7 years.

The Federal Trade Commission reported that additional years of monopoly protection actually crimps innovation, that giving these extra years of monopoly protection actually hinders innovation. I would argue that this monopoly protection harms innovation because it discourages biotechs from searching for new revenues.

Let me give an example. If a drug company produces a biologic that can matter a lot in an important treatment and they got a 12-year monopoly protection and consider that the biologic might be administered by injection in a doctor's office; that those same scientists who have created that biologic that you inject, after 5 or 6 years, come up with a new way to do it, to take it by aerosol. Everybody I know would rather do that than stick a needle in their arm every day or so, however often they need the treatment. But do you know what. That new innovation is not going to come until the 12 years are up.

That is why the committee erred so extravagantly when it gave 12 years of monopoly protection to the drug industry. It hinders innovation. That means patients are going to keep getting the shot every day for 12 years. They will have to wait until the 12 years are up before they introduce the new aerosol way of administering this drug. If there had been for 4, 5, 6, or 7 years, they would have brought that new drug on the market much quicker.

The only argument that the biotechs' allies on the HELP Committee used was simple: This hurts innovation.

It only hurts their profits. It clearly doesn't help innovation. The only study put forward, other than a study from PhRMA, the big drug company lobbyist or study from biologic companies—and many are the same companies—other than their studies, the only one out there was a Federal Trade Commission study on this 12 years. What good are these biologics if nobody can afford them?

The Hatch-Waxman Act, which introduced generic versions of chemical drugs, has proved we can still lead the world in biologic innovation with competition from generics. Twenty-five years ago, the drug industry said the same line they are using now—that there is no way we will innovate, and this will put them out of business.

Patients in Akron, Bowling Green, Chillicothe, and Dayton understood that this law from 25 years ago worked to keep prices down. Those same people around my State, people in Xenia, Springfield, Mansfield, and Portsmouth need that same access to generic versions of these biologics.

The vote this week was not in the best interests of patients suffering from multiple sclerosis, arthritis, cancer, Alzheimer's or heart disease. It was not in the best interest of taxpayers. Who is paying the bill? Either people are paying out of their pockets—and most cannot afford it—and insurance companies are going to raise rates to employers and to patients or the taxpayers are going to pay for it. The beneficiaries are not patients. It hurts innovation. The beneficiaries are the drug executives and the biologic company executives. It is not in the best interest of taxpayers. An article in Roll Call today or yesterday pretty much said that biologic industry—they spent $500,000 in ads in the last few days. The health care industry spends a million dollars a day lobbying, and they were rather successful in what they did.

I am proud to have been part of the historic health debate that passed a bill as good as we passed. I am also proud to have been part of this debate that continues to talk and educate the people on biologics.

Clearly, the fight for affordable generic drugs is not over. I will fight and do whatever is best for taxpayers and patients, and that means a continued effort to make this law work, as Hatch-Waxman worked for so many Americans.

I will fight for the breast cancer patient who has to spend $1,000 a week for biologic Herceptin or the colon cancer patient who spends $2,000 a week or the person with rheumatoid arthritis who spends $2,000 a month for medicine they desperately need.

I applaud groups such as AARP that put families and consumers first. I look forward to working with Members in the House and Senate and the administration who are fighting for what is right.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. 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. MERKLEY. Madam President, I rise because of a document our forefathers signed 233 years ago, the Declaration of Independence. Specifically, the Declaration stated:

We hold these Truths to be self-evident, 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.

That simple phrase created the bedrock foundation for a nation founded under equality under the law, freedom from persecution, and the pursuit of happiness by our citizens—government by and for the people under the concept of quality and freedom from persecution.

It is an honor to rise to advocate for that philosophy.

I rise in strong support of the Leahy amendment that would amend the Department of Defense bill to include the Matthew Shepard Hate Crimes Prevention Act of 2009. First, I thank and acknowledge Senator KENNEDY for his strong decade-long commitment to this legislation. I extend my appreciation to Senator LEAHY for leading this effort in Senator KENNEDY's absence.

It has been more than 10 years since Matthew Shepard was brutally murdered simply because of his sexual orientation. It is long past time that we take action to strengthen the Federal Government's ability to investigate and prosecute hate crimes. There is no room in our society for these acts of prejudice. Hate crimes fragment and isolate our communities, and they tear at our collective spirit. They seek to terrorize our society through brutal violence against targeted individuals. The Matthew Shepard Hate Crimes Prevention Act is a critical step to protect those who are victimized simply for who they are.

Hate crimes legislation is not a new concept. In fact, the United States of America has had hate crime laws in place for 40 years. The Hate Crimes Act of 1969 was passed shortly after the assassination of Martin Luther King. That assassination motivated Congress to action.

That law says it is illegal to ''willfully injure, intimidate or interfere with any person, or attempt to do so, by force or threat of force, because of that other person's race, color, religion or national origin.''

That hate crimes law was passed by our parents' generation to address the hate crimes so evident through the assassination of Martin Luther King and so many other actions in the 1960s.

Now it is time for our generation to pass a hate crimes bill that will strengthen the work done by our forefathers 40 years ago and that will address new forms of hate crimes that have become far too prevalent in our society. We need to add provisions to prosecute those who commit violent acts based on gender, gender identity, disability, and sexual orientation.

Of the 7,624 single-bias incidents reported in 2007, more than 16 percent resulted from sexual orientation bias, indicating that members of the gay and lesbian community are victimized nearly six times more frequently than an average citizen.

Just this past spring, we experienced a terrible incident in my home State. In March, two men, Samson Deal and Kevin Petterson, were visiting the Oregon coast during their spring break. They wandered away from an evening campfire and ran into a group of four strangers who asked if they were gay and then called them derogatory names. Then these two men were beaten brutally and left unconscious on the beach. This was in the town of Seaside, a place I have visited many times in my life, a beach I have walked on many times in my life. Seaside police chief Bob Gross said the Seaside police have ''had some hate crimes before, mostly threats, but have never dealt with anything this serious.''

I am happy to report that Samson and Kevin lived through this incident, but many do not. The attack could have been worse. According to the National Coalition of Anti-Violence Programs, 2007 saw the greatest number of anti-LGBT murders in 8 years: 21 gay and transgender people were murdered in the United States in 2007—more than double the number of 2006.

Currently, only 11 States and the District of Columbia include laws covering gender-identity-based crimes. We must make sure gender identity is a protected characteristic included in this legislation.

But members of the gay community are not the only victims. We were all shocked last month when Stephen Johns, a guard at the Holocaust Museum, was shot and killed by a White supremacist. Recent numbers suggest hate crimes against individuals in the Hispanic community increased by a staggering 40 percent between 2003 and 2007.

According to a recent report from the Leadership Conference on Civil Rights Education Fund, in the nearly 20 years since the enactment of the Hate Crimes Statistics Act, the number of hate crimes has hovered around 7,500 annually, nearly one every single hour. As if that figure is not high enough, it is well known that data collected on hate crimes almost certainly understates the true numbers because victims are often afraid to report these crimes or local authorities do not accurately report the incidents as hate crimes, which, unfortunately, means they do not get reported to the Federal Government.

What specifically is in this legislation? It gives the Department of Justice the power to investigate and prosecute bias-motivated violence.

It provides the Department of Justice with the ability to aid State and local jurisdictions.

It makes grants available to State and local communities to combat violent crimes.

It authorizes the Attorney General to provide technical, forensic, prosecutorial, and other assistance to State and local governments.

It authorizes grants from the Justice Department of up to $100,000 for State, local, and tribal law enforcement officials who have incurred extraordinary expenses in the prosecution or investigation of hate crimes.

It authorizes the Treasury Department and Justice Department to increase personnel to better prevent and respond to allegations of hate crimes.

It requires the FBI to expand their statistic gathering so we can better understand the types and structures of hate crimes in the United States of America.

These provisions will strengthen the original facets of the legislation from 1969. That legislation, as I noted, addressed issues related to race, color, religion, or national origin. All of that is improved in this legislation.

In addition, we expand this legislation to address the hate crimes we now see so prevalent in the LGBT community as victims.

Our Constitution laid out a vision. We did not have complete equality under that vision in 1776. Indeed, it was a vision far ahead of its time. We have gradually worked toward it. We have extended our law to protect women, to include more folks to vote, to enable people to get rid of the racial boundaries that existed for voting, and so on. We have steadily sought to take strides toward that vision of equality under the law and the ability to pursue happiness without the fear of persecution. Today I am advocating that we take another important stride toward that vision our forefathers laid out before us.

Martin Luther King said the long arc of history bends toward justice, but it doesn't bend by itself. It is bent by citizens who say this is wrong, and we are going to do something about it. This great strengthening of the hate crimes legislation in the United States is a huge stride toward equality under the law and freedom from persecution.

I encourage all of my colleagues to join in taking this historic stride forward.

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.

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

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

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

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

Mrs. LINCOLN. Mr. President, today I rise to speak in support of five amendments that I have introduced to the bill before us, the National Defense Authorization bill for fiscal year 2010. Each amendment focuses on improving the benefits and care for the members of our Nation's National Guard and Reserve forces so that we can improve military readiness and strengthen our efforts to recruit and train quality men and women to serve.

I know each of us from our States recognizes the tremendous bravery, courage, and the dedication of our National Guard and reservists in each of our States. They are part of our community. They certainly, in many instances I know of from our seeing the deployments, are people of public service, but they are also people who are serving their communities. Whether they are firemen or police officers, maybe they are school principals, maybe they have small businesses that hire a tremendous number of people in those communities, they are hard-working Americans who also find time to serve their country. They are dedicated, they are brave, and we certainly know the critical role they play.

It is a reality that our military is relying increasingly upon our reserve components as an operational reserve, not just simply a strategic reserve. My amendments reflect that reality by taking needed steps to honor the increased service and invest in these men and women who give so much on our behalf. When duty called, they stepped up to the plate, and now it is time for Congress to do the same.

My first amendment is identical to the Selected Reserve Continuum of Care Act I introduced in May. This legislation will ensure that periodic health assessments for members of the Guard and Reserve are followed by government treatment to correct any medical or dental readiness deficiencies that are discovered at those screenings. We know we will begin to see these periodic health assessments, because they are mandatory beginning in September, and we need to make sure we follow up on these.

As an operational force serving frequent deployments overseas, these men and women require greater access to health care so they are able to achieve the readiness standards demanded by current deployment cycles. Far too many men and women are declared nondeployable because they have not received the steady medical and dental care they need to maintain their readiness.

We have all heard the horror stories of the military simply pulling soldiers' teeth and sending them on to Iraq and Afghanistan because they don't have the time to provide adequate dental care to bring them up to the medical/dental readiness status necessary in order to be deployed.

Now that we are going to have mandatory assessment, there is no reason we would not want to provide them the medical care they need in order to meet that assessment. This is absolutely unacceptable, that we would not. And it is inexcusable. Considering the sacrifices we are asking them to make on our behalf, the least we can do is provide them the care they need to meet the readiness standards we have set. Pulling their teeth and rushing them to war is simply not going to get it done.

This practice itself has become so prevalent, we now have a name for these men and women. They are called pumpkin soldiers. How absolutely awful is that? It is awful that it is such a prevalent practice that it has a nickname.

Compounding this challenge is the fact that short-notice deployments occur regularly within the Reserve Forces. When men and women are declared nondeployable, it can cause disruption in the unit by requiring last-minute replacements from other units or requiring treatment periods that should be set aside for the predeployment preparation and training.

Last year, prior to the second deployment of the Arkansas National Guard's 39th Infantry Brigade Combat Team to Iraq, members from 11 units across our State were pulled to fill out the combat team. Some of these cross-leveled members had as little as 2 or 3 three weeks' notice prior to their deployment. They were having to fill in because when it came time, those who were in those units, the regular Guard and Reserve who were there, did not meet the deployable standards, and so consequently we had to pull people from all different units at a late notice to put them in there while these others met that medical and dental readiness.

My amendment would prevent, in large, all of this from happening in the future by providing the necessary care at the front end of these assessments. Instead of compressing treatment costs into a short predeployment period or the bottlenecked medical support unit at the mobilization station, my amendment would spread the same costs over a longer period, with a more orderly and reliable result.

We are having a huge debate right now on health care reform. One of the things we see is that if we can provide prevention or wellness, or certainly make sure that medical care gets there when we first detect what that medical problem is, the outcome is better and it is usually less costly in the overall. The further out from the deployment uncorrectable conditions are discovered, the more time a unit will have to replace a discharged member and mitigate the effects from that loss. So it is not just the well-being of the soldiers we are looking at, it is also the well-being of the unit.

We can and should do more to bring our Selected Reserve members into a constant state of medical readiness for the benefit of the entire force. My amendment does just that. That is why it has been endorsed by the Military Coalition, a consortium of nationally prominent uniformed services and veterans associations representing over 5.5 million members across this country.

I am proud to have worked with Senators LANDRIEU, TESTER, RISCH, and BYRD on this important legislation and thank them for that support and realization of how important, how practical, and how much sense it makes for us to use these assessments to quickly provide the medical treatment that is necessary to ensure our soldiers, when they do receive those orders to be deployed, are meeting the medical and dental readiness they need to meet in order to be deployed.

Mr. President, my second amendment calls for an increase in the Montgomery GI bill rate for members of the Selected Reserve to keep pace with their increased service and the rising costs of higher education. I am pleased my friend, Senator MIKE CRAPO, and I have joined in this effort. MIKE and I have worked together on so many different issues, everything from wildlife to education and certainly with our military, representing States that have large rural areas and therefore large numbers of Guard and Reserve. It has also been endorsed by the Military Coalition as well, the group I mentioned earlier.

This amendment would simply tie education benefit rates for guardsmen and reservists to the national average cost of tuition standard that is already applied to Active-Duty education benefit rates. We have worked hard to try to increase the educational benefit to be commensurate with the time these guardsmen and reservists are working on our behalf, who are so bravely deploying and working and serving alongside our Active-Duty military. The problem is, now that we have increased their access to a more commensurate educational benefit, the value of that benefit is immediately losing value because they depend on the appropriators and us to increase that amount. When it is increasing at half the rate of the cost of higher education, then they are getting further and further behind each year in keeping that commensurate benefit at a rate that makes sense and certainly is adequate for their needs in education. I believe it is absolutely critical that we do this. It builds upon

my Total Force GI bill, first introduced in 2006, which was designed to better reflect a comprehensive total force concept that ensures members of the Selected Reserve receive the educational benefit more commensurate with their increased service. The final provisions of this legislation became law last year with the signing of the 21st Century GI bill. Now it only makes sense that we would maintain that benefit at a rate, again—just at the rate of increase we are seeing in higher education. It certainly makes sense for our Guard and Reserve.

My third amendment would lower the travel reimbursement threshold for National Guard and Reserve members who are traveling for drills from 100 miles to 50 miles. Our current high threshold has caused undue hardships for members of the Selected Reserve, especially those in rural areas who often incur significant expenses because they have to travel significant distances. If we cannot ease their burden, I fear we are creating significant obstacles to recruiting and retaining men and women to serve in the Guard and Reserve—particularly during times of economic hardship. We saw the price of gasoline explode last year. We know how difficult it is, particularly for many of our Guard and Reserve who live in those rural areas. I believe this is a commonsense thing we can do on behalf of these brave men and women.

I am so very pleased to be joined here by Senators TESTER and WYDEN in offering this amendment. It was among the recommendations of the independent Commission on the National Guard and Reserves. It is supported by numerous military and veterans service organizations. It only makes sense that we would appropriately provide them the reimbursement they need and the travel expenses to get to where they need to be for their drills and for their training.

My fourth amendment would enable a valuable program, the National Guard Youth ChalleNGe Program, to expand to new cities and new sites and reach even more of our young troubled Americans. Currently operating in 22 States, the Youth ChalleNGe Program trains and mentors youth who have dropped out of high school. It puts them on a path to become more productive, employed, and law-abiding citizens.

I recommend to any of my colleagues in this body who have not visited a National Guard Youth ChalleNGe Program to go and visit. I have visited our Youth ChalleNGe Program on more than one occasion and have been amazed, both at those who have graduated from that program and come back to mentor these other youths—who are disadvantaged, who have found themselves in the court system, have been thrown out of school, or are certainly in a troubled nature—and amazed at those who are able to come into this environment and to feel the security of the military and the rules of the military that prompt them into a sense of pride and a sense of courage and a sense of accomplishment so they finish their education and they go on to do so many great things, so many things that otherwise could have turned sour for these youths.

As I said, I encourage any of the Members of this body, if you have never visited one of those National Guard Youth ChalleNGe Programs, I really encourage you to do so.

For 22 weeks, these young men and women receive more than 200 hours of classroom learning designed to prepare them to take the general equivalency diploma exam. I attended the graduation of a class in Arkansas, and I can attest to the program's positive results.

At a time when we know financial insecurity in our country is shaking our families, our youth who are finding themselves in, certainly, different circumstances than many of us did growing up, with all kinds of temptations and distractions and things that can put them on the wrong pathway, here we have an opportunity, when they start out on that wrong pathway, to grab them and put them into a program that is going to continue to build on the positive things they have to offer and set them on a good pathway.

Since the inception of the National Guard Youth ChalleNGe Program, more than 85,000 young men and women have graduated from the program nationwide, and they have received their high school degrees. Nearly 80 percent have gone to college, earned productive jobs, and joined the military. Currently, the Department of Defense provides 60 percent of the funding, while States are responsible for the remainder. Unfortunately, the current cap on funding has restricted many of our States from establishing additional programs or building on their existing programs.

Along with additional funding, this amendment would help jump-start the Youth ChalleNGe Program by fully funding new programs for 2 years while they get their feet on the ground. When they better understand the tremendous value of this program and, more importantly, how their States can begin to invest in a program such as this, it ensures that the Federal Government's share is 75 percent into the future instead of the current 60 percent that it is right now.

This amendment is endorsed by the National Guard Youth Foundation, the Enlisted Association of the National Guard of the United States, and the National Guard Association of the United States.

I am so pleased to be joined by Senators BYRD, CASEY, CORNYN, HAGAN, LANDRIEU, MURKOWSKI, RISCH, ROCKEFELLER, SNOWE, UDALL of Colorado, and WYDEN in this effort. It is identical to the legislation I have previously introduced which has 32 bipartisan cosponsors. It is a great move, to help our children, particularly our troubled children and, more importantly, it really sends them in the right direction so they can become contributing parts of this great Nation. I encourage my colleagues to look at this amendment and help us get it passed in this very important bill.

Mr. President, you have been incredibly patient. I appreciate that patience, having to talk about five different amendments, but these are issues that are critically important to me and critically important to the people of Arkansas, particularly our Guard and Reserve.

My final amendment is an amendment that would grant full veteran status to members of our Nation's Reserve Forces who have 20 or more years of service. I am joined in this effort by Senator HUTCHISON of Texas. This amendment is endorsed by the Military Coalition, which is the large group, the coalition of military groups.

Under current law, members of Reserve components who have completed 20 or more years of service are considered military retirees. At the age of 60, they are eligible for all the benefits received by Active-Duty military retirees. Unfortunately, they are denied the full standing and honor that comes with the designation of ''veteran'' if they have not served a qualifying period of Federal Active Duty other than Active-Duty training. As a result, these men and women are technically not included in various veterans ceremonies and initiatives, such as an effort to have veterans wear their medals on Veterans Day or Memorial Day, or in legislation authorizing veterans to offer a hand salute during the playing of the national anthem or the presentation or posting of the colors.

I don't know about you, but when I am at an event at home in Arkansas—or here as well but certainly at home—when I am surrounded by my family of Arkansas people and the flag comes down the parade or the colors are presented, I support making sure everyone who has stood up and said ''I am ready to serve my country when it calls on me'' should be given that respect of being noticed as a veteran.

My amendment does not seek to change the legal qualifications for access to benefits. Instead, it simply seeks to correct this inequity by honoring and recognizing those who have served their country for 20 years or more, those who have said continually over those 20 years: When my Nation needs me, if my Nation needs me, I will be there. I will take up my arms. I will do what is asked of me as a member of the military forces.

Those men and women wore the same uniform, were subject to the same Code of Military Justice, received the same training, and spent 20 or more years being liable for callup whenever it did happen. This amendment recognizes their long careers of service and would entitle them to receive proper recognition as a veteran of the United States of America.

I know of few designations that embody such dignity and honor. These men and women certainly embody those traits, and it is time we grant them the recognition they have earned.

I ask my colleagues to give these efforts thoughtful consideration. These five proposals help us keep our promise to these brave men and women and will help to strengthen recruitment and retention for our National Guard and Reserve and increase their readiness as an operation force in the continued defense of this great Nation that we all love and are all so very pleased to be a part of.

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

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

Mr. REED. Mr. President, I rise in support of the National Defense Authorization Act for fiscal year 2010. First I wish to speak briefly about the Matthew Shepard Hate Crimes Prevention Act. Unfortunately, we have seen far too many cases of these types of crimes of violence motivated strictly by prejudice and hatred of people. This amendment would simply extend the current definition of Federal hate crimes to include crimes committed on the basis of someone's gender, gender identity, sexual orientation, or disability. This amendment does not federalize all violent hate crimes. Rather, it authorizes the Federal Government to step in as a backstop, only after the Justice Department certifies that a Federal prosecution is necessary. It also supports State and local efforts to prosecute hate crimes by providing Federal aid to local law enforcement officials. This amendment affirms our commitment to the most basic of American values—the dignity of the individual and the right of that individual to be himself or herself. I am pleased to lend my support. That is an issue we will confront in the context of our armed services bill, and I think we should go forward and adopt it.

I wish to commend, with respect to the specifics of the armed services bill, my colleagues on the committee for their work, and the leadership of Senators LEVIN and MCCAIN. I hope this is a bill President Obama can sign. During the committee's markup, I voted against an amendment to provide funding for additional F–22s and for the Joint Strike Fighter alternate engine. I remain opposed to these programs. We should not put this bill in jeopardy of a veto, so I urge my colleagues to vote, when it comes to the floor, for the Levin-McCain amendment to strike the F–22 funding, which I hope will be considered soon.

As evidenced by the F–22 issue, this bill is the product of many tough decisions. I commend Secretary Gates particularly for his very judicious, thoughtful approach to this budget, and his uniformed colleagues. They have thought long and hard about the new world of threats. They have thought long and hard about how we can provide the most necessary resources for our men and women in uniform. They have recommended to us a very sound approach. With certain exceptions, the legislation before us recognizes and accepts those recommendations.

The new administration and President Obama have also done a remarkable job in terms of trying to change strategic direction, change acquisition policies, and to develop a fighting force that will meet the threats of today and prepare ourselves for future possibilities. This Defense authorization bill contains many aspects which are critical to the success of our men and women in uniform. Let me suggest a few.

First, it once again recognizes the extraordinary service and sacrifice of these young Americans by authorizing a much needed 3.4 percent across-the-board pay raise. The extraordinary sacrifices they make every day can never be compensated by dollars and, indeed, their motivation is not financial. It is to serve the Nation and serve it with courage and fidelity. They do it so well. I have had the privilege to travel to Afghanistan and Iraq on numerous occasions and to witness the heroic and decent service of these remarkable people. This pay raise reflects, at least in part, the value we place on their service.

The legislation fully funds Army readiness and depot maintenance programs to ensure that forces preparing to deploy are properly trained and equipped. It also authorizes $27.9 billion for the Defense Health Program and permits special compensation for designated caregivers for the time and assistance they provide to servicemembers with combat-related catastrophic injuries or illnesses requiring assistance in day living. What we are seeing is success medically on the battlefield, where the mortality rates relative to the injuries have declined, as they have since World War II. But we have a significant population of very severely wounded young men and women. They need help, and the caregivers need help. This legislation recognizes that.

The legislation fully funds the President's budget request of $7.5 billion to train and equip the Afghan National Army and the Afghan National Police forces. The bill also includes a provision that emphasizes the need to establish measures of progress for the administration's strategy for Afghanistan and Pakistan and to report to Congress regularly on efforts to achieve progress in that region. I saw the merits of this approach in my recent trip with Senator KAUFMAN to Pakistan and Afghanistan in April. In fact, as we observe the increased tempo of operations in southern Afghanistan, led by our marines and British forces, we also recognize the need to partner with more Afghani police and security forces and military forces. Our strategy can't be just an American presence. It has to be an American-Afghani presence, which ultimately will translate to an almost exclusive, if not exclusive, Afghan presence. To do that, we have to support the building and the professionalization of Afghan security forces.

There is within this budget funding for our Navy that is absolutely critical. It includes funding to complete the third Zumwalt class destroyer. This ship is critical to maintaining the technical superiority of our Navy that it enjoys across the oceans of the world. The future maritime fleet must be adaptable, affordable, survivable, flexible, and responsive. The Zumwalt class provides all these characteristics as a multimission service combatant, tailored for land attack and littoral dominance. It will provide an independent presence, allow for precision naval gunfire support of joint forces ashore and, through its advanced sensors, ensure absolute control of the combat airspace. All of this capability is based on today's proven and demonstrated technologies. We can't build the same ships we were building 20 years ago and hope to maintain our superiority and, indeed, hedge against the emerging threats of tomorrow.

This Zumwalt technology is also the transition to the next class of surface combatants, which are likely to be a new class of cruisers. The hope is that we can leverage what we learn on Zumwalt so that the next class of surface combatants will be even more capable and, we hope, extremely cost efficient.

I also note that the underlying legislation fully funds the continued procurement of the Virginia class attack submarine. These attack submarines are on the highest level of demand by area commanders. The CINCs, when they are asked what they need in terms of resources, invariably place very close, if not on the top of their list, additional submarines because of their stealth, their ability to operate intelligence areas, and their ability to have a forward presence without being recognized. These are critical, and I am pleased by the recognition of the administration and the committee in this regard.

This year I was once again extremely fortunate and honored to serve as the chairman of the Emerging Threats and Capabilities Subcommittee. I particularly thank and commend Senator WICKER and his staff. They were true collaborators. Their cooperation was significant in terms of improving the quality of our subcommittee report. We have worked together very well. I, again, particularly commend and thank Senator WICKER for his insights, his energy, and for his great collaboration in this effort. The Emerging

Threats and Capabilities Subcommittee is responsible for looking at new and emerging threats to our security and considering appropriate steps we should take to develop new capabilities to face these threats. In preparation for our markup, Senator LEVIN provided guidelines for the work of the committee including the following two items: Improve the ability of the Armed Forces to counter nontraditional threats, including terrorism, the proliferation of weapons of mass destruction, and their means of delivery; and, second, enhance the capability of the Armed Forces to conduct counterinsurgency operations.

In response, our subcommittee recommended initiatives in a number of areas within our jurisdiction. These areas include supporting critical nonproliferation programs and other efforts to combat weapons of mass destruction; supporting advances in medical research and technology to treat such modern battlefield conditions as traumatic brain injuries and post-traumatic stress disorder; increasing investments in new energy technologies such as fuel cells, hybrid engines, and alternate fuels to increase military performance and reduce cost; increasing investments in advanced manufacturing technologies to strengthen our defense industrial base so that it can rapidly and efficiently produce the materiel needed by the Nation's warfighters; and increasing investments in research at our Nation's small businesses, government labs, and universities so that we have the most innovative minds in our country working to enhance our national security.

Specifically, some notable actions in this bill that originated in the Emerging Threats and Capabilities Subcommittee include: authorizing full funding for the Special Operations Command and adding $131.7 million to meet unfunded equipment requirements identified by the commander of our Special Forces to enable them to conduct counterinsurgency operations and to support ongoing military operations; authorizing full funding requested for the Joint IED Defeat Organization, JIEDDO. This is particularly important as we read about the increasing IED attacks against our forces in Afghanistan since our offensive began in Helmand Province weeks ago. These IEDs are the No. 1 threat to our forces in the field and our allied forces in the field. This very sophisticated organization uses the information technology, innovation, communication, and new techniques, working closely with battlefield commanders, to protect our forces and our allied forces. They have a critical role and a critical mission. We fully support both in this legislation.

We authorize the Cooperative Threat Reduction Program, providing an additional $10 million for new initiatives outside the former Soviet Union. We provide $3 million for chemical weapons demilitarization in Russia and elsewhere, and $7 million for strategic offensive arms elimination. We have to recognize that these weapons are distributed too broadly in many respects, and our efforts to restrict them and to, we hope, dismantle them have to be broad also.

We added $50 million to nonproliferation research and development for nuclear forensics and other R&D activities and required the development of an interagency forensics and nuclear attribution program. One of the hopes—and this must be based on very calculable scientific and technological research—is that if we can identify the source of a nuclear detonation positively, we would have an extraordinarily powerful deterrent card which we could use diplomatically to indicate that if any nation, particularly covertly, attempts, directly or through terrorist groups, to deploy a nuclear weapon anywhere in the world, we could trace it back and respond immediately. That could give us, again, an enhanced deterrence. This depends upon the progress we make in research, but we must begin with energy research. We have that in the legislation.

The bill also highlights the importance of a strong manufacturing industrial base. The bill would create a new position, the Assistant Secretary of Defense for Manufacturing and Industrial Base, to oversee the Department's policies and programs for our Nation's industrial base. Further, the bill increases funding for manufacturing research in DOD by roughly $100 million to support the defense industrial base and reduce the cost of production of weapons systems and our ability to meet surge requirements demands of operating forces.

This bill also reauthorizes the DOD's Small Business Innovation Research program, in coordination with the efforts of Senator MARY LANDRIEU, chairman of the Senate Committee on Small Business and Entrepreneurship. To support investments in next-generation technologies and advanced military capabilities, this bill would increase the Department's funding for innovative science and technology programs by over $480 million for a total of $12.1 billion.

The bill authorizes the full funding that was requested for chemical and biological defense programs and the full amount requested for chemical weapons demilitarization in the United States. This funding totals over $3 billion.

With regard to counterdrug programs, the bill fully funds DOD drug interdiction and counterdrug activities. It also includes a provision that would extend the authority to use counterdrug funds to support the Government of Colombia's unified campaign against narcotics cultivation and trafficking and against terrorist organizations involved in such activities. It also recommends a $30 million increase in funding for high priority National Guard counternarcotics programs.

This issue of narcotics is particularly central to our efforts in Afghanistan. When I was there in April, we were in Helmand Province which was covered, literally, with opium poppies. The opium trade provides support for opponents of the Taliban. If we disrupt that trade and we are able to reduce the flow of resources to the Taliban but also provide legitimate family farmers with the opportunity and the profitability to grow alternate crops, then we can make a successful dent in the power and the presence of the Taliban there. These counternarcotics programs, not only in Colombia but also in Afghanistan, are absolutely important.

This is a good bill. It is, I think, wise legislation, with the exceptions I noted. Members of the committee and the committee staff have worked many hours to get this bill to the floor. We are a nation engaged in two conflicts and an ongoing struggle in many parts of the world to intercept, interdict, and preempt terrorists. We need to support our military forces, and I urge my colleagues to work together to pass it so we can quickly have a conference with the House and send it to the President for his signature.

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

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

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

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

SOTOMAYOR NOMINATION

Mr. BURRIS. Mr. President, the Judiciary Committee is hearing the testimony from the distinguished Judge Sonia Sotomayor. Today I rise in strong support of Judge Sonia Sotomayor's nomination to the U.S. Supreme Court.

I believe that while Judge Sotomayor's expansive legal experience makes her a logical choice, it is her background and unique perspective that will make her an ideal selection for a seat on our Nation's highest Court.

Certainly no one can argue with Judge Sotomayor's legal qualifications. After graduating from Princeton University and Yale Law School, she served as an assistant district attorney and then had a successful legal practice of her own.

In 1991, President George H.W. Bush appointed Ms. Sotomayor as the first Hispanic judge to the U.S. District Court in New York State.

Eight years later, President Clinton elevated her to the U.S. Court of Appeals, where she serves today.

Throughout her distinguished career, Judge Sotomayor has been a prudent and thoughtful jurist. She has constantly exhibited the highest standards of fairness, equality, and integrity.

I was proud to write to President Obama on May 15 urging her nomination. However, it is not simply Judge Sotomayor's wealth of legal experience and long public record that make her the best possible candidate for the Supreme Court. Her life story will make her a dynamic and thoughtful addition to that august body.

Born into relative poverty and raised in a housing project in the Bronx, young Sonia's childhood was remarkable in that it was overwhelmingly normal. She was not a child of privilege. Yet she had come to value her cultural traditions while also embracing the need for judicial objectivity and legal impartiality. This delicate balance is precisely what will make her such an important voice on the Supreme Court.

As we consider her nomination, we must bear this in mind. When we evaluate the makeup of the Court, we seek to build dissent rather than consensus. We seek to engender debate among its members. Diversity—of prospective, of background, of opinion—lends legitimacy and integrity to judicial rulings.

Throughout her career, Sonia Sotomayor has proven herself to be a moderate, restrained judge whose rulings are bound by the weight of precedent. Judgment must remain free from passion, but passion for the law cannot be lost. Ms. Sotomayor carries with her a lifetime of that passion—something I consider a valuable asset.

As a Supreme Court Justice, Judge Sotomayor will bring much-needed diversity and a rich understanding of the American dream to every opinion she writes. All that she has she has achieved on her own merit, and it is this relatable quality that will lend fresh perspective to the Court.

I applaud President Obama's nomination of Judge Sotomayor. As her confirmation hearings continue, we must ensure they are tough but fair. We must hold her to the same standard to which we would hold any nominee. And just as the Senate has confirmed her twice before, I am confident we will do it once again, with strong bipartisan support this time.

It will be an honor for me to cast my vote in favor of her confirmation when the time comes. I look forward to the day when she takes her rightful seat on the bench in the highest Court in our land.

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

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

CLIMATE CHANGE

Mr. DORGAN. Mr. President, in recent days and weeks, the House of Representatives has passed legislation sponsored by Congressman WAXMAN and Congressman MARKEY, called the American Clean Energy and Security Act of 2009, that deals with the issue of climate change. And more specifically, it deals with taking steps to decarbonize the energy use in this country in order to protect the planet.

I support the goals of a low-carbon future by decarbonizing our energy sources to reduce emissions of greenhouse gases into the atmosphere. The scientific consensus is that by maintaining our current course of burning fossil fuels and emitting greenhouse gases we are threatening our planet with future warming. So I support the goal of trying to deal with this issue of climate change.

The question is, how do we address it? How do we move forward to meet this challenge? The House of Representatives has established one approach. I think we need to explore other approaches that still achieve the goal of reducing our carbon emissions. This is a very big issue with consequences for virtually all Americans—for families, for businesses, and for our climate.

The question for us is: How do we move forward in a way that allows us to use our energy resources in a such a way as to protect the environment and grow the economy?

Now, we all wake up in the morning and begin our day taking energy for granted. One of the first things we do, for example, is flick a switch and a light comes on, plug in a hair dryer, or turn on the toaster oven. In so many different ways, virtually everything we do involves using energy. We get in our cars and drive to work, or we get on a subway. In both cases, we are using energy. And no doubt about it, we are using a lot of energy.

The current Secretary of Energy, Dr. Chu, is a Nobel Prize-winning scientist. I once heard him use the following analogy to describe how we use energy today. He talked about going back a couple thousand years. For most of human history, we move no faster than a horse could take us. A couple thousand years ago, if someone wanted to go out and find something to eat, he got on a horse.

These days, of course, times have changed. We still use horses, but in a different way. We measure the power of our engines in horsepower. If one wants to go get a loaf of bread, then we simply jump in a truck and crank up about 270 horses, and away we go to the grocery store.

We never think much about the advantage of having energy at our command at almost any moment, and we certainly don't think—and haven't thought very much—about what the use of that energy does to the climate.

So here we find ourselves in the year 2009 with what the vast majority of scientists say is a very serious problem for the future of this planet and the security of our civilization. Most of our energy is fossil energy. That's the carbon from plants that has accumulated as coal and oil over millions of years. As we burn these fossil fuels to power our economy, we release that carbon back into the atmosphere. The accumulation of these greenhouse gases warm the planet and cause other harmful consequences. Therefore, we need to try to find a way to decarbonize our energy to bring about a low-carbon future, and thereby lower our emissions of CO_2 into the atmosphere.

So how do we do that? Well, as I indicated, the House of Representatives has written a bill, Waxman-Markey. It is a 1,427-page bill, and very, very complicated, I might add.

Let me describe another path. The Senate Energy Committee worked to write a new Energy bill. It was completed some weeks ago and passed with bipartisan support.

Let me describe just a bit of what we have done in that Energy bill: We included provisions to reduce our dependence on foreign oil; increase domestic production of electricity; electrify and diversify our vehicle fleet; create a transmission superhighway so we can produce renewable energy where it is most plentiful, and then put it on the transmission grid to move it to the load centers where it is needed; and train our energy workforce of tomorrow.

These are just a few of the things we have done. We establish a national renewable energy standard of 15 percent by 2020. And I believe the standard needs to be stronger. But the fact is, this is the first time the Senate has sent a clear signal by demonstrating support for such a standard. This standard says: We want to maximize the production of renewable energy, which means a carbon-free energy source.

We are producing green energy when we take energy from the wind, gather energy from the Sun, and put that electricity on a transmission grid to send it to where it is needed. This is an essential step to building the low-carbon economy we need to address the threat of climate change. And our energy bill does so much more to set the stage for helping address climate change.

When we talk about energy, climate is one of the twin challenges that we need to address. With respect to the vulnerability of our country, we must also consider our energy insecurity. It is the case that we import 70 percent of our oil coming from off our shores. We need to put into place an energy policy that will make us less dependent on foreign oil. One way to reduce our oil dependence is to electrify our vehicles. Moving toward an electric drive transportation system has the benefit of replacing foreign oil with domestic electricity. Further, as we decarbonize our

electricity generation, we get the additional benefit of reducing the greenhouse gas emissions from our transportation sector. Our legislation moves aggressively to promote electrification of our vehicles.

In addition to producing more renewable energy, the Energy bill expands the production of energy in this country by opening some areas that have not been opened in the eastern Gulf of Mexico to oil and gas development. As my colleagues know, natural gas is a cleaner-burning and lower carbon fossil fuel. We need to increase production of natural gas where it is appropriate. So the Energy bill does many things to move toward the low-carbon future we need to ensure the security of our planet and our nation.

So I believe we ought to take up the piece of legislation we passed in the Energy Committee, bring it to the floor of the Senate, debate it, and pass it. I have talked about this at some length in recent weeks. I think the Energy bill we have produced is a significant step toward addressing the climate change challenge.

So it seems to me it would make sense to do the energy piece first, get it to the President, and get it signed. With that progress in addressing climate change in the bank, we should then legitimately be able to boast about what we have done in a significant way to maximize the production of green energy from wind, solar, and biomass. This would not be an insignificant achievement. I think we ought to do that.

Second, I would like to discuss the question of cap and trade or Waxman-Markey or some other carbon-constraining piece of legislation for a moment. Clearly, the Senate is going to deal with this issue. My preference would be that we not take up the Waxman-Markey bill in its current form. I know a lot of work has gone into that legislation, but my preference would be that we start to explore other directions.

It is not that I oppose capping carbon. I believe we need to move toward a low-carbon future. I believe we will have to cap emissions of carbon. The question is what are the appropriate targets and timelines that would allow us to mitigate climate change and at the same time, prevent a substantial disruption to our economy. We have to be careful to avoid creating targets and timelines for reducing CO_2 emissions that are simply unachievable.

We have a lot of people across this country who are doing inventive work—interesting, world-class, cutting-edge research. They are working to create the next generation of technologies that could unlock the opportunity of capturing and sequestering carbon dioxide, or developing ways to beneficially reuse CO_2. These technologies hold the promise of allowing us to continue to use our abundant fossil fuels while protecting our environment. I am convinced—absolutely convinced—that we will achieve that goal. The opportunity, through research, to unlock the mystery of how we separate and capture carbon, store it or reuse it beneficially, is critical, and I am convinced we will do that. I don't think there is much question about that. But what I have difficulty with is not the goal. I am for a low-carbon future. I believe we are going to move in that direction, and I will support that goal.

I do not support, however, establishing a new trading system for carbon securities, as would be the case under the 400-page cap-and-trade provision of the House bill. Let me describe why.

In my judgment, there are better ways to deal with these issues than establishing a very substantial carbon securities trading system. Such a system is ripe for the biggest investment banks and the biggest hedge funds in the country to sink their teeth into these marketplaces and make massive amounts of money. My profound feeling about this is that we have seen now a decade in which many of these markets have been manipulated and have failed to work at all with respect to the market signals of supply and demand. I have very little interest in consigning our low-carbon future to a trading system of carbon securities that will be controlled by the biggest trading companies in the world. And it would not be very long before these entities will have created derivatives, swaps, synthetic CDOs, and more. It will be a field day for speculation, which I think is not in the interest of this country.

Let me just describe something I think might be a harbinger of things to come. Here is chart showing how oil prices soared in 2008. We all remember what has happened to oil prices in the last two years. They went from $60 a barrel up to $147 a barrel in day trading last July. Even as the price of oil was going through the roof, the best experts looking at supply and demand were predicting that the price of oil would only slowly increase over many months. They said: Well, here is where we think the price of oil is going to be. Straight on across, through the end of the year. Here is what they suggested in May of 2007, and here is the price.

The fact is, the price of oil shot up like a roman candle. Here is what they suggested in January 2008. Here is the price they predicted, but the price went up much more quickly. Why is it we have an oil futures market in which supply and demand doesn't determine where the price goes? The price goes right off the chart, and yet supply was up and demand was down.

So what we saw in the oil futures market last year should be a wake-up call. This included speculators engaged in about two-thirds or three-fourths of all the trades. They were trading at 20 to 25 times the amount of oil that is produced every single day, and creating an orgy of speculation as shown by the red line on this chart—and by the way, it went right down like a roller coaster. And the same people who made money going up made money when prices went back down. If we like that sort of thing, we are going to love the carbon market piece in cap and trade because we are going to create a big, perhaps trillion-dollar market for carbon securities. It would not be long before the same investment banks and hedge funds will all be engaged in trading carbon derivatives, swaps, and you name it.

I happen to think that makes no sense at all. The New York Times said: Managing emissions has become one of the fastest growing specialties in financial services. Investment banks like Goldman Sachs and Morgan Stanley have rapidly expanded their carbon businesses.

I am told, by the way, that most of the large investment banks right now have created carbon trading units.

Charlotte Observer: Firms such as Goldman Sachs and Morgan Stanley already have carbon desks and teams . . . Peopling those carbon desks are the former commodities traders or former securitization or structured finance professionals—like many who've lost jobs at Wachovia (now Wells Fargo) and Bank of America . . .

The New York Times says in a news story: As Congress gears up for a debate on a national ''cap-and-trade'' program to limit greenhouse gas emissions, resumes from Wall Street—or from ex-Wall Streeters—are flooding into the Nation's few carbon-trading shops.

Chris Leeds, the head of emissions trading, carbon trading at Merrell Lynch, said carbon could become: one of the fastest-growing markets ever, with volumes comparable to credit derivatives inside of a decade.

Louis Redshaw, head of Environmental Markets Barclays Capital says: Carbon will be the world's biggest commodity market, and it could become the world's biggest market over all.

So do we want to sign up for a future in which we consign our ability to constrain carbon and protect this planet by creating a carbon securities market that, in my judgment, would likely subject us to the same vision of the last decade with unbelievable speculation, movements in markets that seem completely disconnected from supply and demand? That is not a future I want to see happen.

There are other ways of capping carbon and addressing these issues. I want to be clear, I am for capping carbon. I am for a low-carbon future, but, in my judgment, those who would bring to the floor of the Senate a replication of what has been done in the House, with over 400 pages describing the cap and ''trade'' piece, will find very little favor from me, and I expect from some others as well. There are better, other, and more direct ways to do this to protect our planet.

I have been to the floor many times talking about what has happened with credit default swaps, what has happened with CDOs, what has happened

with the oil futures market, on and on and on. If what has happened gives anybody confidence, then they are in a deep sleep and just don't understand it. Again, I come back to the chart I showed a moment ago, the head of emissions trading at Merrill Lynch saying carbon could become one of the fastest growing markets, with volumes comparable to credit derivatives.

Think of this, the unbelievable volumes of credit derivative swaps that most people couldn't even pronounce and didn't know existed, and it turns out we had tens of trillions of dollars worth of these things, and worldwide these products were supposedly worth hundreds of trillions of dollars.

Frankly, I think it is not in the country's interest to establish a new financial market and to have the same players engage in the same games that gamble on this country's future.

I think two things: No. 1, there is a piece of energy legislation that is ready to come to the floor, passed by the Energy Committee, that moves in the direction of addressing climate change. We ought to get the benefit of that legislation and pass that bill along to the President for signature. It maximizes renewable energy, and there are a lot of things that will dramatically reduce the impact of our carbon footprint.

No. 2, those in the Senate who are working very hard and talking about the issue of climate change, and how we can take steps to cap carbon, and what kind of a low-carbon future we might be able to achieve. There are some of us—and I speak only for myself—who believe cap and ''trade'' in terms of speculative carbon futures markets makes no sense. We ought to explore a carbon cap with different approaches.

I wanted to raise these concerns at this point, so that those who are working on the climate change bill and attempting to replicate the House approach will understand that some of us will aggressively resist the carbon market ''trade'' side of cap and trade.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I ask to speak in morning business for up to 15 minutes.

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

SOTOMAYOR NOMINATION

Mr. BUNNING. Mr. President, today I rise to speak on the nomination of Judge Sotomayor to be a Justice on the U.S. Supreme Court. After much consideration, I cannot support this nomination.

I have been following this process closely. I have been reading her rulings and her speeches. I have been watching her hearing at the Senate Judiciary Committee. I met with her one on one and was able to ask her questions. Unfortunately, I find her to be unsuitable as a member of the U.S. Supreme Court.

The first problem I would like to discuss is her lack of direct answers to direct questions. I had this problem in my meeting with her and it appears from watching the Judiciary Committee hearings that other Members have had that problem too. My biggest concern in this area is that she answered the questions from the perspective of the job she has, not the job she has been nominated for. As a member of the district or circuit court, she must rely heavily on precedent. However, as a Justice of the Supreme Court, she is in the position to set precedent. When I asked her simple questions about how she would treat certain subjects, she retreated to saying that she would use precedent to decide how to proceed. I found this unsatisfactory because she would be setting precedent as a member of the Supreme Court. In fact, throughout her nomination process I have seen her sidestep direct questions time and time again. We have seen this happen numerous times during her hearing before the Judiciary Committee. I think we deserve answers to these questions and we have not gotten them.

However, we can learn about her views and how she might perform on the Supreme Court by studying her record. She has an extensive record, which includes 17 years as a judge and, prior to that, time spent as a prosecutor, in private practice, and as a member of groups such as the Puerto Rican Legal Defense and Education Fund. This gives us much to look at, such as her decisions, speeches, and other sources. I have studied these and I would like to comment on them and her views.

When I spoke on the nomination of Chief Justice John Roberts in 2005, I pointed out the problem of the Supreme Court and other judges trying to replace Congress and State legislatures. Important social issues have been taken out of the political process and decided by unelected judges. I can say with certainty that this was not the way the Founding Fathers and authors of the Constitution intended for it to work.

The creation of law is reserved for elected legislatures, chosen by the people. The Supreme Court is not a nine person legislature created to interact with or replace the U.S. Congress. When judges and justices take the law into their own hands and act as if they were a legislative body, it flies in the face of the Constitution. Because of this, whether in the Supreme Court or in lower courts, many people have lost respect for our judicial system. This cannot continue to happen. In addition to obvious constitutional concerns, if someday the public and the rest of the political system begin to tune out the courts and ignore their decisions altogether, it would be grave for our country.

During their confirmations, I felt that Chief Justice Roberts and Justice Alito understood this. That is probably the biggest reason why I voted for them. I am afraid that I cannot say the same about Judge Sotomayor.

Much has been said about Judge Sotomayor's ''wise Latina woman'' comments. Even though they have been discussed many times over, they are still relevant and speak to her views on the role of judges. In her infamous 2001 speech, she said that ''a wise Latina woman'' would ''more often than not reach a better conclusion than a white male.'' This shows a clear method of her thinking and indicates she accepts the idea that personal experiences and emotions influence a judge's rulings, rather than the words of the law and the Constitution.

She used the ''wise Latina woman'' phrase in at least four other speeches, most recently in 2004. The fact that it was repeated so often indicates that she believes it. She has said that the notion of impartiality on the bench is ''an aspiration'' and has gone on to claim that ''by ignoring our differences as women or men of color we do a disservice both to law and society.'' When President Obama began discussing what sort of person he wanted to nominate to Supreme Court, he put a premium on the nominee having ''empathy.'' Well, it appears that he got his wish.

Empathy in and of itself is not a bad thing. However, in this context it means that the law would lose out to a justice who feels an emotional pull to rule one way or the other. Empathy belongs best in legislatures, where it can reflect the wishes of the people who voted for the members of those bodies. This is not the job of the Supreme Court, or any other court of law for that matter. I do not have faith that Judge Sotomayor would fully respect the roles of the judiciary and the legislature.

While understanding that the role of the Supreme Court is interpreting law instead of making it might be the most important quality of a Justice, there will be times when precedent must be set and it is crucial that this is done correctly. Now, I understand a nominee's hesitancy to discuss a case or issue that might come before them, but I do think they can explain their methods for arriving at a conclusion. During the confirmation hearings of Justices Roberts and Alito, they were both willing to walk through their decision making process. However, Judge Sotomayor has been unwilling to do even this. It is unfortunate, but I have no basis to understand how Judge Sotomayor will think through a case as a member of the highest court in the land.

Her views on race, as seen in the Ricci case, are troubling. The city of New Haven decided to throw out the results of their firefighter promotional exam because they felt that not enough minorities had passed it. Many who passed that exam had made great sacrifices to prepare for the test, including the lead plaintiff, Frank Ricci, who overcame a disability to pass it with flying colors. Seventeen White and one Hispanic firefighter filed suit that this

was reverse discrimination and Meir case eventually found its way before Judge Sotomayor at the Second Circuit. She dismissed their claims in a one-paragraph opinion that cited no precedent and was later roundly criticized by judges of all stripes. Fortunately, just last month, the Supreme Court overturned this erroneous decision.

Judge Sotomayor also has shown an unacceptable hostility to second amendment rights. In the recent Heller Supreme Court ruling, it was found that the second amendment confers an individual right to keep and bear arms. However, in two cases Judge Sotomayor has lent her name to extremely brief opinions that the second amendment is not a fundamental right. Her rulings, and the lack of explanation on them, indicate that she is hostile to the second amendment and will not protect it with the same energy as she might for any of the other nine amendments in the Bill of Rights. She has not stated that she believes a clearly spelled-out right, such as the second amendment, is fundamental, but she is willing to recognize that something that is not clearly spelled out, such as a right to privacy, is fundamental. I fear that her appointment to the Supreme Court could undo the progress from the Heller decision that recognizes Americans have the right to defend themselves.

Another area of concern is Judge Sotomayor's views on the use of foreign law in American courts. Less than 3 months ago, she said she believes ''that unless American courts are more open to discussing the ideas raised by foreign cases, and by international cases, that we are going to lose influence in the world.'' First of all, the Court's responsibility is to review the laws passed by the government that it is a part of, not laws passed by a foreign government. Second of all, if there is a foreign law that looks like a good idea, then an elected legislature should consider it and, if it has merit, pass it into law. Judges should not be looking around the country or the globe for laws they like and then try to implement them.

Judge Sotomayor has a history of writing or signing on to brief and inadequate opinions that are not suitable for the gravity of the matters on which she is ruling. In the Ricci firefighter case I discussed earlier, half of the judges on her court criticized her opinion as ''perfunctory disposition'' that ''rests uneasily with the weighty issues presented by this appeal.'' The opinion was only one paragraph long. When the Supreme Court issued its majority opinion on that case, it was 34 pages long. In one case I mentioned above, she joined the summary panel opinion and discarded the idea of the second amendment as a fundamental right in a one-sentence footnote. This is unacceptable.

What is perhaps the most shocking about these exceedingly brief investigations of the law is that they affected very important cases and very important issues. For instance, the Ricci case could become the affirmative action case of this generation, and it received only a one-paragraph analysis from Judge Sotomayor. Her casual treatment of the second amendment cases flies in the face of the efforts the Supreme Court has put in these decisions. The U.S. Supreme Court is the last stop for important legal decisions, and a Justice must provide explanation and insight to the country on how and why they ruled the way they did. Judge Sotomayor did not do that for these extremely important cases.

This will be the first time I have ever voted against a Supreme Court nominee, and I am not happy I have to do so. However, it is the constitutional role of the Senate to provide confirmation for this position and my duty as a Senator to be part of this process. On viewing the record of Judge Sotomayor, I do not find her to be a suitable candidate for Justice of the Supreme Court of the United States and will vote against her whenever the Senate considers her nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I have to say there have been some amazing proposals coming out of the House and the Senate in the last few weeks in some fairly desperate economic times, when job loss is at some of its highest rates in years, when borrowing and spending have gone through the roof. It is pretty amazing that we have come out with proposals, such as cap and trade, that are going to add huge taxes on electricity and other energy when we should be doing all we can to create more energy in our country and to lower the cost, if possible, for Americans. It is pretty amazing to me that we would consider adding taxes and cost onto the cost of living when so many are out of work and we are in very difficult economic times.

Now we see this health care proposal that the Congressional Budget Office says is going to hurt our economy, it is going to insure very few uninsured people, and it will cost trillions of dollars. Again, at a time when we are having difficulty paying the interest on the debt we already owe, we have proposed this massive expansion of government.

Here we are today supposedly discussing funding for our whole defense system in our country, the Defense authorization bill, and the majority has decided to add on to that bill hate crimes legislation. They apparently have scheduled a vote at 1 a.m. tomorrow morning for hate crimes legislation in the middle of a defense authorization debate which should be bipartisan, should be focused on the defense of our country, a clear constitutional responsibility. But we are spending the day waiting for a cloture vote at 1 a.m. tomorrow morning on hate crimes.

There are many practical problems with this hate crimes amendment they are trying to force us to attach to the Defense authorization bill. The broad language will unnecessarily extend Federal law enforcement beyond its constitutional bounds, it will undermine the effectiveness and confidence of local law enforcement, and it will create conditions for arbitrary and politicized prosecution of certain cases. But instead of the practical problems, I want to focus on basic, fundamental problems with Federal hate crimes legislation.

The rule of law requires that we oppose this amendment on principle. Justice is blind, and under the rule of law justice must be blind—blind to the superficial circumstances of the victims and the defendants.

The law says crime must be investigated and punished. There is no evidence to suggest that crimes defined by this amendment as hate crimes are not being prosecuted today. This amendment is, therefore, unnecessary as a matter of criminal law.

There is no need, or even any law enforcement benefit, to create a special class for crimes based on—and I quote from the amendment—''the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim.'' Indeed, as a matter of justice, this amendment is patently offensive. It is based on the premise that violence committed against certain kinds of victims is worse and more in need of Federal intervention and swift justice than if it were committed against someone else. I am sure most parents of a minority, homosexual, or female victim would appreciate the extra concern, but that also implies that certain crimes are better, for lack of a better word. Where does that leave the vast majority of victims' families who, because of the whims of political correctness, are not entitled under this amendment to special status and attention? How can a victim's perceived status or the perpetrator's perceived opinions possibly determine the severity of the crime?

The 14th amendment explicitly guarantees all citizens equal protection of the laws. This amendment creates a special class of victims whose protection of the laws will be, in Orwell's phrase, more equal than others, and if some are more equal, others will be less equal; that is, this amendment will create the very problem it purports to solve.

Let's talk about thought crimes for a minute. This amendment will also move our Nation a dangerous step closer to another Orwellian concept—thought crime. This legislation essentially makes certain ideas criminal in that those ideas involved in a crime make that crime more deserving of prosecution. The problem, of course, is that politicians are claiming the power to decide which thoughts are criminal and which are not.

Canadians right now live under this regime where so-called human rights

commissions operating outside the law prosecute citizens for espousing opinions with which the commissioners disagree. This concern is only heightened by the last section of this hate crimes amendment which says it does not allow ''prosecution based solely upon an individual's expression of . . . religious . . . beliefs.''

Let me repeat that because we are being told this would not affect anyone expressing a religious opinion or value judgment:

Prosecution based solely upon an individual's expression of religious beliefs . . .

Two questions come to mind: First, if the hate crimes amendment is really just about law enforcement, why should it even need a restatement of the self-evident fact that religious expression is constitutionally protected? And second, why include the adverb ''solely'' if not to allow for the potential prosecution of people's religious speech so long as it is part of a broader prosecution of the accused hater?

Today, only actions are crimes. If we pass this legislation, opinions will become crimes. What is to stop us from following the lead of European countries and American college campuses where certain speech is criminalized? Can priests, pastors, and rabbis be sure their preaching will not be prosecuted? In Canada, for instance, Pastor Stephen Boissoin was so prosecuted by Alberta's Human Rights Commission for publishing letters critical of homosexuality, a biblical concept. Or will this amendment serve as a warning to people not to speak out too loudly about their religious views lest the Federal law enforcement come knocking at their door? What about the unintended consequences, such as pedophiles and sex offenders claiming protected status as disabled under this legislation? There is no such thing as a criminal thought, only criminal acts. Once we endorse thought crimes, where will we draw the line? And more importantly, who will draw the line?

Let me talk a little bit about equality and how it relates to this bill. If my own children were attacked in a violent crime, justice—true justice—demands that their attackers be pursued no more or less than the attackers of any other children.

We also say we want a colorblind society—even Judge Sotomayor. But we cannot have a colorblind society if we continue to write color-conscious laws. Our culture cannot expect to treat people equally if the law, if the ruling class treats citizens not according to the content of their character but according to their race, sex, ethnicity, or gender identity.

As we wait through the night to vote on this hate crimes bill, I encourage my colleagues, first of all, to set this aside and let's focus on it separately, if it needs to be focused on. It is not part of the Defense authorization bill. But they are holding the Defense authorization bill hostage to other things, much like we did a few weeks ago when we were trying to pass a defense appropriations bill and they attached a $100 billion giveaway to the International Monetary Fund. In order to vote for the support of our troops, we had to vote to give away another $100 billion from American taxpayers.

This hate crimes legislation makes no sense. It violates all the principles of equal justice under the law. It makes what we think and what we believe a crime, rather than what we do. It asks judges and juries to determine what we were thinking when we were committing a crime, instead of trying to decide what we really did. This is not what is carved above the Supreme Court, which says ''equal justice under the law.'' It violates all the principles we have talked about as far as blind justice, that a judge does not look at who is in front of him but considers the facts of the case.

Hate crimes violate everything that is essentially American and fair and equal about a justice system. It makes no sense to bring it up at all. It makes even less sense to bring it up under the Defense authorization bill.

I encourage my colleagues, particularly the majority, to withdraw this amendment and let us move ahead with the debate of the defense of our country.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

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

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

HIGHWAY INVESTMENT PROTECTION ACT

Mr. VITTER. Mr. President, in September of this year, just a couple of months away, the highway bill—the program under which we build bridges and roads and highways around the country—is set to expire. Even more worrisome, in August of this year—next month—the highway trust fund, which funds all of that activity, is scheduled to run out of money. So I think—I hope—there is a broad consensus here that we need to act to continue the ongoing highway program. To not act—to allow the highway trust fund to run out of money, to allow the highway program to end—would be an enormous antistimulus for the economy because a lot of significant, productive infrastructure spending and activity would just stop overnight.

So we must act, and I believe everyone acknowledges that. What I am concerned about is that we are going to go right up to the eleventh hour, to the precipice, and then we are going to be given one choice, and one choice only, here on the floor of the Senate, rather than have a calm and reasoned debate about the best way to act and the best way to pay for that. So I strongly urge the Senate to take up this matter sooner rather than later and to consider all of the reasonable and all of the available options.

As I understand it, the Obama administration will propose an 18-month extension of the current highway program, and I have absolutely no problem with that. I plan to support that. The key issue in my mind is how we pay for that extension, how we replenish the trust fund, at least for the next 18 months. We faced this shortfall late last year, and unfortunately there was no good idea, no option presented except to spend more money—borrowed money—and increase the debt to keep that trust fund going.

I suggest that with our debt rising so dramatically, with all of the actions this Congress has taken—the stimulus, the budget that doubles the debt in 5 years and triples it in 10—we need a better solution than merely to print more money or borrow more money from the Chinese. That is why I have introduced my proposal, S. 1344. That bill specifically is called the Highway Investment Protection Act. It would extend and reauthorize the highway program for an initial 18 months, and it would fund that out of existing stimulus dollars which have already been appropriated.

Some may ask: What is the point of that? The point is real simple. If we use existing, already appropriated stimulus dollars, we are not borrowing more money, we are not printing more money, we are not borrowing more money from the Chinese, and we are not yet again increasing the deficit and increasing the debt. That is very important. We are also not increasing taxes, which is a horrible thing to do, particularly in the middle of a very serious recession.

One of the clear lessons from the Great Depression is the things you don't do, which, unfortunately, leaders back then did, in some cases. One of the things you don't do is to increase taxes, which made the Depression far worse and far longer in duration than it otherwise needed to be.

So this program doesn't print more money, it doesn't borrow yet more from the Chinese, and it doesn't raise taxes. That is the great advantage of it.

In addition, it is specifically structured to give maximum flexibility to the Obama administration in terms of where to find those stimulus dollars. So we don't say specifically take it from this account, which they may favor; take it from that account, which they may prefer. We give the Obama administration maximum flexibility. And I think virtually everyone acknowledges that at the end of the day, when the entire $800-plus billion stimulus program is worked through, there will be over this amount of money that remains unspent and unobligated. There will be more than what is required for the next 18 months for the highway trust fund—about $20 billion—which cannot be spent out of the stimulus anyway. So this is simply capturing that money and using it to extend this vital highway program and this important infrastructure spending.

Several months ago, when we debated the stimulus here on the floor of the Senate, there were many of us—Democrats and Republicans alike—who wanted more infrastructure spending, more highway spending in the stimulus. It is very clear from every poll that was published that the American people felt that way. One of the absolute top categories of stimulus spending money the American people supported was highway construction—roads, bridges, highways. So this is very consistent with the idea of a broad-based stimulus program. It is not inconsistent with that at all.

Again, the alternatives are to simply move money from the general fund. That means we are borrowing more money from the Chinese or whomever—in a sense, printing more money—or there may be a proposal to increase taxes to pay for it, which I believe, no matter what the source, is a very bad idea in the middle of a serious recession. That is very antigrowth.

My fear is that given our very constricted busy schedule between now and the August recess, this matter is going to be pushed to the very end, right before we are set to leave for the August recess, and there will be one alternative and one alternative only: Just print more money. Just borrow more from the Chinese. My fear is there is going to be an attempt to rush that through the Senate, and I don't think that is the way to get the best result and the most consensual result on this important issue.

I propose we think about this now, sooner rather than later. I propose we discuss all the reasonable alternatives and certainly look at the very commonsense alternative of using already appropriated stimulus dollars—again, no new debt, no new spending; use what has already been appropriated in the stimulus; give the administration maximum flexibility in terms of how to do that.

Finally, I would also point out that the bill is drafted very carefully, so that within these 18 months, if the Congress were to enact a new highway reauthorization program, a new multiyear program, this extension would automatically dissolve and go away and this money from the stimulus would automatically stop and whatever the provisions of that new multiyear highway bill would be would come into full force and effect. I urge all my colleagues—Democrats and Republicans—to consider this commonsense approach.

In that vein, I would like to propound a unanimous consent request.

UNANIMOUS CONSENT REQUEST—S. 1344

I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1344, a bill to use stimulus funds to protect the solvency of the highway trust fund; and I ask unanimous consent that the technical amendment at the desk be agreed to; the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER (Mr. UDALL of Colorado). Is there objection?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Well, in light of the objection, I would ask the distinguished Senator from Michigan, if the Senator would at least agree to a unanimous consent request to allow this bill to be the next order of business after the current Defense authorization bill is fully dealt with which would provide for limited time agreements and relevant germane amendments?

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Mr. President, in closing, let me say that I think it is unfortunate we don't take up this serious matter next after the Defense authorization bill and that we don't take it up in plenty of time to look at all of the reasonable alternatives.

I hope when we finally take it up, it isn't in a mad dash to the August recess; that it isn't under all of the normal artificial pressure that is built up where we must act in the next few hours and we have one choice and one choice only. We have heard all that before. We have heard it before when we were forced into quick consideration of the bailouts. We heard it about the stimulus. Now we are hearing it about health care.

Let's try to do some things right and not just quick. This has to be done before the August recess because the highway trust fund will run out of money during the August recess. So let's take this up sooner rather than later.

Let's take this up right after the current Defense authorization bill on the floor is dealt with and look at all the available alternatives, including using stimulus funds already appropriated so we don't raise taxes in the middle of a recession, so we don't increase the debt and so that we don't borrow more money from the Chinese and print more dollar bills. The American people are very fearful of that growing trend.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent to speak as in morning business for such time as I might consume.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

HEALTH CARE REFORM

Mr. ENZI. Mr. President, many of my colleagues have called me an ''eternal Optimist.'' Since I entered the Senate more than 12 years ago, I have consistently worked across party lines to find new solutions and broker bills that then become law. I have a long and consistent track record of working in good faith with my colleagues from both sides of the aisle. I had hoped, and still hope, to do that on the complex issue of health care reform.

Last Congress, I proposed Ten Steps to Transform Health Care in America. I traveled 1,200 miles across my home State last March to bring my message of reform directly to the people of Wyoming. My message was built on the belief that the American people needed more choice and more control over their health care. I put it together by working with people on both sides of the aisle. I found a way to get coverage for everybody if we did all 10 steps, and any one of them would increase access and cut costs.

Among other things, my plan attempted to level the playing field in the tax treatment of health insurance and also provide a helping hand to low-income Americans in the form of subsidies to ensure access to quality, affordable health insurance. My plan also provided greater equity and ease to our Nation's small business owners by allowing cross-State pooling. Each of my proposals targeted three fundamental goals: Increasing access to health care, reducing costs within our health care delivery system, and improving the quality of care.

As the only accountant in the Senate, I was and remain very concerned about the effect of any health reform proposal on our Federal budget, as well as personal and family budgets. We all want coverage for everyone, including preexisting and chronic conditions. We want portability. We want health care, not sick care.

I have continued my work on health care reform this Congress. As the ranking member on the Committee on Health, Education, Labor, and Pensions, a member of the Finance Committee, and a member of the Budget Committee, I assumed a unique role in the health reform debate this year. I worked hard to foster a constructive dialogue with the members of all three committees, and I have met with the President and administration officials to share ideas on how to best craft a strong bipartisan bill. As the debate on health care reform progresses in the Senate, I continue to stand ready to work on this critical issue. As I have noted many times before, this is likely to be the most important piece of legislation that we will work on as Members of the Senate. It touches the life of every single American in a very real way.

Our health care system is approximately one-sixth of our Nation's economy, and the changes we make in it will ultimately affect the lives of every single American. I have never worked on a bill that was that extensive. It is a sacred trust we have, and we must not be moved by artificial deadlines and short-term political considerations.

I do not think a good bill and a bipartisan bill are mutually exclusive. To the contrary, I believe a health care reform bill will need strong support from

both sides of the aisle to gain the credibility and the support of our constituents. It is still my hope we can produce a strong bipartisan health care bill that upwards of 80 Members of the Senate could support. I see that as a possibility.

I remain eternally hopeful we will deliver the American people the strong bipartisan health care bill they deserve. But I have to tell you I am disappointed by the recent developments of the House of Representatives and, more particularly, in the Committee of the Senate on Health, Education, Labor and Pensions.

Yesterday, on a party-line vote, 13 to 10, the committee passed the Affordable Health Choices Act. But don't let the name fool you because, with a $1 trillion pricetag, the bill is anything but affordable.

Unfortunately, the HELP Committee chose to gallop down a path of partisanship. Despite my strong urging that we start with a blank piece of paper, HELP Committee Republicans were presented with roughly 600 pages of longstanding Democratic policies. It seems not a single Democratic member of the committee was told no, as every pet project was included in this bill. Because Republicans were shut out of the drafting process, we were forced to file hundreds of amendments. Unfortunately, of the 45 committee rollcall votes on Republican amendments, 2 were successful. There were a number of amendments that were accepted, but they fall more in the category of proofreading amendments and some slight changes.

President Obama has repeatedly called for a health care bill that will reduce costs. He has called for a bill that will help every American get access to quality health care, a bill that allows people who like the care they have to keep it, a bill that will not increase the deficit. Republicans strongly support those goals. Unfortunately, the HELP bill does not meet any of them.

In my view, and graded on the criteria specified by the President, the bill voted out of the HELP Committee fails on all counts. The bill breaks the President's promises and falls short on achieving the commonsense goals the Republicans and President share. Instead, the partisan HELP bill adds $1 trillion to the deficit, despite the President's promise that health care reform must and will be deficit neutral. The bill increases that deficit by more than $1 trillion over 10 years. It is not as bad as the House bill. It is my understanding that increases it by $4 trillion over 10 years. Maybe it is just more honest, because there are ways to avoid a cost by phasing in authorizations and by using such sums in authorizations—little tricks of budgeting that avoid the score. But this is on the heels of news last week from official scorekeepers that the Federal budget deficit was $1.1 trillion for the first 9 months of fiscal year 2009.

According to scorekeepers, this bill will bend the cost curve the wrong way, driving up the cost of health insurance for most Americans and increasing total spending on health care.

I refer people to an article by Lori Montgomery in the Washington Post today, ''CBO Chief Criticizes Democrats' Health Reform Measures.''

Instead of saving the Federal Government from fiscal catastrophe, the health reform measures being drafted by congressional Democrats would worsen an already bleak budget outlook, increasing deficit projections and driving the nation more deeply into debt, the director of the nonpartisan Congressional Budget Office said this morning.

Under questioning by members of the Senate Budget Committee, CBO director Douglas Elmendorf said bills crafted by House leaders and the Senate health committee do not propose ''the sort of fundamental changes that would be necessary to reduce the trajectory of federal health spending by a significant amount.''

''On the contrary,'' Elmendorf said, ''the legislation significantly expands the federal responsibility for health care costs.''

Though President Obama and Democratic leaders have said repeatedly that reining in the skyrocketing growth in spending on government health programs such as Medicaid and Medicare is their top priority, the reform measures put forth so far would not fulfill their pledge to ''bend the cost curve'' downward, Elmendorf said. Instead, he said, ''The curve is being raised.''

The CBO is the official arbiter of the costs of legislation, and Elmendorf's stark testimony is certain to undermine support for the measures even as three House panels begin debate and aim to put a bill on the House floor before the August recess. Fiscal conservatives in the House, known as the Blue Dogs, were already threatening to block passage of legislation in the Energy and Commerce Committee, primarily due to concerns about the long-term costs of the House bill.

Cost is also a major issue in the Senate, where some moderate Democrats have joined Republicans in calling on Obama to drop his demand that both chambers approve a bill before the August recess. While the Senate health committee approved its bill on Wednesday with no Republican votes, members of the Senate Finance Committee were still struggling to craft a bipartisan measure that does more to restrain costs.

The chairman of the Senate Budget Committee, Kent Conrad (D–ND), has taken a leading role in that effort. This morning, after receiving Elmendorf's testimony on the nation's long-term budget outlook, Conrad turned immediately to questions about the emerging health care measures.

''I'm going to really put you on the spot,'' Conrad told Elmendorf. ''From what you have seen from the products of the committees that have reported, do you see a successful effort being mounted to bend the long-term cost curve?''

Elmendorf responded: ''No, Mr. Chairman.''

Asked what provisions would be needed to slow the growth in federal health spending, Elmendorf urged lawmakers to end or limit the tax-free treatment of employer-provided health benefits, calling it a federal ''subsidy'' that encourages spending on ever more expensive health packages. Key senators, including Conrad, have been pressing to tax employer-provided benefits, but Senate leaders last week objected, saying the idea does not have enough support among Senate Democrats to win passage.

Elmendorf also suggested changing the way Medicare reimburses providers to create incentives for reducing costs.

''Certain reforms of that sort are included in some of the packages,'' Elmendorf said. ''But the changes that we have looked at so far do not represent the sort of fundamental change, the order of magnitude that would be necessary to offset the direct increase in federal health costs that would result from the insurance coverage proposals.''

Senate Majority Leader Harry Reid dismissed Elmendorf's push for the benefits tax. ''What he should do is maybe run for Congress,'' Reid said.

But Senate Finance Chairman Max Baucus expressed frustration that the tax on employer-funded benefits had fallen out of favor, in part because the White House opposes the idea. Critics of the proposal say it would target police and firefighters who receive generous benefits packages. And if the tax is trimmed to apply only to upper income beneficiaries, it would lose its effectiveness as a cost-containment measure.

''Basically the president is not helping,'' said Baucus. ''He does not want the exclusion, and that's making it difficult.''

But he added, ''We are clearly going to find ways to bend the cost curve in the right direction, including provisions that will actually lower the rate of increase in health care costs.''

Ideas under consideration include healthcare delivery system reform; health insurance market reform; and empowering an independent agency to set Medicare reimbursement rates, an idea the White House is shopping aggressively on Capitol Hill.

But Baucus is not giving up on the benefits tax. ''It is not off the table, there's still a lot of interest in it,'' Baucus said.

I would mention the members of the committee are still working to find that bipartisan match, but it does take time. There are so many moving parts to this bill. But the partisan HELP bill breaks the President's promise, ''if you like what you have, you can keep it.'' The scorekeepers report the bill would force millions of Americans to lose their health care plan they have and like. Several Republican members offered amendments that aimed at ensuring Americans who like the coverage they have they can keep it, but they all suffered the same failing fate.

The partisan HELP bill kills jobs and cuts wages. The nonpartisan Congressional Budget Office concludes the bill will result in lower wages and higher unemployment. These jobs and wage cuts would hit low-income workers, women, and minorities the hardest. It is hard to believe that with unemployment at a generational high, Democrats on the committee will even consider putting more jobs on the chopping block.

Despite passage of the so-called stimulus bill earlier this year, Americans are facing the highest unemployment rate in 26 years. At the same time, the HELP Committee and the House Democrats are attempting to impose new taxes on small employers that will eliminate jobs for low-income minority workers.

The partisan HELP bill raises taxes at the worst possible time. Despite several amendments offered by Republican members, which the Democrats defeated on party-line votes, the bill breaks President Obama's promise not to raise taxes on individuals earning less than $250,000 per year. The bill would impose a new tax on people without health insurance. The partisan

HELP bill allows Washington bureaucrats to ration health care. The bill lays the groundwork for a government takeover of health care, giving Washington bureaucrats the power to prevent patients from seeing the doctor they choose and obtaining new and innovative medical therapies.

I could go into the cost effectiveness—the clinical effectiveness research, but I will not go into the details of that at this time. But that is a way that care could be rationed. How do we know? We tried a bunch of amendments that would specify what could not be rationed, and every one of those was defeated.

The partisan HELP bill traps low-income Americans in a second-tier health care program. Despite several amendments, the other side refused to give Medicaid patients the choice to access higher quality care.

The other side claims to support giving patients choices but when the choice is a new government-run health plan. However, they refuse to give low-income Americans the chance to get out of the worst health care programs in the country.

I would mention government-run programs, instead of giving the lowest income Americans a choice to enroll in private insurance with subsidies, the HELP Committee bill forces them to stay in a program where 40 percent of the physicians will refuse to see them and the care they receive will be worse than what is available through private health insurance.

I have to remind you, if you cannot see a doctor, you don't have health care.

Instead of reducing health care costs, the partisan bill will spend billions of taxpayer dollars on new porkbarrel spending. The bill would build new sidewalks, jungle gyms, and farmers markets through a mandatory spending $80 billion slush fund. That is just the first 10 years, which is delayed 2 years; otherwise, it would be $100 billion. That is for additional porkbarrel projects.

Talk about a rating system. A rating system is how much difference you have between the low age and the high age, the more well and the sicker people. That is being compressed dramatically, which will raise the rates for virtually everybody in America.

The partisan HELP bill preserves the costly, dangerous, medical malpractice system. Again, despite several blocked attempts by multiple Republican committee members, the bill fails to reduce medical lawsuits which drive up the cost of health care and force doctors to order wasteful tests and treatments to cover liabilities.

The bill worsens doctor shortages. According to an analysis by the Department of Health and Human Services, the bill would worsen the Nation's primary care physician shortage by providing fewer medical students with financial assistance in return for work in underserved areas.

In short, the HELP Committee bill costs too much, covers too few, and if you like what you have you can't keep it. Under this bill, if you like your job, you may not be able to keep that either. With all these bad policies comes a $1 trillion pricetag. That is $1 trillion this country cannot afford right now and a trillion reasons why it is a bad bill for America. We have not even talked about clinical effectiveness or some other programs that were not actuarially sound.

As I said at the beginning of the speech, I am an eternal optimist. Despite my comments on the perils and policies in the HELP bill, we still have a chance. We can write a good bill, a bill that ensures every American has quality, affordable health care; a bill that is fully paid for with savings exclusively from health care; a bill that reverses the cost curve; a bill that lets Americans keep what they have if they like it; a bill the American people deserve. We are working on that now. We are trying to put together that bill, but it takes time.

Those are all things that can be done. One way to enact real change is to sit down and work out the details. Health care is complicated. The laws of unintended consequences are severe and unforgiving. We cannot rush into something that will change one-sixth of our Nation's economy and affect 100 percent of Americans. We must take our time and get the policies right.

I have heard reports of White House staff calling the HELP Committee bill a bipartisan bill. I heard White House staff say this bill incorporated Republican ideas. White House staff speak for the President, not for Senate Republicans.

I can tell you as the ranking Republican on the HELP Committee, the partisan vote speaks for itself. Republican ideas were excluded from the process and from this legislation. We have five bills that have ideas that would meet the goals of the President and the ones I have stated. Parts of those were considered; most were rejected.

I passionately want to reform our health care system to improve quality, reduce costs, and increase access. I think the HELP Committee legislation fails to meaningfully address those goals and sticks the American people with a bill we cannot afford. I hope we can get back to work and construct real reform that has the support of the American people.

I appreciate the openness that Senator BAUCUS has had in dealing with Finance Committee members and am optimistic eternally that something good can come out of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

AMENDMENT NO. 1511

Mrs. MURRAY. Mr. President, in every corner of our country, communities have been working to end hate crimes. Despite the great gains in equality and civil rights throughout the last century, too many Americans today are still subjected to discrimination, violence, and even death because of who they are. That is why I have joined with many of my colleagues as a cosponsor of the Matthew Shepard Hate Crimes Prevention Act. This is a commonsense, bipartisan bill that will stand up for the victims of hate crimes and their families.

I am glad it has been offered as an amendment and that we will now have a chance to act on it this week. It takes only a quick glance at a newspaper to see places around the world where people are regularly attacked because of their religion or the color of their skin or their sexual orientation. It is important to remember that even though we in America have made great strides in reducing discrimination, there is still plenty of work to be done. I am proud we are working toward ending these crimes once and for all in the memory of Matthew Shepard.

Matthew, as many of my colleagues have stated, was a 21-year-old college student who was murdered because of his sexual orientation. That crime was not prosecuted as a hate crime because there was no applicable State or Federal hate crimes law that covered sexual orientation. Just this year we were all saddened by a horrific shooting of a security guard at the Holocaust Museum in Washington, DC, a few blocks away.

But those are only two examples. And not all of these terrible hate crimes make headlines. In 2007, the last year for which the FBI has statistics, there were over 9,000 hate crime offenses. The thousands of people who have been victimized by hate crimes each receive inadequate protection under the law, and that is simply unconscionable. That is why this amendment we are considering this afternoon is long overdue.

This amendment would strengthen our existing laws by providing the Justice Department with additional tools to investigate and prosecute crimes that were committed based on a victim's race, color, national origin, religion, sexual orientation, gender identity, or disability.

Communities across the country have been working to respond to hate crimes, and State and local law enforcement continues to bear the responsibility for prosecuting the bulk of these crimes. This is not a Federal takeover. However, States and localities would greatly benefit from the help the Federal Government can provide. If a State or local community is unable to prosecute a hate crime, this amendment would mean the Federal Government could lend a hand.

This amendment would provide a number of other tools to help end hate crimes. It would provide States and local governments with grants designed for hate crime prevention. It would expand data collection about hate crimes so that law enforcement will have more information to help prevent prejudicial crimes committed

against women. It would expand the legal definition of what a hate crime is, allowing for stronger prosecution and more cases for a violent crime that is clearly motivated by hatred.

In that way, this amendment would put into law what we already know, that crimes are different when they are motivated by discrimination. Burning down a building is a horrible crime. But that crime takes on a new character when that building is a church or a synagogue or a mosque.

It is wrong when one person attacks another person on the street, for sure. But it has a different meaning when violence occurs because the victim is a different race, or religion, or sexual orientation.

We cannot stand idly by while Americans are subjected to discrimination, violence, and even death, simply because of who they are. Passage of this amendment would be another major victory for equal rights in our country.

I come to the floor this afternoon simply to urge our colleagues to support this amendment when it comes to a vote later this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

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

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

MEDICARE REIMBURSEMENTS

Mr. ROBERTS. Mr. President, I find myself in a rather unique position here. If you look in the bio sections of all of the outfits that keep herd on us, they will record me as a journalist. That is an unemployed newspaper man, by the way.

But I have a great family tradition in journalism, three generations, four generations, actually, of the Roberts family and the State's second oldest newspaper in Kansas. I still carry around my reporter's notebook, have great respect for those of the fourth estate. We shine the light of truth with our own individual flashlight.

I do not think I have ever done this in 28 years of public service, but I am irritated. I am more than irritated. I rise today to clear up some recent flagrant mischaracterizations about Medicare payments, especially since the Medicare payments are now being used as a target as a pay-for for the health care reform, the alleged health care reform that Senator ENZI was talking about, specifically the statements made on the front page of today's Washington Post, the fountain of all knowledge here in Washington, in an article entitled ''Obama Eyes the Purse Strings for Medicare.''

I would describe this article—I read it. I read it again. I was a relatively happy person, watching the weather—I do not watch the news much—had my cup of coffee, was going to turn to the sports pages. Then I happened to glance at this, read it, and ruined my whole morning. I came in, I was mean with the staff and everything else. So I thought I better get it off my chest.

This article is patronizing. It is condescending. The bad part about it is it is egregious in nature and effect at a crucial time in the health care debate, and that is most unfortunate.

The author of this article describes what she sees as ''one of the most effective and lucrative forms of constituent service,'' i.e. setting reimbursement rates for local hospitals, doctors, home health care centers, and other health care providers.

Oh, I wish I had that power, as opposed to CMS, which is the subagency, the acronym agency for the Department of Health and Human Services, that does set reimbursement rates for all health care providers in the United States.

The author continues, accusing ''longtime Members of Congress'' of such atrocities as ''championing New York City's teaching hospitals'' and making sure ''rural health services are amply funded.'' In this author's mind, these hospitals and other providers are ''flush.'' Flush with Medicare cash as a result.

I must admit in my 28 years in Congress, I have absolutely been one of those dastardly Members intent on making darn sure that the rural health care delivery system can remain alive and serve our people, even if it has to be kept on life support, which is the true characterization of what we face.

I wonder, since it never appears anywhere in the person's article, in her article, if the author of this piece is aware that the average Medicare reimbursement rate for doctors is about 80 percent of what the commercial market pays or that Medicare only pays about 70 percent of the market rates for hospitals. That is why we have hospital after hospital after hospital for decades in Kansas passing bond issues just to keep their doors open. These are not flush places. These are not posh places in regard to hospitals.

Then I go back to the fact that doctors get paid 80 percent. That is why doctors, many of them, are refusing to take—in regard to Medicare—patients. And that is that terrible word that people say is too scary, that is called rationing, that when we set a reimbursement rate, we, meaning the CMS—no, not individual Members of Congress, as the article infers—but these agencies cannot reimburse doctors enough so they can make a living, or other health care providers, that they cease providing Medicare to seniors.

What does the senior do then? Well, they are in a very difficult situation. How do you think these providers survive? The answer is that they shift that loss onto the private market to the tune of nearly $90 billion a year.

Let me repeat that. Everybody who goes to the hospital, everybody who goes to a doctor and has private insurance, you are paying $90 billion a year in a hidden tax in regard to the people who basically are not covered by Medicare and by Medicaid, if, in fact, you would do what the President has suggested, and maybe take some money—''eyes the purse strings for Medicare,'' Medicare being a target, Medicare being the service for seniors. Wake up, seniors. Wake up, AARP. Wake up, everyone else in the health care field. We are targeting Medicare.

My word, if any Senator had come down here except during these last 6 months and said: Let's cut Medicare by 10 percent, they would have been excoriated by this newspaper for hurting senior citizens.

Well, in my State of Kansas and in other rural States across the country, we do not have a private market to shift those losses to. Our rural areas do not have the population base to support such a cost shift as $90 billion as happens in the rest of the country. In addition, the folks in these towns are much more likely to depend on Medicare or Medicaid or to simply be uninsured. In short, without some sort of special payment from Medicare, these hospitals would not survive.

You tell me, Washington Post, what you would say to the residents of Smith Center here, top center in Kansas. What would you say to the residents of Smith Center if their hospital closed?

Smith Center is a great town, close to the geographic center of the lower 48 States, has a population of a little less than 2,000 people. They have a great football team, high school football program, Smith Center Redmen, the pride of north central Kansas, one of the greatest small town football teams in America.

The town is served by the Smith County Memorial Hospital, a critical access hospital with 25 beds. For those of you who are unfamiliar with the terminology, a critical access hospital is a rural hospital with 25 beds or less which is at least 35 miles away from another hospital and which provides 24-hour emergency services.

Critical access hospitals get special treatment under Medicare. They get paid 101 percent of their costs for inpatient, outpatient, and swing-bed services. I probably should not mention that or this reporter might run out to Smith Center and say: My goodness, you are getting 101 percent. Sure. She should go out and take a look, and talk to the hospital administrator and the people in that hospital.

In other words, they do not get the usual 70 percent of the market rate reimbursement for Medicare, for a very good reason, because of the distances they would have to travel. Without the critical access hospital program, the closest hospital for the residents of Smith Center would be all the way in Hays, KS, America, right down here 90 miles away. You tell me what a person's chances of survival are after a car accident or a tractor accident if they have to be driven 90 miles away for emergency care.

Smith County Memorial is just one of 83 critical access hospitals in Kansas. They are absolutely essential to the very lives of the people in rural America. Indeed, they are essential to the very existence of rural America at all.

I have the privilege of being the cochairman of the Rural Health Care Caucus, along with TOM HARKIN of Iowa. We are fighting tooth and nail, holding on by our fingernails to exist, to provide care to the people who live in these small communities.

I am happy to admit it, I am happy to admit to this reporter—I hope she comes in for a cup of coffee. I would be happy to give her a cup of coffee, no cream or sugar; there might be a little vinegar in it. But at any rate, please come in for a cup of coffee and visit about this. I am happy to admit it. I will bend over backward to preserve the payment rates that allow these hospitals to stay open and to continue to serve the people in Smith Center, KS, and elsewhere all throughout rural America.

I believe this position is completely justified. I sleep just fine at night knowing that I have used my so-called influence through legislation, through the rural health care coalition, through the Finance Committee, through the HELP Committee, to ensure that Medicare pays these hospitals just enough to average a 1-percent Medicare margin, 1 percent, when these hospitals are still fighting for their lives.

I would like to personally invite the author of this article or any other member of the Washington Post editorial board, God love them, to visit some of the rural hospitals in Kansas with me. The reporter's name—I hope I get it right; I apologize if I do not. I really sort of apologize. I am picking on her—is Shailagh Murray.

Shailagh, why don't you come to Kansas with me and let us go out to Smith Center. Here is the hospital. This is this posh resort that you apparently think we finance with Medicare.

It is true, you know, you go through the doors, there are two-inch thick carpets, you go in, there is—let's see, I think there is Mozart's piano concert 21, piano concert No. 21, and they call you by your first name, and you get immediate treatment. Then there are massage facilities and a spa in the back. And that is a lot of what we have in our Dodge City feedlots. That is not the case.

Talk to the CEOs, the doctors, the nurses, and the patients. Walk around this small hospital and see the equipment and the facilities. Flush with the Medicare cash? Come on. And flush with Medicare cash that is somehow influenced by individual Members of Congress? I wish. I have been fussing and fighting and feuding and pleading and cajoling with CMS to try at least to get these payments to doctors and hospitals up to the level that they can continue to exist.

Flush with Medicare cash? I think not.

Look at this hospital. Do you see anything that would lead to a description of this sort? I am not too sure anybody is going to give up their vacation. They have the finest people in the world. That is our best commodity in rural areas. I am not picking on Smith Center. They are doing a fantastic job with the resources they have. But it just makes me very angry that a Washington, DC, paper and reporter would demonize a program that keeps rural America's heart beating. It is a patronizing and dead-wrong description, and it offends me and the people I am privileged to represent in rural Kansas.

I want to tell Shailagh, Ms. Murray, I am never going to stop fighting for these hospitals no matter how many deals the American Hospital Association cuts with the White House, no matter how many ugly articles are written here in DC. I am rather amazed at the deal the American Hospital Association allegedly cut—$155 billion in cuts to Medicare for senior citizens. Wake up; it is your Medicare. There is going to be more rationing when doctors say: I am sorry, I just can't afford to continue.

That is the target now on the Finance Committee—Medicare. I never thought I would see the day that would happen. But I will not stop fighting for these hospitals. Here we have the American Hospital Association, the Kansas Hospital Association, the Missouri Hospital Association, other hospital associations are not happy with the national association when you crawl in bed and get fleas with the administration. What is the old saying? If you go to bed with the Federal Government, you wake up in the morning and you got something more than a good night's sleep. And that is exactly what has happened with the American Hospital Association.

They come through my door and say: Help, help, please get these reimbursement rates up. Every year, we have done that with Medicare and the Medicare Programs. We are being cut by 11 percent, and the cost of inflation in regard to where we try to practice has gone up 7 percent, and whatever other number they said every year. They blame Republicans. Once in a while, they blame Democrats and say: Why on Earth did you cut Medicare? And now we are using Medicare as a target for health care reform for this bill that is impossible for most people to even comprehend? It is amazing.

The American Hospital Association bought into it with $155 billion in cuts. They come through my door every year when they want to keep the reimbursement rates level. Don't come through my door for at least a month until I calm down. That is my duty to the people of my State. I feel comfortable with that.

I have been a little tough here on a reporter I have never met, obviously. She is spending a lot of her time in the people's house talking with muckymucks on the various committees. Those are people with the seniority. I used to be one of those. I used to be somebody. But I urge her to talk to Members who represent rural areas and the rural health care delivery system and understand that this is not a question of this hospital having flush payments. They are hanging by their fingernails just to keep open. It is not true that Members of Congress, even the distinguished Presiding Officer and anybody else who might happen to be listening to my remarks, the great Senator THUNE standing to my rear who also represents rural areas and has even a sparser area than I do—it is just not true. This article comes right at the apex of the debate of the health care reform debate. It is just not right.

Let me again say to Shailagh: Why don't you come out to Kansas with me. We will visit with Tom Bell, president of the Kansas Hospital Association. We can go out to Smith Center and visit the hospital or as many hospitals as you want. We will see who is flush in regard to Medicare payments. That is certainly not the case with them.

I think I have made my point. I must say, as a former journalist, former newspaperman, I used to check my facts. I would ask that they do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, the Senator from Kansas made some excellent points about rural America and rural hospitals, and, as always, he did it in a most effective way. It should not be lost on anyone in this Chamber or around the country, when we talk about health care reform, these decisions we make in Washington have real impacts in the real world. They impact people in different parts of the country differently.

The Senator from Kansas was very clear about the hospitals he represents. I represent hospitals in rural areas. These are not hospitals out there cutting a fat hog. These are hospitals trying to provide service, trying to deliver health care in areas that make it challenging because of geography. Sometimes they don't have the most up-to-date, modern equipment, but they are out there providing critical health care services to people. I associate myself with the comments of the Senator from Kansas.

Anybody who cares about the impact of some of these proposals on hospitals in rural areas such as Kansas and South Dakota should be concerned about the CBO discussion that occurred this morning in front of the Budget Committee. It made it very clear that not only is this going to cost $1 trillion, probably minimum, in the near term, but in the long term, the costs for the health care reform plan currently moving through the Congress explode. When we get into the outyears, it will be even more expensive.

It will mean bigger and bigger reductions and cuts from providers, as the Senator from Kansas so eloquently pointed out, in rural areas that are already struggling to make ends meet and keep their hospital doors open.

This report we got today from the Congressional Budget Office is really pretty stunning, in the context of the debate we are having over health care reform.

The CBO Director, Doug Elmendorf, was asked pointblank by Senator CONRAD whether the cost curve is bent under the health care reform legislation currently being considered. Elmendorf says no. Then he goes on to say:

> The way I would put it is that the curve is being raised.

As has been pointed out by President Obama before, he said:

> And I've said very clearly: If any bill arrives from Congress that is not controlling costs, that's not a bill I can support.

That was the President's own criteria for health care reform. That only means, based upon the report we got from CBO this morning, that the administration is going to have a very difficult time embracing the health care plan moving through the Senate that sees costs not coming down, not bending the cost curve in a downward direction but, rather, bending it upward so we will see a spike in health care costs.

Mr. Elmendorf, when he answered that request, to put it in fuller context, was asked: So the cost curve, in your judgment, is being bent, but it is being bent in the wrong way; is that correct? His answer is a long quote, but I want to get it into the RECORD because it puts into context the very issue he raises with regard to health care reform and its costs and when we will see the true effect. Here is what he said:

> The way I would put it is that the curve is being raised . . . As we wrote in our letter to you and Senator Gregg, the creation of new subsidies for health insurance, which is a critical part of expanding health insurance coverage, in our judgment, would by itself increase the federal responsibility for health care that raises federal spending on health care, raises the amount of activity that is growing at this unsustainable rate, and to offset that there would have to be very substantial reductions in other parts of the federal commitment to health care, either on the tax revenue side through changes in the tax exclusion, or on the spending side through reforms in Medicare and Medicaid. Certainly reforms of that sort that are included in some of the packages, and we are still analyzing the reforms in the House package, the legislation was only released as you know about two days ago, but the changes that we have looked at so far do not represent the sort of fundamental change, the order of magnitude that would be necessary to offset the direct increase in federal health costs from the insurance coverage proposals.

What I conclude from having read that and having heard what he said this morning is that he is very skeptical that there is anything about the health care plan that is pending in the Senate or the one that passed the House last week that is going to, in the long term, reduce cost.

A fundamental principle behind health care reform ought to include efficiency, streamlining, finding savings. When most Americans think of reform, they don't think of adding costs or making things more expensive, they think: How does this reform actually achieve savings by making us more efficient and streamlining operations and coming up with new and innovative ways of doing things so that we can do things less expensively?

That, to me, would be the essence of reform. That is not what is being talked about here, obviously. Not only do the reforms that have been proposed, the House version, which has been reported out of the committee, or at least is being deliberated on in committee over there but hasn't been reported already but will be on the House floor in the very near future, a House Democrat aide—this is a news report—said the total bill would add up to about $1.5 trillion over 10 years. The aide spoke on condition of anonymity to discuss the private calculations. You might have a hard time getting used to the concept, but it is $1.5 trillion in the House-passed version. We know the Senate-passed version will be a minimum of $1 trillion. There are many independent analyses and estimates that have been done that suggest that it could be north of $2 trillion and perhaps well north of $2 trillion when a lot of these changes actually go fully into effect after the transitional period is over. So we are talking about trillions of dollars at a minimum in the near term, perhaps multiples of that, trillions of dollars in the long term.

That doesn't meet any sort of criteria or definition of reform. To me, reform ought to be: Let's find some savings. Let's see what we can do to achieve some efficiency.

As I have suggested, we spend already about $2.5 trillion annually on health care. That represents about 17 percent of our gross domestic product. That is on its way to 20 percent. Very soon, $1 in $5 in our entire economy will be spent on health care. I argue that it is not that we are not spending enough money on health care. It is that we are not spending wisely and well. We are not spending smart. We need to spend smarter when it comes to health care. We need to put more of an emphasis on wellness and prevention. We need to do things that would allow individuals and small businesses to join larger groups, to get the benefit of group purchasing power so they can start buying in volume, driving down cost to create more competition in the marketplace where individuals can buy insurance across State lines. We need to address the growing cost of defensive medicine that is a direct result of lawsuit abuse. There are a lot of remedies that we think make sense in terms of bending the cost curve down and actually doing something to reform health care, to gain efficiencies, and to get costs on a more reasonable and affordable level.

It is pretty clear from the CBO report this morning in front of the Budget Committee that the current proposal—the House proposal and now the Senate proposal reported out of the HELP Committee yesterday—does nothing of the sort. There is no way it can be argued that these are reforms. It is certainly not reform that leads to savings in the long term. They will bend the cost curve upward. We will see increased costs. We will see costs spike in the outyears. That came across unequivocally in the report that was made by CBO Director Douglas Elmendorf this morning in front of the Budget Committee.

Where does that leave us? I argue that it certainly ought to sound a note of caution to people in Washington, DC, that perhaps this is something we ought to take our time with. Clearly, what has been proposed so far is going to increase costs significantly. It is going to lead to the takeover of the health care system by the Federal Government, which I think most Americans would take issue with. If you don't believe that, again, there are lots of great independent studies out there.

One of the criteria the President put forward in a health care bill he would sign had to do with, if you have insurance today that you like, you can keep it. That is not true under this bill, either, because these independent analyses that have been done have also pointed out that there were going to be about 6 in 10 Americans or about 118 million total Americans who will be driven into the government-run program because the private health insurance marketplace, when it has to compete with the government, will not be able to do so because the government, due to its very size, is going to drive a lot of the private insurance coverage out of the marketplace.

A lot of small businesses that currently offer insurance to their employees are going to say: I am not going to do this anymore. It costs too much. And they are going to shift everybody into this big government-run program, which not only, I guess, do I have issue with the whole notion that we would hand the keys to one-sixth of our entire economy to the Federal Government, but I think, more importantly than that, it gets to the very basic issue that most Americans instinctively agree with, and that is they ought to have freedom, they ought to have the choice to choose their health care provider, and they ought to make decisions in consultation with their physicians about what is the best procedure to use.

The problem with the approach the Democrats on the HELP Committee have taken—and, incidentally, when it passed yesterday, it was on a partisan-line vote. All the amendments that were offered by Republicans to try to change it or make it better or improve

it or at least have some of their policy ideas incorporated were shot down on a party-line vote.

But it seems to me, at least, that if we are going to do something about health care, we should not hand the entire health care system in this country to the Federal Government and have them imposing themselves and them making the decisions that historically have been made by individuals, by consumers, by patients, and their health care providers. That is a fundamental principle of our American tradition; that is, that we believe in freedom.

The European model and the Canadian model on health care, which is often used and touted, is a different one. But that is not the American way. That has never been the American way. The American way is freedom; it is choice; it is individual responsibility, all of which should be emphasized in any health care reforms we pass; I might add again, all of which ought to lead not to higher costs but to lower costs in our health care system.

For the record, as well, there are a number of organizations that have looked very closely at the House bill and are now analyzing the Senate HELP Committee-passed bill and have concluded it is a bad idea. It is not just a bad idea for the taxpayers who are going to be stuck with the higher taxes or the increased borrowing from future generations to finance it, it is not just a bad idea because it puts the government in the way and fundamentally interjects it into the relationship between patients and their health care providers but also because it would kill jobs in our economy.

We have an economy that is very fragile, that is struggling. We have unemployment at 9.5 percent. Perhaps it is going to double-digit levels for the first time in a long time in our country.

So you have the Chamber of Commerce, the National Federation of Independent Business, and the Business Roundtable that have sent a letter. This letter came out, I think, yesterday. It was in response to the House health care reform legislation. But it objects to a number of provisions in the bill.

Specifically, the letter warns that the pay-or-play provision could end up killing many jobs. The new Federal health board ''would have significant power but be highly unaccountable to the American people.'' Then it goes on to say that cost shifting created by the government-run plan ''would significantly increase costs for every American who purchases private insurance.''

So the major organizations that represent the job creators in this country—the Chamber of Commerce, the National Federation of Independent Business, the Business Roundtable; a number of other organizations, I would add to that, I think are issuing similar type statements and letters—have concluded it would kill jobs, it would reduce the accountability we would have with the American people, and, finally, it would significantly increase costs to Americans who have to purchase insurance.

So I guess the bottom line in all this is, there is sort of a big rush to get this done. The theory is, we have to get this done before the August recess. The House is supposed to have this bill marked up next week and on the floor, perhaps, the following week. And the Senate is trying to figure out a way to wedge this into all the things we have to do. We have the Defense authorization bill on the floor this week and next. We have the Sotomayor nomination that will have to come before the Senate at some point before the August break. But there is somehow this belief around here that we have to jam through this health care bill because if we do not seize the moment and do it now, we are not going to get it done.

Well, I would argue we ought to get it done right rather than do it fast and do it in haste. The Hippocratic Oath for physicians is: ''Do no harm.'' That ought to be the oath we, as Members of Congress, take with regard to this health care debate. From everything I have seen and read from the experts, from the professionals, from the Congressional Budget Office, who have analyzed the health care bills—both the one that is going to be debated in the House and the Senate committee-passed version—all the analysis that has been done suggests it would do great harm, great harm to the taxpayers who are going to be footing that $1 trillion or $2 trillion bill; great harm to the economy, where it will cost us jobs; and great harm, I believe as well, to the American consumer, the health care consumer, who is going to have to pay the cost of this in the form of higher premiums and who will also deal with what could be rationed health care; that is, fewer choices, fewer options because the government is going to be deciding which procedures are covered and which are not.

So we need to take our time. We need to do this right. There are lots of things, as I mentioned earlier, that I think actually do reform the health care system in the country, do lower costs, and make it more affordable to more Americans, and those ought to be what we focus on.

But as was reported this morning by the CBO, a program that will bend the cost curve upward—not just from the trillion dollars we all know it is going to cost in the near term but perhaps trillions of dollars in the long term—is a bad direction to go for health care in this country, it is a bad direction to go for our economy, and it is a bad direction to go for the American taxpayer.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Kansas.

Mr. BROWNBACK. Madam President, I certainly concur with the statement of my colleague from South Dakota as to what he is saying about the health insurance issue and the need to do it right rather than fast. I think it is critically important.

I would like to bring to the body's attention something that was on the front page of the Washington Post today. It is an article about ''Who Will Succeed Kim Jong Il?'' and the point being: Here is a country that has recently tested missiles that can reach Hawaii, that has recently tested a nuclear device. He is gravely ill. Some are reporting he has pancreatic cancer. We don't know for sure what he has. But the question is, Who will succeed Kim Jong Il? And what does that mean to the United States? And what are we doing about it?

In our office, we are working on a piece of legislation to try to start some planning on our part as to what we should be doing if the leader in North Korea falls and if the state fails in North Korea, which is a very real possibility: that the overall state apparatus in North Korea will fail, that you will have hundreds of thousands, possibly millions, of people seeking to flee that country or—in a grip of searching for food—moving around to try to find food, that nuclear weapons will not be well watched, and the missile capacity that is there—all in a state that is failing and may fall altogether.

The reason I point this out is, we are on the Defense authorization bill. It is a very important piece of legislation. It is a key piece of legislation. It is a piece of legislation we pass every year because it is so important to the future of this country and so important to the defense of this country.

Here is a moment where we are looking at a potential nuclear threat, missile threat, to the United States and we ought to take up this issue and we ought to deal with the Defense authorization bill and, instead, we are on hate crimes legislation. The majority party has 60 votes to be able to move to that on another piece of legislation and should if they want to bring that up. But why here? And why are we eating up a couple days to do this on this bill, when we have these sorts of threats staring us right in the face?

I am going to put forward an amendment on the Defense authorization bill asking that we relist North Korea as a terrorist country. I think we ought to look at going at their financial instruments. I think we clearly need to be planning for the failure of this state, and we ought to be looking, as a humanitarian issue, at the failure of this state. I think we ought to be looking, as a security issue, at the failure of this state.

If North Korea falls, are we rushing in to try to secure the nuclear sites? Is South Korea? Is China? Is everybody in some sort of agreement as to what takes place to secure these nuclear sites?

What are we doing on humanitarian issues for 20 million people, many of whom will be starving during that period of time—where a number of them are starving now in North Korea?

This is a very present and pressing issue and instead we are on hate crimes legislation.

As a nation, we will not tolerate violent crime, and I am appalled by news stories of individuals being assaulted or even killed because of their ethnicity, their beliefs, who they are. I am appalled by violence done to those who choose any sort of lifestyle they may choose. I believe we must send a strong message through our law enforcement and judicial system that such attacks would bring the full force of law upon those who commit such terrible acts.

I do appreciate the good will and sincerity of those who wish to expand hate crimes legislation. However, I do not believe such legislation in this body from the Federal Government is the answer. I do not think that is something we should be doing on a Department of Defense authorization bill when we are facing such key strategic threats internationally and we have forces in the field in Iraq and in Afghanistan today. This is not the place. This is not the time.

First, I believe that the severity of a crime should be based upon actions committed. If a violent crime is committed, then the perpetrator should be prosecuted to the fullest extent of the law. Every violent crime ought to be treated as severe, regardless of why it was committed. Every life has value, and every murder is an egregious crime.

Our law enforcement and judicial system should be focused on holding individuals accountable for what they do, not what they think, feel or believe. During the passage of the Statute for Establishing Religious Freedom in 1785, James Madison expressed, ''extinguished for ever the ambitious hope of making laws for the human mind.'' He clearly opposed any law that punished the thoughts or motives of people. Laws already exist to punish crimes themselves.

The Matthew Shepard, hate crimes bill authorizes the prosecution of a crime motivated by actually or perceived race, color, religion national origin, sexual orientation, gender identity, or disability of the victim. This is another example in which a thought or belief becomes an element of prosecuting crime.

Second, I oppose this bill because I believe it would usurp the power and jurisdiction of the States. It violates constitutional federalism by asserting Federal law enforcement power to police local conduct over which the Constitution has reserved sole authority to the 50 States. No matter how upset Americans and politicians might be about certain criminal behavior, every criminal offense and every authorization of criminal enforcement power should be restricted by the explicit principles of the Constitution as well as our long-established criminal law precedents.

Currently, 45 States, as well as the District of Columbia, have hate crime laws. Many of these State laws carry heavier penalties than those proposed in this hate crimes bill. During the Judiciary Committee's hearing on hate crimes, Secretary Holder was asked to prove that there is evidence that hate crimes cases are not receiving proper prosecution and sentencing at the State level. He was unable to produce any.

Even members of the U.S. Commission on Civil Rights, the commission of the U.S. Federal Government charged with the responsibility for investigating, reporting on, and making recommendations concerning civil rights issues that face the Nation, oppose this bill. Their concern is that this law will allow Federal officials to reprosecute defendants who have already been acquitted by State juries.

Third, all crime victims deserve equal protection under the law. This is granted to them under the 14th amendment. Hate crime laws create a multilevel system of justice in which some crime victims' cases are prosecuted more severely than others.

Recently during the hate crimes debate in the House of Representatives, amendments to add military personnel, pregnant women, the elderly, and the homeless to the list of protected classes were all defeated. It is wrong to attempt to set up the law to favor one class of Americans over another.

Fourth, during the Judiciary hearing on hate crimes, Michael Lieberman of the Anti-Defamation League, when referring to hate crimes, said that ''these are selective prosecutions.'' We have also heard a lot of talk about wanting the Federal Government to send a message about the severity of hate crimes. I cannot endorse the idea that criminal law should be selective or be used to send a message. Its purpose is to prosecute criminal action, not to make selective statements.

Finally, I oppose this bill because I am concerned that it could be used to prosecute against religious leaders and organizations for speaking out against acts they find morally unacceptable. Hate crime laws have already been used in foreign countries to silence people of faith who speak their opinion on homosexuality that is derived from their faith.

The other side continues to insist that this bill does not prosecute speech, only criminal actions. Yet there is great concern within religious communities that the Federal Government could prosecute their leaders and members criminally based on their speech or other protected activity. This is a chilling threat to the first amendment right to free speech for people of faith and freedom of religion. I urge my colleagues to vote against this amendment.

I wish to point out and say to my colleagues, particularly the chairman who is on the floor, my hope is, once we get past hate crimes, we will remain on the Department of Defense authorization and take up the issue of North Korea. I know some may say: Well, that is not germane to the Department of Defense bill. I think it is a lot closer than what we are on right now. I would hope we would bring up this issue because of the clear and present problems we are facing on this issue.

I know the chairman of this committee knows this issue very well. I have worked with him on this issue previously. So we have now a bipartisan bill to relist them as a terrorist country that we are bringing forward. I met with our nominee to be Ambassador to China today, saying we should begin planning with the Chinese Government today for the failure of the North Korea state taking place in this successionist order.

The North Koreans are acting peculiarly, even by North Korean standards, with all the missiles they have launched, the nuclear weapons they have put in play, the things they have stated lately. They are normally provocative, but this is an all-out scale of provocation that is taking place now.

It would be my hope we could bring this up and at least start to address what clearly is opening to be a major problem. Whether the Obama administration wants to address it now or the Senate wants to address it now, we may not have a choice. If he is facing pancreatic cancer and there is a successionist battle taking place in a nuclear-armed missile country of North Korea and us having 25,000, 27,000 troops just south in South Korea, we may not have a choice. We need to get this addressed. So I would hope the chairman of the committee could take this up at that proper time.

I appreciate this chance and to be able to put this statement into the RECORD. I think it is prudent for us to start to address some things that are right on and in front of us rather than this hate crimes legislation that does not apply to the Department of Defense bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, first of all, while my good friend from Kansas is on the floor, let me say, we look forward to seeing the language he is going to be offering on North Korea. His description of North Korea as a threat is an accurate description. I do not know that the terrorist state list fits them, but surely the threatening state list fits them very directly. We look forward to seeing that language and trying to work with him and his colleagues on that amendment.

Nobody should be targeted because of the color of their skin, their religion, their disability, their gender or their sexual orientation. For years now, I have joined many colleagues, with the leadership of Senator KENNEDY, in supporting passage of the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act.

We have seen hate crimes increase in this country, most recently at the Holocaust Museum here in Washington.

According to the FBI, between 1998 and 2007, more than 77,000 hate crimes incidents were reported. The legislation we are offering that the majority leader has introduced will help prevent and deter these crimes.

This language, the Matthew Shepard bill, passed the Senate with bipartisan support as an amendment to the Defense authorization bill in September of 2007. This is not new. This language is offered on this bill. Cloture was invoked then by a vote of 60 to 39. The hate crimes amendment before us will, for the first time, give the Justice Department jurisdiction over crimes of violence which are committed not only because of a person's race, color, religion, and national origin, which we already have on the books, but also based on gender, sexual orientation, or disability.

There have been some statements made about restraints on speech. The language is very clear it only applies to violent acts, and it emphasizes explicitly in this amendment that it puts no limits or restraints on constitutionally protected speech, expressive conduct, or activities, including but not limited to the exercise of religion, which is protected by the first amendment, or peaceful activities such as picketing or demonstrations. The law we are proposing will continue to punish violent acts only, not beliefs. It is crucial that we understand this legislation only applies to violent, bias-motivated crimes and does not infringe on any conduct protected by the first amendment.

The first amendment right to organize, to preach against, or speak against any way of life, or any person, is left intact with this legislation.

Again, we are not starting from scratch. The law already prohibits violent crimes based on race, color, national origin, or religion. This amendment would add disability, sexual orientation, gender, and gender identity.

The amendment ensures that State and local law enforcement will retain primary jurisdiction over investigations and prosecutions. The amendment has a strong certification provision that authorizes the Federal Government to step in only when needed. Prior to indicting a person, the Justice Department must certify that the State in which the hate crime occurred either does not have the jurisdiction, the State has asked the Federal Government to assume jurisdiction, or that a State prosecution has failed to vindicate the Federal interest against hate-motivated violence, or a Federal prosecution is necessary to secure substantial justice.

Now, why this bill? Why on this bill? First, it is common practice in the Senate to offer to bills, although the amendment is of a different subject. In other words, this is not the first. For 200-plus years, amendments have been offered to bills which are not relevant to the bill before us. That is the Senate. It occurs dozens of times every session.

There are not many subjects that are more important than the subject of hate crimes. This bill is an available vehicle for an important subject. We have done this before on this bill.

One other thing that I feel keenly about as chairman of the Armed Services Committee, this bill embodies values of diversity and freedom that our men and women in uniform fight to defend.

As Senator KENNEDY said in 2007 when we debated this legislation:

> We want to be able to have a value system that is worthy for our brave men and women to defend. They are fighting overseas for our values. One of the values is that we should not, in this country, in this democracy, permit the kind of hatred and bigotry that has stained the history of this Nation over a considerable period of time. We should not tolerate it. We keep faith with these men and women who are serving overseas when we battle that hatred and bigotry and prejudice at home. So we are taking a few minutes in the morning to have this debate and discussion.

Those were Senator KENNEDY's words.

This is not a long debate by Senate standards. This is a reasonably long debate to give everybody an opportunity to express their views. But we have debated this before 2 years ago. We have adopted this before 2 years ago. It was the right thing to do then for the men and women of our country, as well as to keep the faith with the men and women who put on the uniform of this Nation and fight for the values this Nation represents.

Finally, America has taken many steps throughout our history on a long road to becoming a more inclusive Nation, and our diversity is one of our greatest strengths. Our tolerance for each other's differences is part of the lamp that can help bring light to a world which is enveloped in bigotry and intolerance. Hopefully, we can take another step if we adopt this amendment.

So the Matthew Shepard Hate Crimes Prevention Act of 2009 furthers the goal of protecting our citizens from crimes of hate and deterring those crimes. I hope we have a resounding cloture vote, and again, hopefully, that can occur later on this evening.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERRY. 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. KERRY. Madam President, I further ask unanimous consent that I be permitted to proceed as in morning business.

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

ENERGY AND CLIMATE CHANGE

Mr. KERRY. Madam President, earlier today, during the Democratic policy committee luncheon, we were privileged to hear from the CEOs of three of America's largest companies: DuPont, Siemens, and Duke Energy. It seems we are reaching that point in Washington where folks are starting to line up to argue ideological and nonfactual points of view with respect to one of the major issues facing our country. This is not unusual. Every great debate in history—certainly since I have been in the Senate and well before that—has always been subject to one interest group's or another interest group's interests. Those are often conditioned by phony studies, by one particular industry's funded study, almost inevitably always not peer-reviewed.

So it is that we are beginning to see this kind of a lineup now as a response to the action taken by the House of Representatives, which passed climate change legislation, and a response to the schedule that the majority leader has put us on in the Senate with respect to this legislation. So I wanted to take just a couple of minutes and come to the Senate floor, and I intend to do this on a periodic basis over the course of the next weeks and months as we begin to think about our own approach in the Senate to this critical issue.

Let me say to the Chair and to my colleagues that I hope we can all keep open minds so we will look at this in the context that it ought to be looked at, which is the national security interests, the security interests of our Nation; i.e, energy independence, the fact that we send hundreds of billions of dollars every year to parts of the world that doesn't wind up being invested in American jobs, in America's direct future and, in many cases, money which winds up in the hands of jihadists in one country or another and works against American competitiveness. That is one reason to think about this issue seriously.

Another is that China, India, and other countries are taking this issue very seriously.

Again, today we heard from the CEO of one of America's largest corporations. I think DuPont is one of the largest chemical companies in the world. The CEO said very directly to us that he is concerned about China's commitment as opposed to our commitment, and the fact that out of the top 30 solar, wind, and battery companies in the world, only 5 are in the United States of America.

We are the country that invented many of these technologies, but because ideology trumped fact and reason in the course of the 1980s, the guts were pulled from the energy laboratory out in Colorado, and the United States lost its lead in photovoltaics, alternatives, renewables, to Japan, to Germany, and other countries.

Ironically, as the Cold War ended and we had invested so heavily in that victory in the beginning of the 1990s, we saw the countries that had been locked in by the Communist bloc—the now Czech Republic, then Czechoslovakia,

Bulgaria, Romania, other countries that sought to undo the devastation of the command control policies that had spread ash within 50 miles of a powerplant so there was no living plant, and you couldn't grow anything and the rivers were polluted and the lakes and so forth, and they sought to undo that—where did they go for the technology? They went to Germany and Japan. We lost hundreds of thousands of jobs, economists currently estimate, by the blinders we put on that precluded us from buying into the future, from investing in that future.

So I hope colleagues will look carefully at the economic realities that are staring at us right now. China is investing $12 million-plus per hour in a green economy. They are investing six times the amount of money of the United States of America. The Pew Foundation has found that from 1996, approximately, until 2007, the greatest job growth in our country came from the alternative renewable energy sector, from new technologies—about 9.1 percent, as opposed to the growth of about 3.7 percent or so that we saw in the normal job sector.

In a State such as North Dakota, for instance, I think they have had about 30 percent growth in the alternative renewable energy sector, and they rank today 24th in the Nation in terms of wind power production. But the Wind Institute tells us they could be No. 1 because they have the best wind in the world—in the United States, at any rate—and they could produce 10,000 times the entire electricity needs of the State of North Dakota just from wind power alone. That is a huge amount of jobs to be created and a huge amount of money to be gained, a lowering of cost for their consumers, and we could go to other States around the country and find similar patterns, where there are very significant increases in the economic base of the alternative renewable energy sector to the exclusion of a very flat level—if not no growth—with respect to normal sectors of our economy. What is critical is that China—I just spent a week there about a month ago, purposefully going there to meet with Chinese leaders about global climate change.

Obviously, I am as committed as any colleague in the Senate to creating an agreement with other nations that holds everybody accountable. Obviously, if the United States does this all by itself, it is not going to work. But China is sitting there saying the same thing: If we do this and the United States doesn't do it, it is not going to work.

The problem is that the U.S. bona fides on this aren't very good. The fact is, we have been deniers of the existence of the problem, while other countries are proceeding to try to deal with it. The fact is, we were, until last year, the world's major emitter of global greenhouse gases. It is very difficult to go to other countries and say, you have to do this and that, and they look at us and say, what have you done about it?

For countries in Africa and in the less developed world—Indonesia, parts of South Asia, and other places—they look at us and say: Listen, for the last 50 years, you guys have been creating this problem. We have not been able to develop, we are not a developed nation, and you are sitting there telling us we have to make up for the problem you have created, and now we have to spend a lot of money for it.

The fact is, they are willing to be part of it, they are willing to be part of the solution, but the United States has to step up and show leadership and take action. The bottom line is this: If the United States doesn't step up and take action and show leadership, we are not going to get an agreement in Copenhagen and things will get worse. Some people will say: So what; maybe we will do it down the road. I have news for you—and this is absolutely substantiated in science, as well as in technology and economic modeling—if we don't do it now, every year we delay, it gets harder and more expensive and it gets more dangerous.

If you really want to look out for the citizens in your States, do it now because it will be less expensive to do it now than it will be in the future. The real taxpayer protection effort here is to do climate change now. That is why, as I said, CEOs of major corporations in our country are saying: Give us certainty in the marketplace and give it to us now so that we know what our investments will be as we go forward and we can put together a business plan that is intelligent, thoughtful, and based on the realities of where the economy is going to go.

Huge fluctuation in natural gas prices or in the price of coal or what is going to happen with respect to sequestration—all those things create enormous uncertainty. If you are a coal State, a coal interest—and we have plenty of them here—you ought to step back and look at what is happening in the marketplace.

Coal is under pressure now. We had Jim Rogers of Duke Energy tell us today that they have had a whole bunch of coal plants canceled. They have had them canceled on them by States that are refusing to proceed forward using coal. The fact is, a lot of States are turning away from coal. They are doing that because of the price issues but also because of the pollution issues.

If you are a coal State and you want a future for coal, the way to protect that future is not to wait until the EPA regulates on its own, without coming to the table with help for the transition costs; the way to protect it is to recognize that you have to develop a clean coal capacity. The only way to develop a clean coal capacity is to get the allowances that come through a cap-and-trade system to be able to provide for a transitional support system that allows those companies to transition for the future.

The fact is, in the bill that passed in the House—I don't know what the level in the Senate will be—there is a billion dollars a year for 10 years for clean coal efforts.

So the best way to protect coal and protect America, ultimately—because we have a lot of coal, and it would be wonderful if we were able to burn it but do it cleanly—is to commit now to a system where we are able to provide the support necessary to develop clean coal. The truth is that we know what happens if you don't make this a mandatory structure.

In 1992, President George Herbert Walker Bush committed us to a voluntary protocol in Rio, at what was called the Earth Summit. I went there, together with other Senators, including MAX BAUCUS, FRANK LAUTENBERG, Larry Pressler, John Chafee, Tim Wirth, and Al Gore. We went as a delegation. The President came and gave a speech there, and we committed to a voluntary framework to deal with global climate change in 1992.

Here we are, years later, and it hasn't worked. During the last 8 years, America's emissions of global greenhouse gases went up four times faster than during the 1990s. We have gone backward. While we are going backward, the science is coming back more and more compelling by the day.

The Siberian Shelf Study, just released a few months ago, shows columns of methane rising from the ocean floor because the permafrost lid of the floor is melting, as it is on dry land in Alaska, where they voted recently to move the Nutak Village 9 miles inland. There are dozens of villages in Alaska that are now moving as a consequence of what is happening to the ice shelf and the rising sea levels. As the permafrost lid melts, methane is being released in Russia, the Arctic, and other places where it is exposed. Methane is 20 times more damaging than carbon dioxide. On the ocean floor, you have the columns of methane visibly rising through the ocean, and when they burst out into open air, if you lit a match, it would ignite. That is how potent it is. That is an uncontrollably dangerous potential threat to everybody unless we tap into it or learn how to do that or commit to some other methods of controlling this.

The fact is, a 25-mile ice bridge that has existed for thousands upon thousands of years, which connected the Wilkins Ice Shelf to Antarctica, shattered, fell apart a number of months ago as a consequence of what is happening. A number of Senators have been up to Greenland and have seen the level of icemelt taking place on the Greenland ice sheet. That Wilkins ice sheet is floating in the ocean, and the Greenland ice sheet is on the rock. Many scientists worry that the river melt that is occurring underneath the ice sheet might, in fact, create a slide effect for massive amounts of ice that might break off and fall into the ocean. If the West Antarctic ice sheet melts and the Greenland ice sheet melts, that represents a 16- to 23-foot sea level increase. That is beyond comprehension

in terms of what the impact of that would be. Just a meter of an increase, which is currently predicted for this century—and we are on track to actually meet or exceed that—just a meter means the disappearance of Diego Garcia, the island we use to deploy important supplies to Afghanistan, Pakistan, and to deal with other issues. That will disappear. Countries such as Bangladesh and many islands will disappear, including the coast of Florida. The threat is enormous. The piers in Norfolk, VA, are all cemented to the ocean floor. If that rises a meter, that will be a cost. You can run down the list of things that will begin to happen.

The Arctic ice sheet had previously, a few years ago, been estimated to disappear by 2030 or so. Scientists are now telling us that we will have the first ice-free Arctic summer by the year 2013—4 years from now. That means a lot of different things. It can mean the change of ocean currents and clearly a change in the ecosystem. It means simple things like as more ice is melted and the ocean is opened up—the ocean is dark, the ocean absorbs sunlight. As the sunlight comes down directly onto the Earth, that is absorbed into the ocean rather than reflecting back up, as it used to, off the ice and snow. The result is that the ocean warms even faster, which accelerates what is happening in the Arctic and what is happening in Greenland. So there is a boomerang effect to all of this.

It is ultimately what scientists call the ''tipping point.'' That brings us to the issue of urgency here. Why is this urgent? It is urgent because for years scientists have been telling us that you have to hold down the level of greenhouse gases to—originally, they said 550 parts per million. Then they revised that as new science came in and people realized things were happening faster than we thought. They revised it to 450 parts per million. Now scientists are revising again, and they are revising again because the rate at which the science is coming back tells us this is happening a lot faster than we thought and to a greater degree. Now they are revising it from 450 parts per million to 350 parts per million. Not everybody has accepted that, but that is going on. Why is that alarming? It is alarming because we are at 385 parts per million today.

With the current rate of coal-fired powerplants coming online, the rate of increased emissions through new buildings and the lack of adequate standards on automobiles, and other things, we are pouring emissions into the atmosphere willy-nilly as if there is no tomorrow. Well, that could happen, the way we are going.

The fact is, what is up there already—this is scientific fact. There is nothing that any opponent of global climate change has ever said or done or produced to indicate that this is not fact: Greenhouse gases live in the atmosphere for 100 to 1,000 years. As they live in the atmosphere, they continue to do the warming. So the warming we have done already has warmed the Earth by .8 degrees centigrade. So we can absolutely anticipate a compounding of that warming because the same amount or more is up there, and it is going to continue to do the damage. We don't know how to take it out of the atmosphere. So we are looking at a certainty of another .8 degrees. That takes you up to 1.6. And scientists are telling us the tipping point is at 2 degrees centigrade.

I ask my colleagues to go look at the modeling that has been done by countless different groups around the world. This is not an American conspiracy somehow. This is not a Democratic or Republican thing. It doesn't have that kind of label on it. There are thousands of scientists who, for 25 years or more, have been drawing conclusions based on scientific analyses, and scientists—if you are a good scientist, you are also conservative, because all of the proclamations or findings you make are subject to peer review if you are a good scientist, if you are a legitimate study. The fact is, there are thousands of legitimate peer-reviewed studies that document what is happening in terms of the impact of global climate change. There are zero—not one—peer-reviewed studies that deny those thousands—not one. For all the industry studies you hear, all the scary tactics, like Chicken Little, saying the sky is falling, and the numbers that are put out, no peer-reviewed study supports an analysis that what the scientists say is not happening. We are looking at the potential here of catastrophic implications, which is why the United States needs to move.

The science is one thing; you can put it over here. But what is happening is that other countries have committed to this. Their presidents, their prime ministers, their environment ministers, their finance ministers—all of these people have come together and made a commitment for those countries. They are moving. They accept the science. They also accept the dynamics of the marketplace. They want to be leaders in solar, leaders in wind, leaders in alternatives, renewable, biofuels—you name it. The fact is, unless the United States seizes this economic opportunity, we are going to lose the chance to be leaders in one of the greatest markets in history.

The market that led us to great wealth during the course of the 1990s in the United States was the Internet and data management systems. That market was about a trillion-dollar market and about a billion users at the time during the 1990s, at least when we saw great wealth created.

The energy market is a $6 trillion market with about 4.5 billion users, many of whom are potential users in places such as India, where solar could light a small village and run electricity pumps where they have no water today and no pumps and no development. There are countless things that could happen as a consequence of this that would have profound consequences on elimination of poverty, which has profound implications on eliminating jihadism in places all around the world.

This is an opportunity to change the paradigm, if you will, into which we have been locked. The United States needs to lead. I want those batteries made in Detroit and countless other cities across this country. I named Detroit because we have the skilled workforce. The automobile industry is hurting. We should be building the cars for America's high-speed rail system there. We should be building the batteries there, not in China. We should be developing these technologies. These are ongoing jobs that repeat for the future, and they cannot be exported. What can be exported is the technology itself, which we have an ability to go out and sell to other countries, which is good for the American marketplace.

As these weeks go on, we need to talk about this. I want to come back to one particular component. I want to underscore the national security implications.

In 2007, 11 former admirals and high-ranking generals issued a report from the Center for Naval Analysis saying that climate change is a threat multiplier with a potential to create ''sustained natural and humanitarian disasters on a scale far beyond those that we see today.''

In 2008, a national intelligence assessment echoed those warnings from inside our own government. GEN Anthony Zinni, former commander of our forces in the Middle East, was characteristically blunt in addressing this threat. He says that without action ''we will pay the price later in military terms, and that will involve human lives. There will be a human toll.''

The estimates of the intelligence community and those looking at the national security implications are that we could have in a few years as many as 200 million climate refugees. We have an internally displaced issue today in Pakistan. We have it in Afghanistan, Iraq, and other countries. We can have environmentally displaced people who are forced to move because they cannot produce food because they lose water. The problem of failed states will only be compounded as the instability that comes with those moving populations and the challenges of providing for those people grows.

Believe me, American ingenuity, American military capacity, American lift, American medical capacity, American food aid—all of these things will be called on. And unless we act now, they will be called on to a greater degree than is necessary.

So climate change, in fact, injects a major new source of chaos, of tension, of human insecurity into an already volatile world. It threatens to bring more famine. I invite my colleagues to talk with the developmental people in so many of these countries about the

problems they are having today growing crops, about the change in rainfall, about the lack of water, about the desertification that is taking place in places such as Darfur. Time magazine had a headline a couple years ago: Do you want to prevent the next Darfur? Get serious about climate change. There are linkages here, and it is essential for us to understand the costs.

None of the modeling that has been done to date tries to estimate the cost to the consumer, and that is a concern. In fact, there is an enormous amount of money being put on the table through the allowances to cushion this impact so that American citizens are not paying more for electricity and not paying more as a consequence of these changes.

I believe there is a minimal cost. But the truth is that cost has not even yet been properly represented because no model to this date shows the impact of energy efficiencies in America that will reduce the cost for families. No study properly shows the cost of technology advances that will reduce the cost for communities and families. And no study shows the cost to the American consumer of doing nothing.

If the United States does not do this, believe me, that is a tax on Americans, and it is a lot bigger than the costs that are going to come affiliated with the transition to a new economy which is sustainable for the long term for our Nation.

As we go forward, I want to say to colleagues a couple of concerns people have expressed about cap and trade and other issues. The marketplace: Will the marketplace abuse this? Can we trust the marketplace to function? The answer is, all of us have learned some very tough and bitter lessons as a result of lack of regulatory oversight of the 1990s and the last 8 years. So we are going to have in our legislation in the Senate, which is not in the House, some mechanism by which—I am not going to go into all the details now because we are not going to lay out all the details of what we are going to do. But we are going to address this concern of market regulation in order to adequately guarantee transparency and accountability as we go forward.

There are other concerns people have expressed. As the next days go on, we are going to show day for day exactly what the real costs are, what the real opportunities are, and how we can proceed.

I close by saying that here is the choice, really, for us as Americans and as human beings. Let's say that the people who have no peer-reviewed studies at all, that people who want to be in the flat Earth caucus, or whatever, and argue this is not happening, let's say they are right and we are wrong and we do the things we are going to do because we think they are the right things to do. What is the downside?

The downside is that America would have led the world in terms of technology because every other country is already doing this. Anybody who sits there today and says: What about China, what about China, ought to go to China and see what China is doing. China is determined to be the world's No. 1 producer of electric vehicles, and they are on the way to doing it. China has tripled its wind power goals and targets. China is putting in place right now a 20-percent reduction in energy intensity, and they are ahead of the curve in almost every sector but one and meeting and exceeding that goal. We are not doing that. They are doing that. China is the leader in wind and solar technology. China has a stronger commitment on automobile levels of emissions than we do, and it is going into effect before ours.

I have talked with a number of well-respected observers, both in business and in journalism, who have been to China recently, and they have come back shaking their heads and saying: If we don't get our act in gear, China is going to clean our clock, and we are going to be chasing China in 3 or 4 years.

If you are concerned about holding China accountable to a system, we better put something in place because that is the only way we are going to get a mechanism in Copenhagen that is going to help hold everybody in place.

Here is the bottom line. If we don't get that mechanism, the President is not going to send anything up here, and we are not going to pass it at that point. We are not going to accept some global system that does not address this globally. We have been through that with Kyoto.

The fact is the United States has to do what it has to do in order to make Copenhagen happen, in order to lead the globe in this effort. I hope our colleagues will recognize that.

What else will happen if we are wrong and they are right? We will have cleaned up the air. We will have better health quality in America because we will have better air quality because we will have reduced particulates in the air by reducing global emissions.

The largest single cost of children's health care in the course of the summer in the United States of America is children being committed to hospitals because of air quality, asthma attacks, in the course of the summer, and it is rising as a problem in our country.

It will have reduced hospital costs, better quality of air, better health. What else is a downside of doing this correctly? We will have created millions of new jobs. We see that happening right now. Think of what happens when we set a global target and when the United States sets its own national target and businesses say: Hey, there is money to be made there.

We have better transmission lines so we can send electricity produced from solar in Nevada or in Oklahoma or Texas, or somewhere, and you can sell it to the rest of the country because it can actually be transported there. The minute we do that, the private sector is going to say: Wow, that is worth investing in because we can make a return on our investment.

Look at the size of the market. Today we cannot do that because we cannot send it around the country because we don't have a transmission system that allows us to do that.

The worst that would happen is we move down the road to have cheaper electricity because we can move it from alternatives, renewables all around the country, have a smarter grid, and have the ability to reduce costs for Americans.

What is another downside? Another downside is we might actually reduce poverty around the world because of technology advances. We might reduce the instability of countries and improve our own security, and we will reduce energy dependence because we will be able to produce our own energy at home and not depend on sending hundreds of billions of dollars to other countries in the Middle East and elsewhere. That is a downside.

What is the downside if they are wrong? Catastrophe, absolute catastrophe because we go beyond the tipping point. I cannot stand here and tell you everything that is going to happen. But I read enough and have seen enough of what the scientists say are the potential impacts, and I have seen enough of those impacts already coming true. Just by evidence and common sense, you say to yourself: I don't want to put this to the test because there is no way to come back from it. There is no way to go over that tipping point and turn the clock backwards. That is the choice for all of us.

I hope in the course of this debate we are going to have the kind of debate on the facts, on real studies, peer-reviewed studies, on analyses that make sense so we can make the kinds of judgments that the Senate deserves and that the American people deserve.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I ask unanimous consent to speak as in morning business.

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

Mr. UDALL of Colorado. Madam President, I heard the Senator from Massachusetts laying out the scenario we face not just as Americans but as inhabitants of this wonderful planet Earth. I was compelled to come to the floor and talk about what we are doing in Colorado in seizing the opportunities that the Senator from Massachusetts points out.

He described ably and eloquently what I have characterized as a ''no regrets'' policy. We ought to take all of these steps because whether or not climate change materializes—and I am one who believes the science is very powerfully pointing in that direction—all of those steps would result in the benefits he described. Today I want to bring my home State perspective to

this debate over cleaner, safer, and more secure energy sources.

When we make this change, we will improve our national security. We lessen our dependence on foreign oil, we protect our Earth, and we preserve the air we breathe and the water we drink. Most of all, we keep faith with our children. I have long believed that we do not inherit the Earth from our parents; we are actually borrowing it and all its majesty from our children.

Colorado has a unique perspective on this opportunity, and I think America can benefit from our experiences.

For many years, we have been a national leader in developing energy sources that are traditional, such as coal and natural gas. And in recent years, we have begun to lead the Nation in producing renewable energy from the Sun, the wind, and from biomass.

In 2004—the Presiding Officer, who is a former Governor, can understand the symbolism of what we did—I led a campaign along with the Republican speaker of our State house, Lola Spradley, to create a renewable electricity standard for our State. We barnstormed together in our State in that highly partisan 2004 election. We surprised people that a Democrat and Republican were campaigning together. It was not a Republican or Democratic issue; it was a Colorado issue and, more importantly, it was a Colorado opportunity.

There were naysayers who tried to scare our voters by saying the renewable standard would raise energy costs and harm our economy. But our voters decided to take up the challenge and to commit to generating 10 percent of our electricity from the Sun and from the wind and other clean sources of energy. Our clean energy producers went to work after we passed this measure, and just 3 years later our legislature, realizing we were soon to reach that goal, said: Let's double the standard. So we now have a 20-percent standard we are committing to reach by the year 2020.

We are fortunate to have these ample supplies of clean energy resources in Colorado. But the real key to this has been releasing the ingenuity of our people and then setting goals that create a sustainable future. I wanted to share some examples from Colorado specifically.

Just last week, Tristate, a Colorado utility, joined with a subsidiary of Duke Energy and announced plans to build a wind power facility in Kit Carson, CO, out in our eastern plains.

Vestas—which many are familiar with as the Danish wind turbine supplier—recently broke ground on two new manufacturing plants in the city of Brighton that will eventually employ over 1,300 people. It is also building a $250 million plant in Pueblo that will be the largest facility of its kind and employ 500 people.

Our Governor, Bill Ritter, has estimated that the solar component—we had a solar component in our renewable electricity standard, specifically to generate solar energy activity—has brought over 1,500 new jobs to Colorado.

I think it is fair to say we have wind turbines sprouting and growing like trees on our eastern plains and we have solar farms that are covering the entire San Luis Valley, which is one of our agricultural gems. This is as a direct result of Coloradans setting a goal and saying we are going to meet that goal. I guess I am optimistic enough about America to know that America can follow Colorado's lead. For me, it is when, not if, we commit to a cleaner, more sustainable energy future, we will lead the world in this next great technological revolution.

The Senator from Massachusetts spoke to the awe-inspiring numbers that are potentials—a $6 trillion economy—waiting for us out there if we will only commit to pursuing it. The Union of Concerned Scientists has estimated that a 25-percent renewable electricity standard by 2025 will lead to almost 300,000 new jobs in America, $260-plus billion in new capital investments, $13 billion in income to farmers, ranchers and rural landowners, and $12 billion in local and State tax revenues. Consumers would save $64 billion in lower electricity bills by 2025, while we would reduce the carbon pollution emitted by cars that would be the equivalent of taking 45 million vehicles off of our roads.

I am talking about jobs, Madam President, but it goes much further than that. If, and I say when, we develop a clean energy economy, we will create a new manufacturing base. It will protect our lands and our water, and it will align a policy compass that helps us navigate toward a more prosperous future.

I would like to take a minute and emphasize that the clean energy future I paint doesn't mean the abandonment of traditional sources of energy. We have coal and oil and natural gas in abundance. Nor should it shut the door on nuclear power. Quite the opposite. These sources will remain an essential component of our energy mix for the foreseeable future. I think, as Colorado's experience shows, a balanced energy portfolio will work and that we can find that sweet spot in an energy mix for the future.

We have ample supplies of fossil fuel in Colorado, and we ought to continue to develop those sources. They are crucial to the livelihood of tens of thousands of Coloradans and still comprise the majority of our electric generation. Natural gas, in particular, is a clean and domestic source of energy, and it will be a crucial bridge fuel to the future.

We have massive quantities of oil shale potential on our western slope, and we should continue to research to see if we can produce it in a commercially viable way and in an environmentally sensitive manner.

Colorado has been able to bridge the divide, literally, between our western slope and our eastern plains and between conventional sources of energy from the last century and the clean sources of the future, and the rest of America must now do the same.

The bottom line, though, Madam President, is we must have a comprehensive energy policy that transitions us to cleaner, safer, and more sustainable sources of energy while making full use of existing sources in a responsible manner.

In Colorado, we have a very tangible interest in America adopting broad clean energy sources and therefore limiting our contribution of carbon into the atmosphere, and I would like to focus on one key element of life on our planet, and that is water.

Water is the lifeblood of the entire West. When you grow up in the desert, as I did, you learn to treasure water. You learn that everything is shaped by it, and it may not always be there when you need it if you don't husband those resources. My constituents know that maintaining our water supply is crucial to the health of their families and to preserving the way of life we so value in the West. We have suffered through water shortages. We have seen drought.

My father's generation—not that far removed from our generation—experienced the great Dust Bowl of the 1930s. That was an ecological disaster that reminds us that while we are smart as a species, and we are industrious, Mother Nature always bats last.

When scientists look at our part of the country, they predict that droughts will get worse and precipitation patterns will decrease in Western States because of our use of and dependence on the traditional sources over the last century. People in Colorado know we can't ignore this threat. We have seen acre after acre of our forests devastated by the mountain pine beetle—an epidemic that was exacerbated by a warming climate that will get worse in the hotter drier conditions to come. When they see that, when I see that, we know that doing nothing is not an option.

The cost of inaction is simply too high, and you see that point of view in all the States in my region of the country, regardless of the leadership at the gubernatorial level, at the legislative level. No matter what part of the country we are from, we have a stake in crafting a new energy policy. Beyond regional interests, members of both political parties know we have to meet this challenge because if we don't, it is not only our economic prosperity that is at stake, our national security is at stake.

I was inspired this week to see that our former colleague, the highly respected, now retired, Senator John Warner, is traveling across the country making the case for a plan to address the threats from climate change. We can debate the causes of climate change, and we should continue to have that debate, but we know what we must do.

First, we must lead the world in a clean energy revolution, and next we must acknowledge that our reliance on foreign sources of oil and fossil fuels isn't a sustainable strategy. Third, we must act soon.

I used to think having a discussion about adapting to the changes being brought about by the emission of carbon was a mistake, and that by looking at adapting we were giving in to the problem. But I have come to realize that we have to be realistic and we have to recognize that the changes that are coming will have real impacts on all of us. If we don't act now, the changes that are coming at us and bearing down on us will have a terrible effect on future generations, and we will be doing those generations a terrible disservice.

The longer we wait, the longer we deny, the longer we spend debating, the harder and, frankly, the more expensive it will be to deal with those changes. So the time to act is now. I urge all of our colleagues to join together to pass a strong, clean energy bill. We can drive America with clean energy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SOTOMAYOR NOMINATION

Mr. MENENDEZ. Madam President, America has been listening to the confirmation hearings of Judge Sotomayor—the lengthy rounds of questioning, the probative approach of the members of the committee—and we have seen an extraordinary jurist in action. We have seen her responses, witnessed the depth, dignity, and clarity of her thoughtful observations. We have seen a skilled, dynamic jurist carefully, thoroughly, calmly engage each member of the committee, showing each Senator a deference in tone and tenor that speaks directly to her temperament and what she will bring to the debate in the hallowed halls of the United States Supreme Court.

I believe most Americans watching these hearings, though deeply concerned about the substance of the issues raised fundamentally—at the heart of it—care more about the person. They care about honor and decency and dignity and fairness. They care about her experience. They care about who Judge Sotomayor is and what she has accomplished in her long judicial career. They care about the record. And the record is clear.

They care that the leaders of prominent legal and law enforcement organizations, who know her best and have actually seen her work, say she is an exemplary, fair, and highly qualified judge. They care about her work fighting crime, and that as a prosecutor she put the Tarzan murderer behind bars. They care that as a judge she upheld the convictions of drug dealers, sexual predators, and other violent criminals. They care that she respects their liberties and protections granted by the Constitution, including the first amendment rights of those with whom she strongly disagrees.

Judge Sotomayor's credentials are impeccable. Set aside for a moment the fact that she graduated at the top of her class at Princeton. Set aside her tenure as editor of the Yale Law Review. Set aside her work for Robert Morgenthau in the Manhattan District Attorney's Office; set aside her successful prosecution of child abusers, murderers, and white-collar criminals; set aside her string of victories along the way, not to mention her courtroom experience and practical hands-on knowledge of all sides of the legal system. Set aside her appointment by George H.W. Bush to the U.S. District Court in New York and her appointment by Bill Clinton to the U.S. Court of Appeals; and the fact that she was confirmed by a Democratic majority Senate and a Republican majority Senate which alone tells this Senator—if she was good enough twice, she must be good enough a third time.

Set all that aside, and you are left with someone who would bring more judicial experience to the Supreme Court than any Justice in the last 70 years and more Federal judicial experience than anyone nominated to the Court in the last century.

Her record is clearly proof that someone so skilled, so committed, so focused on the details of the law can be both an impartial arbiter and still understand the deep and profound effect her decisions will have on the day-to-day lives of everyday people.

Senators should focus on Judge Sotomayor's full 17-year record on the bench as well as her career as a prosecutor and corporate attorney.

She has been clear and consistent in her answers, despite repeated questions and efforts to trip her up. She has been consistently more forthcoming than any other recent Supreme Court nominee.

Almost every Republican Senator has asked Judge Sotomayor, in total more than a dozen times, about the same comment made in a 2001 speech, a single speech over 8 years ago at Berkeley. She has continued to say, frankly, openly, honestly, that her comment ''fell flat,'' that she never intended that any person would have an advantage in judging. She has given the same answer each time and each time made clear that ''her personal experience does not compel a particular result and prejudice never has a role in her judging.''

She said again yesterday: ''I do not believe that any racial, ethnic or gender group has an advantage in sound judging. I do believe that every person has an equal opportunity to be a good and wise judge, regardless of their background or life experiences.''

I know no Senator here has ever made a speech in which their quote fell flat or their comments fell flat or what they intended to say was somehow misconstrued. I know that has not happened among the 100 Members of the Senate.

On gun rights, Judge Sotomayor has consistently followed precedent in second-amendment cases. Yesterday and today she has reaffirmed her view that the second amendment includes the individual right to bear arms.

She reaffirmed, again, today her statement from yesterday, when asked if she would be open to considering whether the second amendment creates an individual right applicable to the States, saying:

> I have an open mind on the question. . . . I would not prejudge any question that came before me if I was a Justice on the Supreme Court.

Consistent with her judicial philosophy, she has strictly adhered to the precedent in considering gun rights and on her commitment to the rule of law Judge Sotomayor has repeatedly stated over and over that she is committed to precedent and the rule of law in every case, a commitment reflected not just in words but in her 17-year record as a fair, moderate judge.

She said, ''As a judge, I don't make law.''

That is exactly the approach we should expect and demand from any nominee for the Supreme Court.

I implore my colleagues to look at her record, listen to her answers; they are clear, focused, respectful, forthright. She has answered every question directly, honestly, thoughtfully, and without equivocation. She has held nothing back.

But I, personally, as I have watched these hearings, am beginning to wonder: Are we truly in search of answers or are we badgering the witness? I know that all of America is watching this hearing, but I have to tell you Hispanic Americans are watching it with great interest. Attempts at distorting a record that has been committed to the Constitution, to the rule of law, by suggesting that her ethnicity or heritage would be a driving force of her decisions as a Justice of the Supreme Court is demeaning to women and to Latinos, it is demeaning especially in light of a 17-year record that reflects totally the opposite.

Maybe some of my colleagues think that by repeating that statement time and time again they will generate some opportunity to create an image that is simply not true—that they will create an image that is simply not true. For many of us who come from the Hispanic community within this great country, we have seen the efforts to have a class of people painted in a certain way, and I implore my colleagues

who seem to be traveling down this road that they are running a great risk—that they are running a great risk. If this judge didn't have the 17-year record of fidelity to the Constitution, fidelity to the rule of law, fidelity to precedent—even when that precedent binds her in a way, as in the Ricci case, in which she had sympathy for the White firefighters, but nonetheless precedent kept her obligated to the decision that they had—I would say maybe that line of questioning is legitimate. But I must be honest with you, when it was raised once or twice or three times—but when it has been raised a dozen times, sometimes by the same Senator asking the same set of questions despite having gotten a full answer on the issue, it creates great concern for some of us who have been down this road in other paths at other times but with the same tactics.

Clearly, this is one of the most gifted jurists in America, and we as a nation would be honored to have her serve on the U.S. Supreme Court. I hope these hearings will come to a conclusion soon. I look forward to the debate that will take place on the floor and I, as well as the rest of this country who are riveted on this process, are going to be looking for equal justice under the law—the template that is before the mantle on the Supreme Court: ''Equal justice under law.'' Judge Sotomayor deserved to be treated with equal justice in this process and this badgering of the witness, particularly in this line of questioning which has been asked and answered several times, raises serious concerns for those of us who have lived in this community, understand the challenges and understand the way in which people try to paint people in this community.

It is time to end that line of questioning. It is time to have us have the committee move beyond it.

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. WEBB. 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. WEBB. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. WEBB pertaining to the introduction of S. 1468 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. WEBB. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, may I say for the information of my colleagues, we are working on a unanimous consent agreement so that we can take up the hate crimes issue, the F–22 amendment, and a Republican amendment. Both sides are working hard to get that resolved.

HEALTH CARE REFORM

This is an interesting time in America and in the Congress. We have the very important Defense authorization bill before us. We have the hearings for Judge Sotomayor. We have the HELP Committee reporting out its legislation. There may have been more issues before the Congress, but I don't recall them in the years I have been in the Senate.

Today we had an event that is in the ''you can't make it up'' category. I read from the CNSNews.com. It is entitled ''JOE BIDEN: 'We Have to Go Spend Money to Keep From Going Bankrupt.' ''

I quote completely from the news report from CNSNews.com:

Vice President Joe Biden told people attending an AARP town hall meeting that unless the Democrat-supported health care plan becomes law the nation will go bankrupt and that the only way to avoid that fate is for the government to spend more money.

''And folks look, AARP knows and the people working here today know, the president knows, and I know, that the status quo is simply not acceptable,'' Biden said at the event on Thursday in Alexandria, Va. ''It's totally unacceptable. And it's completely unsustainable. Even if we wanted to keep it the way we have it. It can't do it financially.''

''We're going to go bankrupt as a nation,'' Biden said.

''Well, people that I say that to say, 'What are you talking about, you're telling me we have to go spend money to keep from going bankrupt?' '' Biden said. ''The answer is yes, I'm telling you.''

That is a very interesting story. The thing that probably makes it more interesting is the Washington Post story today entitled ''CBO Chief Criticizes Democrats' Health Reform Measures.''

I quote from the Washington Post story:

Instead of saving the federal government from fiscal catastrophe, the health reform measures being drafted by congressional Democrats would worsen an already bleak budget outlook, increasing deficit projections and driving the nation more deeply into debt, the director of the nonpartisan Congressional Budget Office said this morning.

Under questioning by members of the Senate Budget Committee, CBO director Douglas Elmendorf said bills crafted by House leaders and the Senate health committee do not propose ''the sort of fundamental changes that would be necessary to reduce the trajectory of federal health spending by a significant amount.''

''On the contrary,'' Elmendorf said, ''the legislation significantly expands the federal responsibility for health-care costs.''

Here we have on the one hand the Vice President today telling the American people that we have to spend money, we have to go spend money to keep from going bankrupt, and yet the Congressional Budget Office says that the proposed changes would weaken our economy and expand the Federal responsibility for health care costs.

Continuing from the article:

The chairman of the Senate Budget Committee, Kent Conrad [Democrat from North Dakota] has taken a leading role in that effort. This morning, after receiving Elmendorf's testimony on the nation's long-term budget outlook, Conrad turned immediately to questions about the emerging health care measures.

''I'm going to really put you on the spot,'' Conrad told Elmendorf. ''From what you have seen from the products of the committees that have reported, do you see a successful effort being mounted to bend the long-term cost curve?''

Elmendorf responded: ''No, Mr. Chairman.''

Asked what provisions would be needed to slow the growth in federal health spending, Elmendorf urged lawmakers to end or limit the tax-free treatment of employer-provided health benefits . . .

That has a little echo associated with it. I don't know where that idea came from.

. . . calling it a Federal ''subsidy'' that encourages spending on ever more expensive health packages. Key Senators, including Conrad, have been pressing to tax employer-provided benefits, but Senate leaders last week objected, saying the idea does not have enough support among Senate Democrats to win passage.

Elmendorf also suggested changing the way Medicare reimburses providers to create incentives for reducing costs.

''Certain reforms of that sort are included in some of the packages,'' Elmendorf said. ''But the changes that we have looked at so far do not represent the sort of fundamental change, the order of magnitude that would be necessary to offset the direct increase in federal health costs that would result from the insurance coverage proposals.''

Then incredibly:

Senate Majority Leader Harry M. Reid [of Nevada] dismissed Elmendorf's push for the benefits tax. ''What he should do is maybe run for Congress,'' Reid said.

I have disagreed from time to time with the Congressional Budget Office. I have agreed from time to time with the Congressional Budget Office. But I don't think it is appropriate to use that kind of language from the majority leader of the Senate about these hard-working people. This wasn't just Mr. Elmendorf's product. This was the product of endless nights and days of work on the part of the Congressional Budget Office. If you disagree with them, as I have in the past, disagree and give your reasons for doing so. But for the majority leader to say that what he should do is ''maybe run for Congress,'' frankly, I don't think is an appropriate response to the incredible work that these individuals are doing.

Continuing from the article:

But Senate Finance Committee Chairman Max Baucus . . . expressed frustration that the tax on employer-funded benefits had fallen out of favor, in part because the White House opposes the idea.

Critics of the proposal say it would target police and firefighters who receive generous benefits packages. And if the tax is trimmed to apply to only upper income beneficiaries, it would lose its effectiveness as a cost-containment measure.

''Basically the president is not helping,'' Baucus said. ''He does not want the exclusion, and that's making it difficult.''

But he added, ''We are clearly going to find ways to bend the cost curve in the right direction, including provisions that will actually lower the rate of increase in health care costs.''

* * * * *

Ideas under consideration include healthcare delivery system reform; health insurance market reform; and empowering an independent agency to set Medicare reimbursement rates, an idea the White House is shopping aggressively on Capitol Hill.

But Baucus is not giving up on the benefits tax. ''It is not off the table, there's still a lot of interest in it,'' Baucus said.

Well, what this is all about—what this is really all about—is heading in the wrong direction with the wrong fundamentals of what the problems with health care in America are—a fundamental misunderstanding. The health care in America is the highest quality in the world. I went to M.D. Anderson with the Republican leader and the Senator from Texas, Mr. CORNYN. At M.D. Anderson—one of the great, premier institutions in America, where cancer treatment is incredible—there were people there from 90 countries around the world. Most of those people were wealthy people. They had the choice of going anywhere in the world to get the treatment they felt they needed. They came to the United States of America. That is true of the Mayo Clinic. That is true of many other medical facilities and institutions in America.

So the problem with health care in America is not the quality of care. The problem with health care in America is affordability and availability. The cost of health care continues to increase—inflation of nearly double digits. We cannot afford it.

The Vice President is right when he says it is unsustainable. But when the President says that we want to do nothing, obviously, that is not the view of Republicans. We believe you have to do a lot. We believe you have to do a lot, and that is increase competition in America so people will have choices, affordability, and availability, and not a government-run health care system.

So the architects of the legislation passed through the HELP Committee and being considered by the Finance Committee and that came through the House were fundamentally wrong to start with. They were not attacking the problem of health care in America, and that is the cost. And the quality of health care in America is what needs to be preserved.

How do you install competition? You install competition by letting people go across State lines to shop for the health insurance policy they want. That is prohibited now. Why is that? Why is that?

The other is wellness and fitness. We are in agreement, I want to say, on a lot of issues that have not been highlighted in debate on the floor—Republicans and Democrats. Wellness and fitness, insurance policies that will encourage such things; rewards by employers for people who practice wellness and fitness. In fact, probably one of the best known individuals in America today is the CEO of Safeway. They have had an incredibly successful program for their employees, where if they practice wellness and fitness—they do not smoke, they regularly engage in exercise, including membership in health clubs—guess what. They are rewarded for doing so. And the overall costs of health care in Safeway have gone down. They have told every insurer: Come, if you want to insure our employees, encourage wellness and fitness and let them make a choice. Do so.

That is the essence of what we have to do. The problem in America with health care is that too often there are fixed costs. There is no competition, and there are incentives to drive up the costs of health care. We all know that. We all know there are certain procedures which are more rewarding than others, and the system is gamed, and that there are billions—tens of billions—of dollars of fraud, abuse, and waste in the Medicare system that have been identified on numerous occasions.

We also know that medical malpractice is a problem, and we need to reform it. Some years ago, the State of California—not known as a conservative State, to say the least—enacted fundamental medical liability practice reform. And guess what. It has resulted in cost savings. It is well known that physicians practice defensive medicine, which many times accounts for a 10-, 15-percent increase in those costs for fear of being sued. And the new technology, which has made such tremendous advances, then, indeed, increases costs because they are overused because that physician knows, in some States, in some cases and places, unless every kind of test is administered—whether that physician thinks it is needed or not, it is going to be administered and prescribed in order to avert the eventuality of appearing in court and not having administered all the necessary, or what the plaintiff's lawyers believe is necessary, tests and procedures.

So look, we know now—we know now—from the Congressional Budget Office, for the second time, that this proposal is not going to cure the health care issues of America. It is time we went back to the drawing board. It is time Republicans and Democrats sat down at the negotiating table—not calling one or two Senators down to the White House, not trying to pick off one Republican or two Republicans, not doing that.

I know that with this plan the Democrats and the administration may be able to pick off a couple Republicans and get 60 votes and enact this massive movement of the government takeover—eventual takeover—of the health care system in America, or we can sit down together for the first time with incredibly knowledgeable people. There is nobody who knows more about health care than our two doctors, Drs. COBURN and BARRASSO. There is nobody who knows more about health care than Senator ENZI, who has been our leader in the HELP Committee—Senator ALEXANDER. There is a lot of knowledge on health care issues. We could sit down together, scrap this idea, scrap this ''spend money to keep from going bankrupt,'' scrap this proposal where the Congressional Budget Office says ''the legislation significantly expands the federal responsibility for health-care costs,'' that the measures would ''worsen an already bleak budget outlook, increasing deficit projections and driving the nation more deeply into debt.'' That is not the proposal the American people want to pay the penalty for.

So events today have been very interesting. The fact is, what we need to do now is sit down together for a change. I have done it in the past, I will admit, on issues that are not of this magnitude. I do not know if there has been an issue that consumes one-sixth of the gross domestic product of this country that I have been involved in. Certainly other major issues, certainly working together with my friend and colleague from Michigan on the Defense authorization and other measures to preserve our Nation's security. But this issue, I must say, causes all others to pale in magnitude. But that is also the reason why we should sit down together and not pass legislation that is purely on a partisan basis.

Let's listen to the experts. Let's listen to the Congressional Budget Office. I know of no one who believes there is bias in the Congressional Budget Office. As I say, sometimes I have been very disappointed or disagreed with them. But I know of no one who thinks they are not doing the very best they can under the intense pressures of getting out these numbers.

I want to take this moment to salute the Congressional Budget Office, whether I agree with or disagree with them, for the incredible work they have done in the past. I hope at some point to be able, when this health care debate is over, to enter into the RECORD the thousands of hours that have been put in by the Congressional Budget Office and the staff there in trying to come up with their best assessment so we can legislate with the benefit of the knowledge that, frankly, only they possess.

So let's listen to them. Let's listen to other outside experts. Let's recognize the fact that this issue has badly divided this Congress. But let's also listen to the fact that the American people are becoming more and more skeptical of the proposals we are considering or that have been reported out by both the House and the Senate HELP Committee and maybe start over and do something the American people can believe in and for which we can tell the American people we put their interest first.

I note my friend, the Senator from Michigan, is on the floor. I hope we can give a ray of hope to our colleagues and let them know how they are going to be able to spend the rest of the evening.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Michigan.

Mr. LEVIN. Mr. President, let me thank my good friend from Arizona, first of all, for all the effort he has made today with his staff. Our staffs have been working hard. There is a lot of progress on the unanimous consent request which will set out the path forward, not just for tonight. We, obviously, expect votes tonight—a number of votes tonight—but also for the coming days, when we come back here for votes on Monday.

But there is progress being made, and the staffs are working very hard. We can actually see them in the back of the Chamber at times going back and forth with different ideas. But we are close. We are confident. We are optimistic we will fairly soon have a unanimous consent agreement.

I again thank my friend from Arizona for all he has done to help facilitate this, and our staffs, because they are working hard and I am optimistic they are going to succeed.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I was going to talk about aircraft and aircraft procurement, and I will do that. But before I do that, I feel compelled to respond to the comments of our colleague from Arizona with respect to health care.

It turns out, literally, as we gather here on the Senate floor today, negotiations are underway between Democrats and Republicans, led by Senator MAX BAUCUS, the chairman of the Senate Finance Committee, and Senator CHUCK GRASSLEY, the ranking Republican on the Senate Finance Committee, to try to find common ground with respect to health care.

In a day and age when we spend more money on health care than any other nation on Earth, we do not get better results. I think we have 14,000 people who are likely to lose their health care in our country today—in a country where we have 47 million folks who do not have health care coverage. We can do better than that. There is a strong bipartisan effort, led by two very good people—Senator GRASSLEY and Senator BAUCUS—to find common ground.

As it turns out, I like to use the words of a friend of mine, Senator MIKE ENZI of Wyoming, who talks a lot about the 80–20 rule and why he and Senator KENNEDY have gotten so much accomplished—legislation coming out of the Health, Education, Labor, and Pensions Committee. It is because they agree on 80 percent of the stuff, disagree on 20 percent of the stuff, and they focus on the 80 percent on which they agree.

I think the same could be said about the legislation that is being negotiated today, again, in a bipartisan way. The President has said he wants a bipartisan bill. Our leaders on the Finance Committee want a bipartisan bill. I want a bipartisan bill. I think in order for us to actually get something good, something done that improves the quality of health care that is provided in this country, that slows the growth of health care costs, and bends that cost curve down, and makes it possible for us to extend coverage to a lot of people who do not have it, it is enhanced by having bipartisan legislation.

I will not go further into that at this time. But I felt compelled to say I have not given up hope. My hope is that the efforts that are underway as I speak will bear fruit and maybe provide a roadmap to a plan we can agree to here in the Senate and in the House to build on the good work the Health, Education, Labor, and Pensions Committee has already done here in the Senate, and to enable us to find common ground with the House and, hopefully, with the Obama administration.

Having said that—I know this might be a good segue—we are spending a ton of money on health care in this country. If you look at the size of our budget deficits, if you look at how much we spend in the country for health care—I am told it is about one-sixth of GDP—that is not sustainable. Medicare is likely to run out of money in about 7 years from now. That is not acceptable. We end up, meanwhile, not getting necessarily better results, and a lot of other countries are spending substantially less.

We have great models for health care delivery in this country. I will mention a few of them that are showing the way to provide better outcomes at less money. They include the Mayo in Minnesota and in Florida; an outfit called Geisinger in Hershey, PA; Intermountain Health in Utah, Kaiser Permanente in northern California; a cooperative called Puget Sound in Washington State; Cleveland Clinic in Cleveland, OH. There are a number of them. For the most part, they are nonprofits or cooperatives that have shown it is possible to provide better care, better outcomes, for less money than what we are getting in this fee-for-service operation that we now call a health care delivery system.

We can do better. My hope is we will keep working at it and not give up and that we will continue to try to work across the aisle until we come up with a product we can bring to the floor and negotiate, debate it on the floor, and then go to conference with the House.

In terms of things that we spend a lot of money on—not just health care—we spend a lot of money on the defense of our country. That is a major priority for our Nation. If we go back to 1990s, 1980s, 1970s, we went for a long time without balancing our budgets. In fact, it was not until, I think, fiscal year 1999, under the Clinton administration, that we actually balanced our budget for the first time, I think, since 1968. It was roughly 30 years, three decades that we went without balancing the budget. I think we did it again in 2000, and then when we had the handover from President Clinton to President Bush, we left the new President with a budget that was, I believe, balanced once more.

We sort of went from that point in time, kind of a high-water mark in terms of fiscal responsibility, and over the last 8 years we turned around and we went in the opposite direction. We ended up running up more new debt in the last 8 years than we ran up in our first 208 years as a nation. I will say that again. We ran up more new debt in the last 8 years than we did in the first 208 as a nation. The debt for the new fiscal year, as we go through this worst recession since the Great Depression and trying to fight two wars, one in Iraq and one in Afghanistan, the meltdown in revenues, very high health care costs; we are looking at a budget deficit which, I am told for this year, may have already exceeded $1 trillion, which is the highest on record.

I chair a subcommittee of the Homeland Security and Government Affairs Committee in the Senate. One of our responsibilities is to help, along with our colleagues, to scrub spending. One of the things we do is we look for spending that doesn't make much sense or where there is waste, fraud or abuse. I might say, in response to my friend, Senator MCCAIN's comments on waste in the Medicare system, one of the encouraging things in the last 3 years is we have gone out and done what we call postaudit cost recoveries in three States for Medicare. In California, Texas, and Florida, we have actually gone out to see where money has been wastefully spent and to see if we can recover that money. The first year we discovered almost nothing, the second year we found a little bit, and last year we found $700 million. In just three States we did that, and now we are going to be doing the same kind of thing in 47 States, hopefully recovering a lot more money for the Medicare system and maybe taking our lessons learned from recovering moneys misspent, inappropriately spent for Medicare, and do the same kind of thing for Medicaid, and that will put a lot of money back into the Treasury.

My subcommittee focuses on, among other things, wasteful spending, and one of the things we have looked at is cost overruns for major new weapons systems. With the help of the Government Accountability Office, we went back to, I think it was 2001, and we looked for cost overruns for major new weapons systems. In 2001, I think it was about $45 billion. We have seen it ramp up from about $45 billion in cost overruns for major new weapons systems, GAO tells us by last year, or maybe it was 2007 or 2008, this number had grown to almost $300 billion—from $245 billion in 2001 over the next 6 or 7 years to almost $300 billion in cost overruns.

Unacceptable. I think we have finally leveled off the increase. Not only is that kind of trend unacceptable, but the level of that enormous cost overrun in weapons systems is unacceptable as well.

In a day and age when our Nation is awash in red ink and in a day and age when we are involved in wars in Iraq and in Afghanistan, it is critically important that we spend every dollar—defense dollar and, frankly, nondefense dollars—as wisely as we can, to get the most out of that money, whether it is health care to make sure that the dollars we are investing there are spent cost-effectively or whether it is for defense to make sure that the money we are spending there is spent cost-effectively.

Senator MCCAIN is a Vietnam veteran, and he is a real hero, for me. But we have people who have served here—I think one or two might have been around in World War II. Senator INOUYE won the Medal of Honor during World War II. We have had people who served in the Korean war, the Vietnam war, and other times of peace, as well as in times of war.

I spent about 23 years, 5 Active, 18 years Ready Reserve as a naval flight officer and much of that as a mission commander of a Navy P–3 aircraft built by Lockheed. We used the P–3 for years for ocean surveillance, tracking submarines during the Cold War so we would know where they were, and whenever we went up, we would know where to go find them and destroy them if we had to. The strategy was called mutually assured destruction. We, fortunately, never had to do that. We used them in the Vietnam war for a lot of coastal surveillance; low-level flights off the coast of Vietnam and Cambodia. The P–3 was introduced into the fleet in 1960s, and it was introduced as a—formerly used as a commercial airplane, a four-engine turboprop. We had problems with the P–3's wings. We used to say we were afraid they would fall off. I don't know if it was quite that bad, but we had real problems with the P–3s performing reliably as a naval aircraft and bouncing around the skies in all kinds of weather. A lot of work had to be done on the P–3 wing and, within a couple of years, we finally figured out the problem.

They are still flying. We are still using them in Iraq—not to track submarines but all kinds of missions. We have used them for electronic surveillance over the years and we have used them for drug interdiction and now they are doing some special work over in Iraq and that part of the world. It is an airplane which started badly as a military aircraft, but it got a lot better.

You can find the C–5As built in the 1960s, C–5Bs in the 1970s and 1980s—rough startup, rough rampup on the aircraft. We had problems with the aircraft, and we are now overhauling the C–5Bs. We call them C–5Ms. And they are flying 85 percent mission capable. So that is very encouraging. It took a long while to work out the wrinkles, but I think we have now, and we are going to have a plane we will be able to fly for another 30, 40 years, getting a lot of good use out of it, meeting our military needs around the world.

The F–22 has been around for a number of years—not as long as the P–3, not as long as the C–5, but it has been around for quite a few years. We have, I think, close to maybe 200 of them that either have been built or we are planning to build.

One of the things I find troubling—and I stand in support of the amendment offered by Senators LEVIN and MCCAIN and ask unanimous consent to be added as a cosponsor of the legislation.

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

Mr. CARPER. Built, I think, largely by Lockheed, and a lot of the contractual work is being done in maybe close to 40, 45 States. But Lockheed does some great work. This particular aircraft, I am troubled by a number of things, as are the sponsors of the legislation. It is not just that they are troubled, and it is not just that I am troubled, but some other folks are troubled too. Let me see if we have a list of some of the people who are calling and maybe suggesting that the F–22s we have ordered are enough.

Among the people who say, in this case, 187 F–22s, fighter aircraft—not an aircraft that is used for a lot—a plane mainly built and designed to use for dogfights with aircraft from other nations in an earlier day; the Soviets or maybe the Chinese or some other country. But among the leaders of our country, they are saying, maybe 187 is enough. Not maybe but saying 187 is enough. Two Presidents, former President George Bush and our current President Barack Obama, they have said that not just in giving speeches, but they have actually said that with the budgets they submit to us, and in this case President Obama's first budget and the last budget, or maybe several budgets from President Bush.

Who else has said 187 is enough? Well, Secretaries of Defense; not only the current Secretary of Defense, who is Bob Gates, but the previous Secretary of Defense, who was also Bob Gates, and I think his predecessor as well said 187 should do us.

We have had three Chairs of the Joint Chiefs of Staff who have said 187 F–22s is enough; we think that should do it.

We have had the current members of the Joint Chiefs of Staff who have said 187 is plenty when it comes to F–22 fighter aircraft.

Finally, two of the most respected Members of the Senate, Senators MCCAIN and LEVIN, as leaders of this committee, have said: Well, this is enough. Given our other demands and our other aircraft we have available to meet this need, 187 F–22s is plenty.

Let me take a look at the next chart, if we could, and see what we have. One of the reasons why all the folks I mentioned have said 187 F–22s is enough, we think of some of the other aircraft we used, fixed wing as well as nonfixed wing aircraft; the F–15 fighter, a number of hours flown in Iraq and Afghanistan—these are rough numbers but about 40,000 flight hours. We have a couple UAVs here, unmanned aerial vehicles, one called the ScanEagle, the other is called the Predator. The Predator is better known. But so far the ScanEagle has flown in Iraq and Afghanistan about 150 flight hours. The Predator has flown about a half million flight hours in Iraq and Afghanistan. One of our helicopters, I think the H–60, generally we think of as the Black Hawk, but Black Hawks have flown 900,000 flight hours in Iraq and Afghanistan. Down here at the bottom, the number of flight hours, as far as we can tell, flown in Iraq and Afghanistan, I am pretty sure this is correct: Zero for the F–22. That is a stark number, a stark contrast.

Sometimes we tend to order weapons systems, build weapons systems, maintain weapons systems to fight wars such as the last war we fought, not thinking so much about maybe the weapons systems we need for the current war or we will likely to need for a future war. One of the reasons why this administration, the last administration, why this President, this Secretary of Defense and previous ones have said we don't think we want to do any more F–22s is because they believe that, for awhile, we are going to be fighting wars such as unfortunately we fought in Iraq and especially Afghanistan. That is going to be more the modus operandi. We are going to be fighting counterinsurgencies, and what we need are weapons systems and men and women who are trained to fight in those wars. The F–22, frankly, does not lend itself to that kind of war.

I led a congressional delegation with four of my colleagues back at the end of May into Afghanistan and Pakistan, including our Presiding Officer. We learned a lot. It was wonderful, and we came home feeling very much encouraged about our strategy in Afghanistan, the men and women who are implementing that strategy, both on the military and the civilian side. One of the things we learned going into Pakistan is that, for years, the Pakistanis have been preparing to fight the next war not against the Taliban, not against al-Qaida, which happened in the northwestern province, but they have been preparing to fight the next war forever—I guess since 1947—against the Indians, against the country of India. They may have a weapons system to work just fine in that particular altercation if that were to occur. But their real threat, frankly, isn't as much India anymore; their real threat is the Taliban and the al-Qaida folks hanging out in those northwestern provinces on the border of Afghanistan. While India and Pakistan may have plenty of fighter aircraft, unfortunately, they don't have any helicopters. They need mobility and they need helicopters to be able to move their counterinsurgency forces. They don't have them. Frankly, we are sort of guilty in a way of the same thing with the F–22.

Let's see what we have on the next chart. I will come to this in a bit. One of the things we think about when we think of aircraft we use is, first of all, the missions we need the aircraft for and the kind of wars and threats we are likely to face. That helps us make that decision.

Occasionally, we look at how much it costs to fly an aircraft. We look at the dollars we spend to put an aircraft or helicopter into the air for an hour. I have seen a wide range of flight hour costs for the F–22—that it might be $22,000 per flight hour or as high as $40,000 or $42,000 per flight hour. I don't have that at my fingertips, the flight hour costs for other aircraft. But that is a lot of money for a flight hour for any aircraft, especially a fighter aircraft. Whether it is $19,000 or $20,000 or $40,000 an hour, that is a lot of money for the kind of job we are looking for the aircraft to do.

We also look at who are we preparing to fight or what threat we are preparing to counter. Some people say just in case the Chinese ever give us trouble, to take them on we need the F–22s, or we may need 200 more. At one time, General Corley said we needed about another 200. As it turns out, we have other aircraft to meet that kind of threat. I hope that is not going to ever materialize, because China is a major trading partner. I hope we don't ever get in a shooting war with them, nor with the Russians.

We have other fighter aircraft. We have the F–15, F–16, and the F–18. We are in the process of building another new fighter aircraft that will be a joint aircraft that will be able to do fights in the air and other things, including air-to-ground attacks, which the F–22 doesn't lend itself to do. I think we are going to build about 2,500 F–35s. It has broad support. We have built about 50 so far. The cost per aircraft for the F–35 is about $80 million. I think the cost for building a new F–22 is roughly $190 million. So the F–35 may be $80 million a copy, and the F–22, which doesn't have the capability or the viability of the F–35, costs about $190 million—over twice as much. That makes me pause, and I hope it makes some of my colleagues pause as well.

Last, everybody knows we are wrestling through a tough economic time in our country. We have lost a lot of jobs. We had a housing bubble and meltdown, a loss of jobs in banking and financial services, and a lot of manufacturing jobs. Chrysler and GM have gone into bankruptcy. They are coming out of that, and they have a new product line coming through the pipeline. The banks are stabilized and are lending money again, and some are starting to pay back to the government the money they borrowed.

I am bullish about where we are. It will take a while before jobs come back, but I think there are encouraging signs about our economy.

Having said that, a lot of people would like to have a job who don't have one. If we build another 190 or so F–22s, that would save some 25,000 manufacturing, good-paying jobs. We cannot just sniff at that. Those are real numbers, and it is important for us in the States where the jobs are. If we think about it, if we are talking about building another almost 200 F–22s, and they cost roughly $190 million a copy, and we are talking about saving 25,000 jobs, if we multiply $191 million by 194 aircraft, we come up with a total price of about $37 billion for building those extra 194 F–22 aircraft.

If the numbers are correct, that is about $37 billion. If we divide that by 25,000 jobs, that turns out to be almost $1.5 million per job. I nearly fell over when I saw that number—$1.5 million per job. We have passed a stimulus package, and the Presiding Officer and I voted for it. It was passed with bipartisan support, and I hope it will save a couple million jobs. Jobs make sense. But this is a lot of money for jobs.

You can look at what we say we are going to spend in the stimulus package, the recovery bill, per job. I am not quick enough to run the numbers, but these are expensive jobs.

I hope if we don't build another 200 F–22s, some of the folks who can build them at Lockheed Martin—hopefully, some of them will be able to build F–35s. They cost half as much to build, and they do more things. Hopefully, some of them will be bought by other countries. I am not aware that other countries have bought the F–22, but I think a lot would be interested in buying the F–35, given the variety of missions, the versatility, and the much lower cost.

There you have it, Mr. President. I don't know if I have made a compelling case, but I appreciate the chance to share this with my colleagues and anybody else who is interested at a time when we are wrestling with enormous budget deficits, after 8 years where we literally doubled our Nation's debt, and when we are expected to run up the highest budget deficit in the history of our country, at a time when we have major cost overruns and a new weapon system, and when we have had literally two administrations, two Presidents, two Secretaries of State, and all kinds of Joint Chiefs saying: You know, we have a bunch of these F–22s. We have enough. It is not that we are going to stop spending money on national defense. We are going to spend a fair amount of money in Afghanistan, and even though we are drawing down the troops in Iraq, we are going to continue spending money in that country as well. The war in Afghanistan is the right war, and we need to stay with it and crush the Taliban, help the Pakistanis crush al-Qaida, and stay with the folks in Afghanistan until they can help defend themselves and go on to a better economy and a better life. That is the important thing to do.

We don't need the F–22 to do that. To the folks who have spent a number of years, and a lot of our money building it, we say thank you. But I think we have enough. We have plenty of other challenges to face.

I appreciate this opportunity to speak.

As I look around the Chamber, obviously, nobody listened with baited breath to what I had to say. Hopefully, they are in their offices and are tuned into C–SPAN II.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

AMENDMENT NO. 1511

Mr. LAUTENBERG. Mr. President, today we are being asked to defend the very core of our American democracy; that is, the right of people to live freely, to move freely, to do what they would like to do as long as they do not bring harm to others. People want to be free from violence, free from fear, free from intimidation. And all too often we hear of crimes committed against innocent people based almost solely on bigotry and hatred. This Senate needs to send a message, a message that this is unacceptable conduct in our society, that these crimes are especially heinous, that these crimes must be severely punished, because it tears at the basic fiber of being freedom-loving Americans.

An example of the horror that accompanies this kind of hatred is that on a day last month, someone turned killer because of religious hatred. This individual walked through the doors of the U.S. Holocaust Memorial Museum, which was then filled with visitors from all around the world, many of them children. His name: James Von Brunn. He raised a rifle and opened fire, killing Steven Johns, a security guard who was simply doing his duty, and wounding others before the individual was shot and subdued. Not only did Mr. Von Brunn take a man's life and terrorize bystanders, but he wanted to destroy this vivid reminder of how vicious man's hatred and bias could be against an entire group of people. Over 6 million Jews died as a result of the Holocaust. Millions of others died also as a result of the Holocaust, stemmed primarily by prejudice and hate.

The tragic fact is that our history is replete with examples of terrible hate crimes. In October of 1998, two men attacked and savagely beat Matthew Shepard, a student who was gay and was there at the University of Wyoming. Shepard died of his wounds a few days later, simply because he was a gay person. In June of the same year, who can forget that a Black man, James Byrd, Jr., was chained to a pickup truck, dragged along a Texas road, and was killed by declared racists.

More recently, we have seen vulgar acts committed in the wake of a historic happening in America. President Barack Obama, an African American, won the Presidential election. In my

home State of New Jersey, after the November election, a cross was placed and set afire on the front lawn of a couple, Alina and Gary Grewal. The cross was wrapped in a homemade banner that the Grewals had hung outside their home that simply read ''President Obama, Victory '08''—pride filled, honoring this incredible accomplishment that took place within America.

At a time when our Nation should be celebrating the progress we have made, we must bring the full weight of the law to bear on those who commit such atrocious crimes. Unfortunately, existing Federal law hampers prosecutors from trying hate crimes effectively. Right now, current Federal hate crimes law applies only when a victim is involved in particular activities, such as serving on a jury or attending a public school. This legislation would protect victims of hate crimes in all situations, not just when a victim is involved in certain federally protected ones. This amendment would also finally expand Federal hate crimes protection to those victimized based on sexual orientation or disability. Some 15 percent of all reported hate crimes are linked to sexual orientation. Gay Americans should not be afraid to walk about freely, and violent individuals should know that the Federal Government will prosecute you if you commit a crime with hatred as the principal motivator. Hate crimes are the ultimate expression of ignorance and hate, and we must strengthen our Federal laws to protect people against them.

Senator KENNEDY first introduced this legislation in 1997, a year before Matthew Shepard and James Byrd were killed because of bigotry. It is time to pass this critical amendment and stand up for Americans who are victims of vulgar and senseless acts of violence that should not be happening in America without severe punishment, without the reminder that we are a nation comprised of many different ethnicities, different religions, different habits. It should not go without severe penalty if someone is attacked because their habit, their face, their color, their religion is different from the ones most popular.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. STABENOW. Thank you. Madam President, I also ask unanimous consent to speak as in morning business.

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

The Senator from Michigan.

Ms. STABENOW. Madam President, thank you, very much.

First, I want to congratulate, actually, on the underlying bill, my friend and colleague and the leader of the Armed Services Committee for all of his hard work on the bill that is in front of us. It is so important for the troops. I thank him for his leadership in such a strong way on behalf of the men and women who are serving us every single day and for all the things they need to be able to be supported, along with their families. So this is a very important bill, and I am hopeful we are going to be able to move through this very quickly.

HEALTH CARE

Madam President, I did want to take a moment, though, tonight to talk about health care, about the specifics of the bill we have been working on now for about a year. We have had forums and meetings and drafts and proposals and working sessions for about a year now, I believe. I commend Senator BAUCUS for the incredible amount of time he has put in, as has his staff, with he and Senator GRASSLEY, working, as they always do, so well together.

There has been a tremendous amount of effort that has gone into this, and we will speak more as the process moves along about the specifics of the health care legislation. But tonight I want to take just a moment to talk about why it is so important to do it.

If the system worked well now for everyone in the country, if everyone could find and afford health insurance, we would not be having this discussion. We would not have had this debate. This would not be something that would be a top priority for the President of the United States.

But the reality is, the current system does not work for everyone. Even if you are part of the majority that has health insurance, you are probably seeing your copays go up, your premiums go up. You may be worried about whether you will lose your insurance if you lose your job or your spouse loses his or her job. You may be in a situation where you cannot find insurance because you have a preexisting condition that the insurance companies will not cover.

There are many reasons why people today, even though they have some kind of insurance, are incredibly worried about the future, about what happens when they get sick or what happens when the kids get sick.

Then, for those who do not have any health insurance, of course, it is an even more challenging story. We know there are millions of Americans—47 million and counting, in my home State of Michigan alone over 1 million people—who have no insurance at all. What happens to them when they get sick or when the kids get sick?

So this is a huge issue, and the time has come to decide that health care is a right, not a privilege, in the greatest country in the world.

We have been working for years. It has been 90 years—ever since President Roosevelt wanted to have a health care system that all Americans would be able to use as part of the Social Security Program—that we have been trying to do this, trying to get it right. At that time, 90 years ago, there were not the votes to do that. Since then, Harry Truman wanted to have health care reform. It did not get done.

President Johnson initially wanted to have a system that every American would be able to benefit from. That did not get done. But I am very proud that a first major step was taken with President Johnson and a Democratic majority and some Republican colleagues joining with them. I hope we are going to see that kind of bipartisan effort now. But we ended up with something called Medicare.

If seniors or people with disabilities could have been able to get health insurance that they could find and afford at the time, Medicare would not have passed in 1965. It passed, along with Medicaid for low-income seniors and families, because people could not find insurance. They could not afford it. That is why it passed.

We are now in the same situation. Since that time in 1965, there have been a number of different efforts. A very important effort, one that there was bipartisan support to do, children's health insurance, was put in place—but still, not a system in America where everyone would be able to afford to buy insurance, to be able to get health care for themselves and their families.

So here we are today. It is time to finish the job that was started years ago, to finally say: OK, we understand that health insurance is not like other kinds of insurance. You can choose not to buy a car if you do not want to, and you do not have to have car insurance. You can choose not to buy a house and not have homeowners insurance. You cannot choose not to be a human being and to get sick. So it is different.

So the question for all of us is not whether people will ever need to use the health care system or whether they ever, in fact, will get health care; it is when and how and how expensive it will be.

One of the major reasons today that the health care system is so expensive—and, in fact, we spend twice as much as any other country on health care. When you think about that, how crazy is that? We spend twice as much as any other country on health care and have over 47 million people with no health insurance. Any economist would kind of look at that and say that is crazy.

But we have a system now where the people who are uninsured or underinsured—or have their premiums and copays going up too much where they cannot afford to use their insurance—go to the emergency room, moms and dads going to the emergency room with their children.

I have had the opportunity to visit emergency rooms, both when I have been in an emergency but also just there with emergency room physicians, with the nurses, to watch what happens. Anytime you have seen that, you

know there are lots of moms and dads who have no other choice for their children than to take them to the emergency room.

We also have more and more people who, because of dental problems—the inability to get basic dental coverage—end up in the emergency room of the hospital. When that happens, people are served. That is the job of the hospitals, and I believe we should be focusing on emergency rooms and emergency room physicians and giving them extra support because of what they do. But the reality is, they are served. Then who pays for it? Well, everybody who has insurance pays for it because the hospital then takes the uncompensated care and rolls it over into the costs of those with insurance. That is the system today. People get care.

They walk in the emergency room sicker than they otherwise would be—maybe waiting until late Friday night to have something happen, hoping they were not going to have to go to the doctor because they could not afford it, and they end up in the emergency room on the weekend.

The reality is, we have now institutionalized the system that is the most expensive way possible to provide health care in this country. So that is a huge issue.

We know if everybody is in it, if everybody is part of the system, and we spread all the different ages and health conditions and geographic disparities and all of the different pieces and variables in the system, and we have everybody in some way covered—everybody in—costs actually go down, which is also different than other kinds of goods and services. So health care is, in fact, different.

But we now have a system where we are paying for this and providing for this in the most expensive way possible. So there are many reasons—many reasons—why we need to have a sense of urgency about health care and what we are doing here. We need to remind ourselves daily that this does not go away just because we are not paying attention. When we are not paying attention, the prices go up. When we are not paying attention, people get sick. When we are not paying attention, businesses continue either not to be able to cover their employees or drop coverage because of what is happening on the costs.

The only question we have is, when are we going to act? That is the only question for us—not whether we are going to pay for it but it is how we are going to pay for it. Are we going to create a system that over time actually lowers costs by doing the right thing and having a system that incentivizes the right things or are we going to continue to do what we do now: costs going up, exploding, and the availability of care going down? That is the system now.

As we discuss all of these issues, it is very complicated. All of us involved in this wish it were not. This is an incredibly complicated issue. As we have been working our way through this very hard, we have heard from lots of people in this discussion, those who operate as a business, who make a profit off this current health care system, those who are involved in it in various capacities. But I don't think we hear enough from those who are affected, from people in Michigan, people in North Carolina, people around the country who are trying to take care of their families, trying to be healthy, trying to get the care they need when they are sick, operating under this system.

Because of that, I set up on my Web site something I am calling my Health Care People's Lobby. We have lots of lobbyists here. I have invited people from Michigan to be a part of my Health Care People's Lobby and share their stories about what is happening for them. I wish to share a few of those comments with my colleagues this evening, from thousands of people who are now a part of my Health Care People's Lobby.

Tricia Kersten from Bloomfield Hills, MI, says she doesn't understand why some Senators don't seem to understand the ''unbelievable, daunting, and debilitating effect the cost of health care causes their voters.''

She is right. We all need to be paying attention to that. The cost of health care today, as I mentioned, is crushing our families and businesses, large and small, and that has to be part of—and it is, it is—part of the goal. In fact, it is at the top of the list in terms of our goals—lowering the cost.

Janet Rodriguez, St. Joseph, MI, wrote that her health care premiums for her family of three are over $700 a month. Because her employer pays a portion of her premium, and because those premiums are going up and up every year, she hasn't gotten a raise in 3 years.

This is a very common situation for workers who get their insurance through their employer. More and more people are having to trade off getting a wage increase that would help pay the mortgage and food and clothes and send the kids to college for a health care cost increase that is occurring, and their employers having to pay more of that or their having to pay more of that.

Cheryl Crandall of Pontiac, MI, is about to lose her COBRA benefits next month and has been shopping for personal insurance. Within 2 weeks, the price had already jumped from $22 a month to $667 a month. So it was $22, and it jumped to $667 a month. That is $150 more than her house payment. She says: ''We are very, very frugal people. No big vacations, no expensive toys, and we are not impoverished yet. But premiums like this for mediocre coverage, large deductibles, large copays, can break even the most stable family.''

We know that is what is happening. Her story is shared by thousands and thousands of people I know across Michigan.

Our current health care system is bankrupting too many families. We know that over 60 percent of bankruptcies are linked to medical expenses. Seventy-five percent of families who file for bankruptcy actually have health insurance, and those who have insurance on average have medical expenses of over $18,000 when they file, even though they have a health insurance policy. It is even worse for those without insurance.

Sandra Marczewski from Waterford, MI, wrote to me that she and her husband have been without insurance for 7 months. She writes: ''You have no idea the fear I walk around with every day.''

This is a fear faced by millions of Americans, tens of millions of Americans, hard-working Americans, people who have done the right thing their whole life and now find themselves struggling in this economy and facing that fear. After they put the kids to bed at night they say a little prayer: Please don't let the kids get sick. They stay up worrying about what is going to happen if they do get sick; avoiding that cancer screening because they don't want to hear it if it comes back positive, because they don't think they can do anything about it. It is a fear that grips the heart of too many Americans, and it is so critical that we move forward in a way that will allow us to address what is happening with American families.

Lee Harshbarger of Ypsilanti lived with that fear. He had no health insurance for 9 years. Thankfully, his wife's job now covers him, but they worry every day: What will happen if she loses her job or if her employer has to cut back on insurance or drop insurance? What will happen then?

It is not just families who are hurting either. We know it is our businesses, large and small. I have had so many small business people come up to me and say: You have to do something. I want to cover my 10 employees, my 5 employees. I can't even find insurance for myself at a reasonable rate, let alone the small group of people who work for me.

A.J. Deeds from Ann Arbor, MI, used to operate a small business in Birmingham. They had 12 employees and they offered them health insurance, but they soon found their competitors didn't offer these benefits and they were left behind competitively, so they faced what many businesses and families face, which is a race to the bottom. You can't compete if you offer health insurance or a good wage, so you drop the health insurance and you push down the wage.

By 1997, he wrote, they had to stop providing health insurance because they couldn't afford it anymore and be competitive with the other companies that didn't offer insurance. That same year, A.J.'s first child was born and his monthly insurance premium shot up to over $800 a month for three people.

Some have argued that a public health insurance plan would put bureaucrats between you and your doctor. How many times have we heard that? But right now, we have a bureaucrat between you and your doctor, and it is an insurance company bureaucrat. This notion that the doctor can offer whatever tests or procedure he or she feels they should for you is just that; it is not in the real world. It is not real that an individual who has insurance can go out and see a doctor or see any doctor they want, get any procedure, any treatment they want. They first have to look through mounds of paperwork in the insurance policy to see if it is covered, and then the first call the doctor makes is to the insurance company to determine whether they will pay for it.

I believe it is incredibly important that we create a system—this is what we are working to do—that is much more about doctors and patients, much more about that. A critical part of this—and I appreciate that the industry is supportive of this—is changing the system so that someone can get insurance if they have a preexisting condition, that we change the rating bands to make it more affordable and do a number of other insurance regulation reforms. This is incredibly important. But it is also true that right now, your decisions about health care depend upon, A, whether you have health insurance; and B, what it will cover, what the copays are, what the premiums are. You are in a box that is dependent on whatever that insurance policy is and what it will cover. The worst thing is when someone pays in for years and believes something is covered, and it should be covered, and finds out it is not or finds out they are ill and are then dropped. So there are a number of changes that need to take place there as well.

I have to put a plug in because in Michigan we have, by State statute, established BlueCross BlueShield as a nonprofit to insure everyone in the State, the insurer of last resort, and that has worked very well for us, and I am very appreciative of the great work they do. That is not true everywhere. I think we have some serious issues around the for-profit insurance companies that we need to take a look at as relates to the costs that people are paying.

Robert Balmes from Negaunee, MI, up in the Upper Peninsula, had to jump through hoops with his insurance company to get a medical device he needed. He was forced to deal with the company's in-network sellers, even though he could have gotten the same device much cheaper from a different supplier. His 20 percent copay would have been much lower if he could have gotten the device from the seller of his choice. If he could have gone where he wanted to go, it would have been cheaper, but he wasn't given the choice by the insurance company. He had to pay what the insurance company said or pay the whole thing on his own.

Bea Stachiw from Rochester Hills is also fed up with her insurance company. She has an individual policy, which is one of the most expensive ways you can get insurance, that costs her $400 a month as an individual, which she describes as ''sketchy, at the least, where I have to pay $2,500 up front as a deductible.'' She is limited to two doctors' visits a year. So two doctors' visits. Talk about coming between you and your doctor—two doctors' visits a year, and she has a copay. She needed a routine medical procedure and had to pay over $700 out of her pocket. For people struggling to make ends meet, those kinds of costs are not acceptable. People can't afford this.

Again, this whole process of health insurance reform is about supporting doctors and nurses to be able to do what they were trained and want to do, and to be able to make health care available to Americans, young and old, with families, without, small businesses and large. That is what this is all about.

I am very pleased we are working on an approach that would give people choice, that would allow people to keep their insurance if they wish to, and I think that many people—again, my own family would say, we want to keep ours. Well, we are not in the Federal system, so we know that many people would say they are satisfied, that they like what they have. I say, great, to that. We want to make sure, No. 1, that people can keep what they have, but if the system is broken for you, we want to fix it. That is what health reform is about. Keep what you have if you like it. Let us fix what is broken so everyone has the opportunity to have the health care they need.

There are a number of ways in which we are working to do that. I mentioned earlier making sure that everyone is covered, a part of lowering the costs so we don't have too many people using the emergency rooms inappropriately. We know that payments to providers drive the system, and the proposal we are all working on would focus on quality, not quantity, of tests; would focus on health and wellness, not sickness, so we are incentivizing those things that allow people to be healthy, that encourage and support primary care doctors as the first line of defense, and nurses as a first line of defense so that people being able to get the care and the funding they need, the screenings, the prevention they need, that is all part of this very important change.

The long-term savings in the system come from changing the system to health care rather than sick care and quality rather than quantity. We also know that, as I said before, insurance reform is an incredibly important part of it, so everyone can get the insurance they need, that it is affordable, and that they know they won't be dropped if they get sick.

Finally, it is very important that we have the right mix of choices, that we have private sector options but that there also be a public health care option that is consumer driven, that is a benchmark on the true cost of providing health care, so there can be competition. It needs to be level and fair competition. I believe we need that competition.

Madam President, we have a lot of work to do in the coming weeks. It is very important work. The American people have waited long enough for us to get this done. We know it is complicated. People of good will are working to come together on an approach, but we need to get it done because people in each of our States—my great State of Michigan and across the country—are counting on us because the system doesn't work now for too many people. It is not acceptable. Getting sick is not a choice. Worrying about your children, your family, your moms and dads, your friends and neighbors, and what will happen to them when they do get sick is a fear or a worry we need to be able to address. We need to take that worry off of the American people and say that we get it.

Health care should be a right, not a privilege, in the greatest country in the world. That is what this work we are doing is all about. I very much hope we are going to have a product that will be widely supported and that we can move it on to the President as soon as possible.

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

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

Mr. DODD. Madam President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is considering S. 1390.

Mr. DODD. And that is the Defense authorization bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. Madam President, I wish to spend a couple of minutes talking about one of the issues we are going to be debating and voting on in the next number of days, and that is the consideration of the F–22 Raptor.

I, first of all, want to inform my colleagues, as I have on previous times, of my interest in the subject matter. I am not a member of the Armed Services Committee. I have great respect for CARL LEVIN, one of my dearest friends, chairman of the committee, and JOHN MCCAIN, who is the ranking Republican on the committee, and my colleague JOE LIEBERMAN serves on this committee, and many others who worked hard, I know, on the Defense authorization bill.

One of the matters that is going to be the subject of some debate, as I mentioned, is the consideration of the additional F–22 fighters that were voted on by the committee, in a narrow vote, a

13-to-11 vote, I am told. Now Senator LEVIN and Senator MCCAIN have offered an amendment that would strike the $1.75 billion for these additional aircraft. I want to address that subject matter.

My State is going to be adversely affected. Somewhere between 2,000 and 3,000 jobs will be jeopardized if this amendment carries. Obviously, that is of great concern to us in Connecticut. It is an argument I hope will have some weight with our colleagues as we are all faced with these matters from time to time. I know just making a Connecticut argument to 99 Senators is not necessarily going to prevail. I hope my colleagues will consider what we are doing.

Our Nation leads the world in aerospace. There is no one even close to our ability to produce the most sophisticated aircraft in the world. The F–22, without any doubt, is the most sophisticated aircraft in the world. But we are told the Chinese and the Russians are quickly developing fifth generation technology to compete with our F–22.

My concern is, if we end up doing what the Levin-McCain amendment does—and that is to terminate this program prematurely—we end up with a number of F–22s that will hardly provide the kind of security that will be required. And for that $1.75 billion in this budget, we help sustain 25,000 jobs nationwide.

I cannot help but notice that over the last few months the federal government provided $65 billion to prop up a failing automobile industry. Chrysler and GM have gone through bankruptcy. A lot of people lost their jobs. I was supportive of the effort to try and make a difference there. The industry had failed in many ways. They had not modernized and had fallen behind world competition. So taxpayers provided $65 billion and acquired significant equity stakes in the companies to prop up our domestic automobile industry.

Here we are talking about $1.75 billion to support an important segment of the aerospace industry that helps to provide jobs to thousands of American workers. And we are about to say to our workers that the resulting production gap is acceptable, at a time when unemployment rates are expected to exceed 10 percent. But for some reason, some of my colleagues insist that we should not sustain part of the most sophisticated and advanced aerospace industrial base in the world for $1.75 billion. In contrast, as I mentioned we are devoting $65 billion to the automobile industry, which to many is a different matter.

I don't understand that logic. This is the very same government that says our domestic auto industry is worth saving, and I joined with my colleagues on that issue. As chairman of the Banking Committee, I led the fight to help save that industry in the Senate, an industry run into the ground by shoddy management and no business plan whatsoever.

While the government is picking winners and losers, I have to ask my colleagues: Do we truly believe that the domestic auto industry is more worth saving than a critical portion of America's aerospace industry? Because that is what we are talking about.

A government-mandated commission on the future of the U.S. aerospace industry recently recommended that ''the Nation immediately reverse the decline in and promote the growth of a scientifically and technologically trained U.S. aerospace workforce,'' adding, ''the breakdown of America's intellectual and industrial capacity is a threat to national security and our capability to continue as a world leader.'' Here we are with unemployment rates going through the ceiling, and for $1.75 billion—and it is expensive; I am not saying it is not—but we are not in any situation to allow any more American jobs to be lost. These job losses are entirely preventable; it is within our power to protect the jobs of thousands of workers across the country.

And if the Levin-McCain amendment prevails, I am afraid that some day people will look back, and say: What in the world were we thinking? What in the world were we thinking of, with jobs at risk and talented people—engineers, machinists—whom we rely on every day to maintain our superiority in this area.

Madam President and my colleagues, we are about to face a 3-year production gap between the F–22 and F–35. During that time, we will see many of our most skilled and experienced industry workers walk away. And it will be incredibly difficult, in fact I am not sure it is possible, to reconstitute this type of workforce.

So either today or sometime next week we are going to, once again, consider legislation to strip this provision of the bill—the provision that would keep the most advanced fighter jet production lines humming. Before that vote, I hope my colleagues will ask themselves a very simple question: At a time of heightened security concerns and economic uncertainty, is it in our interest to cancel this program? According to the F–22's prime contractor, Lockheed Martin, the F–22 directly employs 25,000 people across the Nation and an additional 70,000 in indirect jobs. With over 1,000 suppliers in 44 States, it has an economic impact of over $12 billion.

The decision to kill the F–22 will have further ramifications. With this decision, America's production lines of advanced tactical aircraft will grind to a halt, and we are not expected to ramp up again for another 3 years. What happens to that workforce? I know what happens to it. If my colleagues vote for this amendment, they will be voting against our tactical aircraft industry. They will be saying that the government can no longer support these 95,000 skilled workers across our Nation. And to me, it doesn't add up.

The other day I went through a chart explaining the capabilities of this aircraft versus those that exist in nations around the world. We are going to put ourselves at some risk, I would say to my colleagues. And that is not my conclusion alone. Listen to General Corley, who heads up the Air Combat Command, and listen to General Wyatt, the director of the Air National Guard. They have warned us about this very issue. This is a very critical and dangerous decision we are making.

We have spent billions of dollars to develop this plane—billions. We were supposed to build 381 of them. Now we have reduced that number to 187. In doing so, we are committing ourselves to ending the production line. Terminating the program will eliminate the opportunity for us to explore the merits of developing an export model of the F–22. We have allies that would benefit from purchasing a modified version of this technology. By offering them this capability, we would enhance our shared commitment to protecting global security. But this option will not be available if we adopt the Levin-McCain amendment.

I urge my colleagues to consider this issue. I know Members are facing a great deal of pressure from all sides of this issue. But I think, as Members, we have an obligation, obviously, to respond to the calls we get, but I would argue that we have a higher responsibility to analyze the implications of a vote such as this.

The implications of this vote, I think, are profound and serious for our country in terms of not only the economic and national security impact, but, for the thousands of American jobs that are sustained by the F–22. $1.75 billion is small in comparison to the $65 billion we have spent already to prop-up an industry that, frankly, should have shown far more leadership. The industries involved in this are not failing. These are solid, sound businesses. Yet they are going to be damaged as a result of a vote that is quite frankly, not in the interest of our national security or our economy.

I would urge my colleagues, over the next several days, to think through this issue, to examine some of these facts before coming here to cast a ballot that will jeopardize both American jobs and our position as the global leader in aerospace industry.

With that, I yield the floor.

AMENDMENT NO. 1511

Ms. MIKULSKI. Madam President, I rise in strong support of the Smith amendment on hate crimes. This amendment mirrors the Local Law Enforcement Enhancement Act, which I have been proud to cosponsor. This amendment puts America's values of equality and freedom into action.

Hate crimes are one of the most shocking types of violence against individuals. They are motivated by hatred and bigotry. But hate crimes target more than just one person—they are crimes against a community because of who they are—because of their race, gender, sexual orientation, religion or disability.

We are a nation that cherishes our freedom. All Americans must be free to go to church, walk through their communities, attend school without the fear that they will be the target of hate violence. We are nation that is built on a foundation of tolerance and equality. Yet no American can be free from discrimination and have true equality unless they are free from hate crimes. That is why hate crimes are so destructive. They tear at our Nation's greatest strength—our diversity.

This amendment does two things—it helps communities fight these crimes and it makes sure that those who are most often the target of hate motivated violence have the full protection of our Federal laws.

The amendment strengthens current law to help local law enforcement investigate and prosecute hate crimes. It does this by closing a loophole that prevented the Federal Government from assisting local and State police at any stage of the investigative process. Simply put—this bill authorizes Federal law enforcement officers to get involved if State or local governments want their help. That means local communities, which often have very limited resources for pursuing these types of crimes, will have the resources of the FBI and other Federal law enforcement agencies at their disposal to help them more effectively prosecution incidents of hate violence.

This amendment also improves current law so it protects more Americans. It broadens the definition of hate crimes to include gender, sexual orientation and disability. Today, gay and lesbian Americans, women and those with disabilities are often targets of hate motivated violence, but existing Federal laws offer these communities no safeguards. That is the weakness in our current law. And that is what this legislation will fix. By passing this legislation today, the Senate says to all Americans that you deserve the full protection of the law and you deserve to be free from hate violence.

Hate crimes are crimes against more than one person—these crimes affect whole communities and create fear and terror in these communities and among all Americans. We need look no further than the horrific killings of James Byrd and Matthew Shepard to know the anger and grief that families and communities experience because of hatred and bigotry. Hate crimes attack the fundamental values of our Nation—freedom and equality. This bill is another step in the fight to make sure that in a nation that treasures these values these crimes do not occur.

So today I rise to support and urge my colleagues to pass this much needed and timely legislation. It is time that we put these American values into action and pass this hate crimes bill. The Local Law Enforcement Enhancement Act says that all Americans are valued and protected—regardless of race, religion, gender, sexual orientation or disability.

Mr. UDALL of Colorado. Madam President, I rise today in support of amendment No. 1511 to S. 1390.

In the midst of my first campaign for Congress in 1998, the Nation was shocked by the tragic death of Matthew Shepard.

We all know well the story of Matthew—a 21-year-old University of Wyoming student who was brutally murdered simply for being gay. He was beaten severely, tied to a fence, and left to die in freezing temperatures. Matthew was taken to a hospital in Fort Collins, CO, where he never regained consciousness.

I was elected to Congress a month after Matthew's murder. And for every year thereafter, I have supported Federal hate crimes legislation that would later be renamed for him—The Matthew Shepard Hate Crimes Prevention Act.

Ten years later, in 2008, I asked my fellow Coloradans to entrust me with the honor of representing them in the Senate. During that campaign, I was deeply saddened to learn about another tragic murder this time in my home State of Colorado.

In July of last year, 18-year-old Angie Zapata was beaten to death in the living room of her Greeley apartment. According to press accounts, Angie's attacker claims that he brutally went after her with a fire extinguisher, pummeling her until she could not fight back because of his hatred for transgender and gay people. This case is a sobering reminder that 10 years after Matthew Shepard's murder, vile prejudice based on sexual orientation and gender identity still plagues our society.

Unlike Federal law, Colorado has a strong hate crimes statute. The man accused of killing Angie was the first person in the Nation to be tried and eventually convicted under any State's hate crime law for killing a person because of transgender orientation. I hope that the successful prosecution of Angie's killer in Colorado will be an example for other States and demonstrate to Members of Congress that it is time for the country as a whole to follow our lead.

President Obama has promised to sign into law the expansion of hate crimes statute to include sexual identity, gender identity and disability, which is what the amendment before us today would do. I am a cosponsor and ardent supporter of this amendment because I believe now is the time in remembrance of Matthew and Angie and all other Americans who have been a victim of violent crimes motivated by hate to get this done. It is the right thing to do.

Mr. KYL. Madam President, the Hate Crimes Prevention Act, which my colleague from Vermont has offered as an amendment to the Defense authorization bill, should not be attached to such an important piece of legislation. The Defense authorization bill authorizes nearly $680 billion for national defense programs, most notably the ongoing operations in Iraq, Afghanistan, and the war on terror. It authorizes funding for such crucial programs as missile defense and foreign military aid for Afghanistan and Pakistan, as well as a 3.4-percent across-the-board pay raise for the men and women in the military. With such important issues at stake, we should not attach a controversial piece of unrelated legislation that puts passage of the entire bill at risk.

Last month, members of the Judiciary Committee received a letter from the U.S. Commission on Civil Rights strongly urging us to vote against the proposed Hate Crimes Prevention Act.

The Commission states this bill ''will do little good and a great deal of harm.'' Those are very strong words from the Federal body charged with investigating, reporting on, and making recommendations related to civil rights issues. The Commission's letter details a number of specific concerns, including that the bill would permit Federal authorities to prosecute defendants who have been previously acquitted by State juries—a result that it describes as contrary to the spirit of the double jeopardy clause of the Constitution. Like the Commission, I believe that hate crimes legislation poses significant constitutional problems and risks undermining important principles of federalism.

No less than 45 States and the District of Columbia already have hate crimes laws. I am not aware of evidence that any State has been reluctant to aggressively prosecute hate crimes. Furthermore, Federal sentencing guidelines already provide for enhancements for hate crimes based on race, color, religion, natural origin, ethnicity, gender, disability, or sexual orientation. In fact, in the case of Matthew Shepard, for whom this bill is named, his killers are appropriately serving life sentences in prison for felony murder.

The trend to try at the Federal level crimes that traditionally have been handled in State courts not only is taxing the judiciary's resources and affecting its budget needs but also threatens to change the nature of our Federal system. The pressure in Congress to appear responsive to every highly publicized societal ill or sensational crime needs to be balanced with an inquiry into whether States are doing an adequate job in these particular areas and, ultimately, whether we want most of our legal relationships decided at the national rather than local level.

Federal courts were not created to adjudicate local crimes, no matter how heinous they may be. State courts handle such problems. While there certainly are areas in criminal law in which the Federal Government must act, the vast majority of local criminal cases should be decided in the State courts which are equipped for such matters. Matters that can be handled adequately by the States should be left

to them; matters that cannot be so handled should be undertaken by the Federal Government. Neither Senator LEAHY nor other supporters of this bill have demonstrated that there is an epidemic of hate-based violence that State and local authorities can't or won't prosecute, therefore justifying the need for a hate crimes bill.

For these reasons, I strongly urge my colleagues to vote against the Hate Crimes Prevention Act amendment.

Mr. LEAHY. Madam President, the Senate is considering the bipartisan Matthew Shepard Hate Crimes Prevention Act of 2009 as an amendment to the pending the pending National Defense Authorization Act. This important civil rights bill has been pending for more than a decade and has passed the Senate numerous times—in 2007, 2004, 2000, and 1999. It also has the support of the Attorney General, and the President has asked Congress to take swift action on this bill.

I thank Senator COLLINS, Senator SNOWE, and the 33 other bipartisan cosponsors for their support for my amendment, which contains the full text of the Matthew Shepard Hate Crimes Prevention Act introduced by Senator KENNEDY.

I wish my friend could be here with us today. I commend the senior Senator from Massachusetts for his steadfast leadership over the last decade in working to expand our Federal hate crimes laws.

I thank the majority leader for offering this amendment on my behalf while I chaired the hearing on Judge Sonia Sotomayor to be an Associate Justice on the Supreme Court. I had hoped that we would reach a time agreement or at least an agreement to proceed to this bipartisan amendment. Yet some have sought to further delay passage of this critical measure.

The hate crimes amendment would improve existing law by making it easier for Federal authorities to investigate and prosecute crimes of racial, ethnic, or religious violence. Victims will no longer have to engage in a narrow range of activities, such as serving as a juror, to be protected under Federal law.

In addition, the hate crimes amendment will provide assistance and resources to State, local and tribal law enforcement to address hate crimes. It also focuses the attention and resources of the Federal Government on the problem of crimes committed against people because of their sexual orientation, gender, gender identity, or disability, which is a long-overdue protection.

As a former State prosecutor, respect for local and State law enforcement is important to me. This amendment was carefully crafted to strike a proper balance between Federal and local interests by allowing the Federal Government to appropriately support, but not to substitute for, State and local law enforcement.

I come from a State that passed a law almost a decade ago to expand protections for victims of violence motivated by sexual orientation and gender identity and to increase penalties for hate crimes to deter such violence.

Unfortunately, not all States offer these protections—protections that all Americans deserve. We need a strong Federal law to serve as a backstop to prevent hate motivated violence in America.

The recent tragic events at the Holocaust museum have made clear that these vicious crimes continue to haunt our country. This bipartisan legislation is carefully designed to help law enforcement most effectively respond to this problem.

We stand to make real progress toward expanding Federal protections for victims of bias-motivated violence when we vote for cloture to end debate on the motion to proceed to this amendment.

Senators from both sides of the aisle support this amendment. I call on all my fellow Senators to join me in support of this amendment and to vote to end the delay of Senate consideration of this important measure because expanding hate crimes protections and providing support to State, local, and tribal enforcement efforts are long overdue. That is why a vote for this amendment is necessary.

Mr. HATCH. Madam President, I rise to speak about the Hatch amendment which will be called up later.

As we have had the debate in this Chamber over hate crimes legislation, one obvious fact is revealed again and again. The proponents of the Matthew Shepard Hate Crimes Prevention Act have not taken the time to answer what should have been a threshold question: Is it necessary?

Just a few short weeks ago, Attorney General Eric Holder was gracious enough to testify before the Senate Judiciary Committee on this legislation. During that hearing, I asked him specifically whether there was any evidence of crimes motivated by bias and prejudice that are not being adequately addressed at the State level; whether there was a specific trend indicating that, with regard to hate crimes, justice is not being served in State courts. His answer was not surprising to anyone who has been following this debate for these many years. But if your only knowledge of this issue came from the statements made by the Democrats in support of this legislation, you would probably be very surprised.

His answer was: No. There is not any statistical evidence indicating that the States are not up to the task of investigating, prosecuting, and punishing crimes motivated by bias and prejudice. None. None whatsoever. The Attorney General said quite openly, in fact, that the States were doing a fine job addressing these crimes.

This is not a new revelation. In the years Congress has been debating hate crimes legislation, many of us have been asking similar questions, and we have received similar answers. But in light of the Democratic Attorney General's own testimony regarding the States' laudable efforts to punish hate crimes, it is even more clear that the supporters of this legislation have not answered what would be a threshold question: Is it necessary?

The truth is that the vast majority of States have hate crimes statutes on the books. The acts associated with this legislation—murder, assault, et cetera—are punishable in every jurisdiction in the United States. Under our legal system, defendants will, at times, receive penalties that many believe are not sufficient given the nature of their crimes. In addition, because our criminal justice system is designed to protect defendants and place the heaviest burdens on the government, some guilty parties undoubtedly go unpunished. But I have seen no evidence whatsoever proving that these inevitable occurrences happen more often in cases involving bias-motivated violence and, to date, no such evidence has been provided.

My amendment is similar to legislation I have introduced in the past. Instead of expanding the powers of the Federal Government, it would mandate a study that would provide us with the information we should have before we even consider taking such an approach. Specifically, my alternative would require a study to compare over a 12-month period the investigations, prosecutions, and sentencing in States that have differing laws with regard to hate crimes. In addition, it would require a report on the extent of those crimes throughout the United States and the success rate of State and local officials in combating them.

The amendment would also provide a mechanism for the Department of Justice to provide technical, forensic, prosecutorial or any other assistance in the criminal investigation or prosecution of any crime ''motivated by animus against the victim by reason of the membership of the victim in a particular class or group.'' And it would authorize the Attorney General to make grants to States that lack the necessary resources to prosecute these crimes.

Contrary to what some of my colleagues may believe, Congress does not have the power to act in any manner that it chooses. There are a number of constitutional issues raised by this legislation, including the extent of Congress's power under the commerce clause and prohibitions that could chill free speech in certain sectors of this country. Most apparently, this legislation would impede on grounds that are traditionally left to the States. Worst of all, it would do so when, if the Attorney General is to be believed, the States are by and large doing a fine job at addressing these crimes.

No one in this Chamber wants to see bias-motivated crimes go unpunished. That is not the question we are facing today. The question is whether, given the current state of affairs in most

States and the limitations on Congress's power, this measure is appropriate.

It seems to me before we even consider such a broad and sweeping change in the Federal criminal law we should at the very least have enough information before us to determine whether such law is necessary. My amendment would have us get that information and, in addition, establish a role for the Federal Government that is more appropriate respecting the sovereignty of the States and the limits on Federal power established under the Constitution.

It should be noted that this bill that has been called up is named the Matthew Shepard bill. What happened to Mr. Shepard was brutal, heinous, awful, unforgivable. But the fact is, the perpetrators are now spending the rest of their lives in prison because the local judiciary and system tried and convicted them. There is a real question whether we should put into law this hate crimes bill that I believe is going to cause a lot more problems than it will help, especially since there is no basic evidence that the State and local governments are incapable or unable to take care of these types of crimes.

I think there is a lot of beating of the breasts and acting like we are doing something when in fact all we are doing is gumming up the law if we pass this bill, and I think doing so unconstitutionally, in the end, basically is making it possible to bring hate crimes actions all over the country in a multiplicity of ways that will cost the Federal Government untold amounts of money that should not be spent.

All of us are against hate crimes. Every one of us would do everything we possibly can to get rid of them. But until there is evidence that the State and local governments are not doing the job—and that evidence we have asked for, for years now, and they have never been able to produce any. Until that is produced we should not go ahead and pass legislation like this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Madam President, there is soon to be an announced agreement. In that there will be an amendment I am putting forward to protect free speech. I hope all my colleagues would join me in supporting the amendment I am putting forward on the hate crimes bill. I think it is very important that we protect free speech. It has been one of the things my colleagues who support the hate crimes legislation are saying: Look, we are protective of free speech. We are protective of religious expression.

If that is the case, I hope they will vote for the amendment I am putting forward.

I think it is important we be very clear on the protection of free speech and religious protection as protected in the first amendment in this bill as a way for it to be clear these things are to be protected. I want to read the amendment I am putting forward. It is a paragraph long, and I think by reading it, it will help explain some of this to my colleagues:

> Nothing in this section or an amendment made by this section shall be construed or applied in a manner that infringes any rights under the First Amendment to the U.S. Constitution, or substantially burdens any exercise of religion (regardless of whether compelled by, or central to, a system of religious belief), speech, expression, association, if such exercise of religion, speech, expression, or association was not intended to—(1) plan or prepare for an act of physical violence; or (2) incite an imminent act of physical violence against another.

There is some lawyerese in that, but what it says is you have free speech unless it is intended to plan or prepare for an act of physical violence or incite an imminent act of physical violence against another.

In other words, if you are saying this to try to incite people to physical violence or an imminent act of physical violence, that is not protected. But everything else is free speech and may be seen by some as religious expression.

What we are trying to do is narrow this, tying it into the actual act that takes place and not be an act that intimidates people's expression of their ideas or expression of their religious convictions that they may hold.

I hope my colleagues will look at this and say, yes, that is what we mean to do, and not to sort of have a chilling effect on all free speech, all free expression, on all free expression within a religious organization or group that may have some differing views.

Frankly, I don't think, if we have a bill that intimidates or chills first amendment free speech or religious expression, that it is going to stand constitutional challenge. That is why I am putting forward this amendment.

The current language of this bill attempts to project the free exercise of religion solely to a first amendment constitutional framework. I think this is problematic because the Supreme Court has severely limited those first amendment rights, particularly regarding free religious expression as a result of a decision in an Employment Division, Department of Human Resources of Oregon v. Smith. It was a Ninth Circuit Court opinion.

The Congress, after that opinion was issued, was quick to recognize the damage done to religious freedom in Smith and in response passed the Religious Freedom Restoration Act. This act serves as a framework created by Congress to protect religious free speech in other contexts. That is what this amendment is taking from, this bill that has already passed this Congress by a wide margin, the Religious Freedom Restoration Act.

My amendment adopts language from that bill in contrast to the free exercise jurisprudence of the Supreme Court. Courts have noted that the congressionally created Religious Freedom Restoration Act model possesses clarity and ease of construction. In fact, numerous claims that were unsuccessful under the first exercise clause jurisprudence of the Supreme Court have either prevailed or were entitled to remand for more favorable review under the Religious Freedom Restoration Act. My amendment seeks to protect religious motivated speech but it protects speech.

What it says is, if you are in a narrow category of where you are intending this speech to cause somebody bodily harm, then you are not protected, and you should not be protected. But, if otherwise, you are exercising your right of free speech or religious association, you are entitled to the protection under the Constitution.

It would be my hope that my colleagues would look at this amendment and they would say that what we are putting forward is an amendment which has passed this body previously, passed this body in a strong bipartisan vote, is one that we want to stick with—that definition and not this broader one that can be interpreted as limiting first amendment freedom of expression or religious association.

That is a simple amendment I have put forward. I ask my colleagues to look at the amendment itself. It is one paragraph long. I ask they support this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, Senator MCCONNELL and I appreciate everyone's patience.

I now ask unanimous consent that upon disposition of the Hatch amendment, Leahy alternative to Brownback amendment and Brownback amendments specified below, the Senate proceed to vote on the motion to invoke cloture on the Leahy amendment No. 1511; further, that when this agreement is entered, amendment No. 1539 be withdrawn, and that the following list of amendments be the only amendments on the subject of hate crimes remaining in order during the pendency of S. 1390: Hatch amendment regarding alternative; Leahy or designee alternative to Brownback amendment; Brownback amendment regarding first amendment protections, Leahy or designee alternative to Sessions death penalty; Sessions amendment regarding death penalty; Sessions amendment regarding servicemembers; Sessions amendment regarding attorney general regulations; that all of the above amendments be first-degree amendments except the Hatch, Brownback and Leahy alternative to Brownback

amendment which are second-degree amendments to the Leahy amendment No. 1511; and that debate on any of the amendments listed above be limited to 40 minutes each, prior to a vote in relation thereto, except the Hatch, Leahy alternative and Brownback amendments; and the cloture vote debate time be limited to up to 4 minutes each, equally divided and controlled in the usual form, with the time equally divided and controlled in the usual form; that if there is a sequence of votes, then any subsequent votes after the first would be limited to 10 minutes each; that upon disposition of the listed amendments, all postcloture time be yielded back; further, that the Hatch, Leahy alternative to Brownback and Brownback amendments be first debated and voted tonight, that upon disposition of those amendments, the Senate proceed to vote on the motion to invoke cloture on amendment No. 1511; that if cloture is invoked, then amendment No. 1511, as amended, if amended, be agreed to and the motion to reconsider be laid upon the table; further, that notwithstanding adoption of amendment No. 1511, as amended, if amended, the remaining amendments relating to hate crimes still be in order; further, that if cloture is not invoked on the Leahy amendment, then the motion to reconsider be considered entered and the part of the agreement relating to the amendments with respect to hate crimes be null and void; provided further that if upon reconsideration, and cloture is invoked, then the remaining amendments not disposed of prior to the cloture vote remain in order; further, that the next first-degree amendment in order to S. 1390 be a Republican amendment, with no amendment in order to the amendment during today's session, with the amendment being offered tonight and debate commencing on the amendment when the Senate resumes consideration of the bill on Monday, following disposition of the Leahy alternative and Sessions amendments listed above; that upon disposition of the Republican amendment specified above, Senator LEVIN be recognized to offer the Levin-McCain amendment relating to the F–22, with debate on that amendment limited to 2 hours, with the time equally divided and controlled between Senators LEVIN and CHAMBLISS or their designees; that upon the use or yielding back of that debate time, the Senate proceed to vote on the amendment, with no amendment in order to the Levin-McCain amendment.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object, and I will not object, I ask my friend the majority leader, am I correct that after the four votes tonight, the next vote will be on Monday at roughly what time?

Mr. REID. Probably around 3 o'clock. We are going to come in Monday at 1 and work through these amendments we have remaining on hate crimes, and then we would go to the matter that will be offered by the Republicans tonight. When we complete that, we will finish the work in 2 hours on the F–22 amendment.

So next week, everybody, we will start early on Monday, as I have indicated, and we will have, perhaps, some long days. This is an important piece of legislation.

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

Mr. REID. We appreciate everyone's cooperation. It has been very difficult to get this, but I think it will move to get the Defense bill done at an earlier time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Will these votes be 10-minute votes?

Mr. REID. We have already indicated the first one will be 15. We hope to do some by voice. That is possible.

Mr. KERRY. I thank the leader.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 1610 TO AMENDMENT NO. 1511

Mr. BROWNBACK. Mr. President, I call up my amendment No. 1610 and ask that it be brought before the body.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 1610 to amendment No. 1511.

Mr. BROWNBACK. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify that the amendment shall not be construed or applied to infringe on First Amendment rights)

Strike page 16, line 24 through page 17, line 7 and insert the following:

SEC. _____. CONSTRUCTION AND APPLICATION.

Nothing in this division, or an amendment made by this division, shall be construed or applied in a manner that infringes on any rights under the first amendment to the Constitution of the United States, or substantially burdens any exercise of religion (regardless of whether compelled by, or central to, a system of religious belief), speech, expression, association, if such exercise of religion, speech, expression, or association was not intended to—

(1) plan or prepare for an act of physical violence; or

(2) incite an imminent act of physical violence against another.

Mr. BROWNBACK. Mr. President, this is part of the agreement we had for votes on side-by-sides.

What this amendment does is put forward and into this bill language that this body has already passed by a vote of 97 to 3. It is language that was in the Religious Freedom Restoration Act. It is to protect individuals' religious freedom, their freedom of expression. It has passed this body overwhelmingly. It narrows the definition and it says that if you intend to incite somebody to do physical harm to another individual, that is not protected speech. If you plan to prepare for an act of physical violence or incite an imminent act of physical violence against another, it is not protected, that is not protected speech; otherwise, you have free speech and the right to free speech expression and religious freedom expression.

It is important that we have a very clear definition—a narrow definition but a very clear definition—of what is protected and what is not protected speech in this very critical area of first amendment rights and limitations we are putting in here.

It is a very short amendment, a very important amendment on the hate crimes legislation. I ask my colleagues for their support again, as many of my colleagues have already voted for it in an overwhelming number.

I thank my colleagues for their review of this amendment. I hope they can vote for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, once this amendment of the Senator from Kansas is disposed of, I will then offer an amendment. My amendment would preserve the first amendment protections in the hate crimes bill and add language to clarify that nothing in this act diminishes the protections of the first amendment. Of course, we could not pass a bill, as I am sure the Senator from Kansas knows, Congress could not pass legislation that would diminish the protections of the first amendment, the first amendment being in the Constitution, the first amendment protecting our right to practice whatever religion we want or none if we want and protecting our right of free speech.

At the appropriate time, I will have an amendment which would preserve first amendment protections in the hate crimes bill and add language to clarify that nothing in this act diminishes the protections of the first amendment. I would assume the Senator from Kansas would have no objection to that.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I certainly don't have an objection to an amendment being brought up. I would note that this is a very important area we are treading on, limitation of people's free speech and religious association they have. What I am offering is language that has passed this body by a large margin before, 97 to 3. I hope to see the language the Senator from Vermont is putting forward. If it is the language that is currently in the bill, this is quite untested language in a very limited area. I read his language to be quite expansive. I think it would be questionable, going into constitutional territory. But the bigger point on this being that I believe my colleagues who want to pass the hate speech legislation have been saying all along this does not limit somebody's right of free

speech. It doesn't limit anybody's right of religious expression, if they have different views. It is just about a violent act and association that would reflect hate. So what I have done in two sentences is say let's be specific about that rather than very general about that in its interpretation or leaving that to the court.

If I have the language correct that he is putting forward in reinstating this, I really hope my colleagues would look at both of these and say they do want a very narrow, specific definition put forward.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have no objection to just accepting by voice vote his amendment if the language was previously voted on in the last Congress and has been pending for some time.

Mine is very short. I call on any Senator to tell me if there is anything they disagree with. It says:

Nothing in this division, or amendment made by this division, shall be construed to diminish any rights under the first amendment to the Constitution of the United States.

Nothing in this division shall be construed to prohibit any constitutionally protected speech, expressive conduct or activities (regardless of whether compelled by, or central to, a system of religious belief), including the exercise of religion protected by the first amendment to the Constitution of the United States and peaceful picketing or demonstration. The Constitution does not protect speech, conduct or activities consisting of planning for, conspiring to commit, or committing an act of violence.

Does any Member of this body, Republican or Democratic, disagree with that language? Basically, it says the Constitution is the Constitution. We follow the Constitution. Does anyone disagree with that language?

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

Mr. LEAHY. Yes.

Mr. DURBIN. Does the Senator from Vermont recall that when Attorney General Holder appeared before the Judiciary Committee, he was asked pointblank if, in the course of a religious ceremony or religious observance, a person gave a sermon, made a speech that was negative toward people of different sexual orientation and someone in the congregation, after hearing the sermon, committed an act of violence, the Attorney General was asked, would the person who gave the sermon, gave the speech, be held responsible under the hate crimes act and the Attorney General responded no because the hate crimes act requires a physical act of violence in order for there to be a prosecution? Does the Senator from Vermont recall that?

Mr. LEAHY. I recall that very well. I also note that every single Republican, every single Democratic member on the committee agreed with Attorney General Holder on that.

My amendment simply says that the Constitution of the United States controls. That is the ultimate law of the land. I can't imagine anybody in this body disagreeing with that, especially as every single Member of this body has taken an oath to uphold the Constitution of the United States.

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

Mr. LEAHY. Of course.

Mr. LEVIN. The amendment of the Senator from Vermont makes it very clear that included in first amendment rights are the rights to peaceful picketing or demonstration. That is not included in the Brownback amendment. Would the Senator from Vermont agree, however, that we don't need to choose between the two amendments? They both state important truths and make very important contributions. Is it not the Senator's understanding that both amendments can be adopted, that they are not at all inconsistent with each other?

Mr. LEAHY. I agree with that. And speaking as the chairman of the Senate Judiciary Committee, I am perfectly willing to accept both of them. I would be surprised if my friend from Kansas feels otherwise.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Thank you very much, Mr. President.

I thank my colleagues, and I thank the chairman of the Armed Services Committee for his comment on this issue.

I guess the conferees will have to deal with a difficult issue outside the jurisdiction of the committee, particularly on something like hate crimes, which I really have great question as to why on Earth we would do this on a DOD authorization bill.

But I would like to point out that my colleague, the chairman of the Judiciary Committee, has been in that committee for a long period of time, and he knows these issues very well. What his amendment puts forward is something that will be interpreted then by the courts. It will have to be interpreted by the courts, and it has broader language.

What I am putting forward is very specific language that puts a clear intent of the Congress not to limit certain types of speech but to limit speech that is associated with physical harm or the incitement of physical harm. That seems to me to be clearly appropriate for us to do, probably a better thing to do on the hate crimes legislation—for us to be very specific and narrow in this area where we are treading into first amendment religious expression areas.

I would like to read my language, if I could, to my colleague. It says—and this is the operative part of this—''if such exercise of religion, speech, expression, or association was not intended to''—so it protects every area except what is ''not intended to plan or prepare for an act of physical violence; or incite an imminent act of physical violence against another.''

So we are trying to get into the category and the area, and a lot of people are very concerned about this, about being able to have their rights for religious expression and freedom. I think this is a much tighter focus. I believe my colleague would agree, as a lawyer——

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. BROWNBACK. Mr. President, I ask for the yeas and nays on the Brownback amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, parliamentary inquiry: I understand the first vote under the unanimous consent agreement will be on the Leahy amendment; is that correct?

The PRESIDING OFFICER. Hatch.

Mr. LEVIN. In terms of these two amendments?

The PRESIDING OFFICER. Hatch. And then after Hatch, Leahy, then Brownback.

Mr. LEVIN. All right. So that after the disposition of the Hatch amendment, the first amendment to be disposed of between these two would be the Leahy amendment?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I would hope that to expedite things the Senator from Vermont would consider a voice vote because I think both of these amendments will pass, and should pass, and we can save the body's time.

But I would like to suggest that even though the Senator from Kansas wants a rollcall, both amendments should be adopted, and if the Senator from Vermont can accept a voice vote when it comes his turn, I think that will indicate the clear will of the body, and then we would proceed to another clear will of the body on the amendment of the Senator from Kansas.

Mr. LEAHY. Mr. President, to answer the Senator from Michigan, I am perfectly willing to voice vote both of them. I intend to vote for both of them. We are saying that you have a freedom of religion, and the courts cannot undermine the first amendment.

This is hornbook law. This is your first week of law school. No court is going to disagree with that. I am perfectly willing to accept both by a voice vote.

AMENDMENT NO. 1613 TO AMENDMENT NO. 1511

So, Mr. President, I offer my amendment and send it to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 1613 to amendment No. 1511.

The amendment is as follows:

At the end of the amendment, insert the following:

(b) FIRST AMENDMENT.—Nothing in this division, or an amendment made by this division, shall be construed to diminish any rights under the first amendment to the Constitution of the United States.

(c) CONSTITUTIONAL PROTECTIONS.—Nothing in this division shall be construed to prohibit any constitutionally protected speech, expressive conduct or activities (regardless of whether compelled by, or central to, a system of religious belief), including the exercise of religion protected by the first amendment to the Constitution of the United States and peaceful picketing or demonstration. The Constitution does not protect speech, conduct or activities consisting of planning for, conspiring to commit, or committing an act of violence.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1611 TO AMENDMENT NO. 1511

Mr. HATCH. Mr. President, I call up amendment No. 1611 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1611 to amendment No. 1511.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prevent duplication in the Federal government)

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE STUDY AND SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, division E of this Act (relating to hate crimes), and the amendments made by that division, shall have no force or effect.

(b) STUDIES.—

(1) COLLECTION OF DATA.—

(A) DEFINITION OF RELEVANT OFFENSE.—In this paragraph, the term ''relevant offense'' means a crime described in subsection (b)(1) of the first section of Public Law 101-275 (28 U.S.C. 534 note) and a crime that manifests evidence of prejudice based on gender or age.

(B) COLLECTION FROM CROSS SECTION OF STATES.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the National Governors' Association, shall, if possible, select 10 jurisdictions with laws classifying certain types of offenses as relevant offenses and 10 jurisdictions without such laws from which to collect the data described in subparagraph (C) over a 12-month period.

(C) DATA TO BE COLLECTED.—The data described in this paragraph are—

(i) the number of relevant offenses that are reported and investigated in the jurisdiction;

(ii) the percentage of relevant offenses that are prosecuted and the percentage that result in conviction;

(iii) the duration of the sentences imposed for crimes classified as relevant offenses in the jurisdiction, compared with the length of sentences imposed for similar crimes committed in jurisdictions with no laws relating to relevant offenses; and

(iv) references to and descriptions of the laws under which the offenders were punished.

(D) COSTS.—Participating jurisdictions shall be reimbursed for the reasonable and necessary costs of compiling data collected under this paragraph.

(2) STUDY OF RELEVANT OFFENSE ACTIVITY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit to Congress a report that analyzes the data collected under paragraph (1) and under section 534 of title 28, United States Code, to determine the extent of relevant offense activity throughout the United States and the success of State and local officials in combating that activity.

(B) IDENTIFICATION OF TRENDS.—In the study conducted under subparagraph (A), the Comptroller General of the United States shall identify any trends in the commission of relevant offenses specifically by—

(i) geographic region;

(ii) type of crime committed; and

(iii) the number and percentage of relevant offenses that are prosecuted and the number for which convictions are obtained.

(c) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—At the request of a law enforcement official of a State or a political subdivision of a State, the Attorney General, acting through the Director of the Federal Bureau of Investigation and in cases where the Attorney General determines special circumstances exist, may provide technical, forensic, prosecutorial, or any other assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State; and

(3) is motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(d) GRANTS.—

(1) IN GENERAL.—The Attorney General may, in cases where the Attorney General determines special circumstances exist, make grants to States and local subdivisions of States to assist those entities in the investigation and prosecution of crimes motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(2) ELIGIBILITY.—A State or political subdivision of a State applying for assistance under this subsection shall—

(A) describe the purposes for which the grant is needed; and

(B) certify that the State or political subdivision lacks the resources necessary to investigate or prosecute a crime motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 10 days after the application is submitted.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single case.

(5) REPORT AND AUDIT.—Not later than December 31, 2010, the Attorney General, in consultation with the National Governors' Association, shall—

(A) submit to Congress a report describing the applications made for grants under this subsection, the award of such grants, and the effectiveness of the grant funds awarded; and

(B) conduct an audit of the grants awarded under this subsection to ensure that such grants are used for the purposes provided in this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2010 and 2011 to carry out this section.

Mr. HATCH. Mr. President, the purpose behind this amendment is simple. The proponents of the Matthew Shepard Hate Crimes Prevention Act have yet to answer what should have been the threshold question: Is it really necessary?

My amendment would mandate a study to determine whether the States are adequately addressing bias-motivated violence. To date, we have seen no evidence that they are not. In fact, we have asked the Attorney General, for years now, to come up with any evidence they can. In the hearing before the Judiciary Committee recently, he specifically stated the States are doing a good job at addressing hate crimes.

It would also authorize the Justice Department to provide limited aid and assistance in State prosecutions of bias-motivated crimes.

In almost every case raised by the proponents of a horrific act of violence motivated by prejudice, the perpetrators have been dealt with adequately at the State level.

In the Matthew Shepard case, the two perpetrators are spending life in prison. In other cases, some have had the death penalty, and others have spent life in prison.

Before we start overriding State efforts, I believe we should at least make an effort to determine whether there is a legitimate Federal role in the prosecution of hate crimes. That is what my amendment would do, and I hope our colleagues will consider voting for it.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I know the hour is late. The matter is very simple. The Hatch amendment kills the hate crimes legislation. If you want to kill the hate crimes legislation, vote for the Hatch amendment. If you do not want to kill the hate crimes legislation, if you want a chance to vote on something the Senate has voted for time and time again, then vote against the Hatch amendment.

The Attorney General testified at the request of the Republicans. He testified before the Senate Judiciary Committee and endorsed the legislation before us. The Hatch amendment—perhaps well-meaning; I assume it is—would, in effect, eviscerate the hate crimes legislation. It would kill the hate crimes legislation.

The question is very simple: Vote for Hatch; you kill the hate crimes legislation. Vote against it, we have a chance to vote for the hate crimes legislation—something the Senate has voted for several times before and something the Attorney General supports based on a hearing we had at the request of the Republicans within the past month.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Utah has 40 seconds remaining.

Mr. HATCH. Mr. President, my amendment does not kill the hate crimes opportunity. It says, let's do a study. Let's know what we are talking about. Let's see if there is a real need for this bill. With all of the constitutional ramifications this bill has, it says: Let's be cautious. Let's just not go pell-mell into the maelstrom without knowing what we are talking about.

Mr. LEVIN. Mr. President, is there any time remaining for the opponents?

The PRESIDING OFFICER. There is 45 seconds.

Mr. LEVIN. Mr. President, the Hatch amendment is explicit. It is clear. On lines 6 and 7 on page 1, and lines 1 and 2 on page 2, it says: ''division E of this Act (relating to hate crimes), and the amendments made by that division, shall have no force or effect.'' It is explicit. It says: No hate crimes legislation; instead, a study.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah has 15 seconds.

Mr. HATCH. Mr. President, all it says is, we would go a different route. We would do the study first, so we do not go off half cocked and do something that may be unconstitutional and unsound.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

All time has expired on the Hatch amendment.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), the Senator from Missouri (Mr. BOND), the Senator from New Hampshire (Mr. GREGG), the Senator from Kentucky (Mr. BUNNING), the Senator from Florida (Mr. MARTINEZ), and the Senator from South Carolina (Mr. GRAHAM).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea,'' the Senator from Tennessee (Mr. CORKER) would have voted ''yea,'' and the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

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

The result was announced—yeas 29, nays 62, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—29

Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Brownback	Grassley	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	Wicker
DeMint	McCain	

NAYS—62

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

NOT VOTING—9

Alexander	Byrd	Gregg
Bond	Corker	Kennedy
Bunning	Graham	Martinez

The amendment (No. 1611) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1613

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Vermont.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, this amendment is very simple. Anybody can read it in about a minute. It says that nothing shall add to or detract from the first amendment to the Constitution. No court in the country would rule otherwise. It simply says that regarding the right of free speech in this country, nothing can be taken from it and nothing added to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1613) was agreed to.

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

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

AMENDMENT NO. 1610

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Kansas.

The Senator from Kansas is recognized.

Mr. BROWNBACK. The language we put in the Religious Freedom Restoration Act passed this body 97 to 3. This language is much more targeted, so it doesn't leave it all to the interpretation of the court. It expresses what this body has previously expressed. I think it is important that we put this forward. It says that if you are speaking and intending to incite physical violence or imminent threat, that is not protected speech. But otherwise you have protected speech. It puts a much finer definition on it that is important for this legislation.

I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered on the amendment.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Tennessee (Mr. CORKER), the Senator from New Hampshire (Mr. GREGG), the Senator from Florida (Mr. MARTINEZ), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Missouri (Mr. BOND).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''yea,'' the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea,'' and the Senator from Tennessee (Mr. CORKER) would have voted ''yea.''

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

The result was announced—yeas 78, nays 13, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—78

Barrasso	Feingold	Merkley
Baucus	Feinstein	Murkowski
Bayh	Franken	Murray
Begich	Grassley	Nelson (NE)
Bennet	Hagan	Nelson (FL)
Bennett	Hatch	Pryor
Bingaman	Hutchison	Risch
Boxer	Inhofe	Roberts
Brownback	Inouye	Rockefeller
Burr	Isakson	Sanders
Cantwell	Johanns	Sessions
Carper	Johnson	Shaheen
Casey	Kaufman	Shelby
Chambliss	Kerry	Snowe
Coburn	Klobuchar	Specter
Cochran	Kohl	Stabenow
Collins	Kyl	Tester
Conrad	Landrieu	Thune
Cornyn	Levin	Udall (CO)
Crapo	Lieberman	Udall (NM)
DeMint	Lincoln	Vitter
Dodd	Lugar	Voinovich
Dorgan	McCain	Warner
Durbin	McCaskill	Webb
Ensign	McConnell	Wicker
Enzi	Menendez	Wyden

NAYS—13

Akaka	Harkin	Reid
Brown	Lautenberg	Schumer
Burris	Leahy	Whitehouse
Cardin	Mikulski	
Gillibrand	Reed	

NOT VOTING—9

Alexander	Byrd	Gregg
Bond	Corker	Kennedy
Bunning	Graham	Martinez

The amendment (No. 1610) was agreed to.

Mr. BROWNBACK. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Leahy amendment No. 1511 to S. 1390, the National Defense Authorization Act for Fiscal Year 2010.

Evan Bayh, Roland W. Burris, Benjamin L. Cardin, Patrick J. Leahy, Sheldon Whitehouse, Jeff Bingaman, Bernard Sanders, John F. Kerry, Carl Levin, Frank R. Lautenberg, Dianne Feinstein, Tom Harkin, Robert Menendez, Richard J. Durbin, Christopher J. Dodd, Charles E. Schumer, Harry Reid.

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

The question is, Is it the sense of the Senate that debate on amendment No. 1511 offered by the Senator from Vermont, Mr. LEAHY, to S. 1390, the National Defense Authorization Act for fiscal year 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. CORKER), the Senator from South Carolina (Mr. GRAHAM), the Senator from New Hampshire (Mr. GREGG), and the Senator from Florida (Mr. MARTINEZ).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''nay,'' the Senator from Kentucky (Mr. BUNNING) would have voted ''nay,'' the Senator from South Carolina (Mr. GRAHAM) would have voted ''nay,'' and the Senator from Tennessee (Mr. CORKER) would have voted ''nay.''

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

The yeas and nays resulted—yeas 63, nays 28, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—63

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

NAYS—28

Barrasso	Ensign	McConnell
Bennett	Enzi	Risch
Brownback	Grassley	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Cornyn	Johanns	Wicker
Crapo	Kyl	
DeMint	McCain	

NOT VOTING—9

Alexander	Byrd	Gregg
Bond	Corker	Kennedy
Bunning	Graham	Martinez

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, the Leahy amendment, as amended, is agreed to.

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

The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my colleagues for accepting the amendment. I also thank the distinguished Senator from Michigan, the chairman of the committee, and the distinguished majority leader for their work, as well as my staff, Bruce Cohen, Kristine Lucius, Noah Bookbinder, and others.

We have made it very clear—the Senate has made it very clear—how we hold in abhorrence hate crimes. I thank my colleagues for standing up and so strongly voicing, in a bipartisan way, their opposition to hate crimes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1618

Mr. THUNE. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] for himself, Mr. VITTER, Mr. ENZI, Mr. BARRASSO and Mr. COBURN, proposes an amendment numbered 1618.

Mr. THUNE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: 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)

At the end of subtitle H of title X, add the following:

SEC. 1083. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) FINDINGS.—Congress finds the following:

(1) The second amendment to the Constitution of the United States protects the right of an individual to keep and bear arms, including for purposes of individual self-defense.

(2) The right to bear arms includes the right to carry arms for self-defense and the defense of others.

(3) Congress has previously enacted legislation for national authorization of the carrying of concealed firearms by qualified active and retired law enforcement officers.

(4) Forty-eight States provide by statute for the issuance of permits to carry concealed firearms to individuals, or allow the carrying of concealed firearms for lawful purposes without need for a permit.

(5) The overwhelming majority of individuals who exercise the right to carry firearms in their own States and other States have proven to be law-abiding, and such carrying has been demonstrated to provide crime prevention or crime resistance benefits for the licensees and for others.

(6) Congress finds that the prevention of lawful carrying by individuals who are traveling outside their home State interferes with the constitutional right of interstate travel, and harms interstate commerce.

(7) Among the purposes of this Act is the protection of the rights, privileges, and immunities guaranteed to a citizen of the United States by the fourteenth amendment to the Constitution of the United States.

(8) Congress therefore should provide for the interstate carrying of firearms by such individuals in all States that do not prohibit the carrying of concealed firearms by their own residents.

(b) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

''§ 926D. Reciprocity for the carrying of certain concealed firearms

''(a) Notwithstanding any provision of the law of any State or political subdivision thereof—

''(1) a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a government-issued photographic identification document and a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm, may carry a concealed firearm in any State other than the State of residence of the person that—

''(A) has a statue that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

''(B) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes;

''(2) a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a government-issued photographic identification document and is entitled to carry a concealed firearm in the State in which the person resides otherwise than as described in paragraph (1), may carry a concealed firearm in any State other than the State of residence of the person that—

''(A) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

''(B) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

''(b) A person carrying a concealed firearm under this section shall—

''(1) in a State that does not prohibit the carrying of a concealed firearms by residents of the State for lawful purposes, be entitled to carry such firearm subject to the same laws and conditions that govern the specific places and manner in which a firearm may be carried by a resident of the State; or

''(2) in a State that allows residents of the State to obtain licenses or permits to carry concealed firearms, be entitled to carry such a firearm subject to the same laws and conditions that govern specific places and manner in which a firearm may be carried by a person issued a permit by the State in which the firearm is carried.

''(c) In a State that allows the issuing authority for licenses or permits to carry concealed firearms to impose restrictions on the carrying of firearms by individual holders of such licenses or permits, a firearm shall be carried according to the same terms authorized by an unrestricted license of or permit issued to a resident of the State.

''(d) Nothing in this section shall be construed to—

''(1) effect the permitting process for an individual in the State of residence of the individual; or

''(2) preempt any provision of State law with respect to the issuance of licenses or permits to carry concealed firearms.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18 is amended by inserting after the item relating to section 926C the following:

''926D. Reciprocity for the carrying of certain concealed firearms.''.

(d) SEVERABILITY.—Notwithstanding any other provision of this Act, if any provision of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

Mr. THUNE. Mr. President, the amendment that I bring to the Senate this evening is very simple. It ties into the debate that was just held about hate crimes legislation. One of the ways you can obviously prevent crimes from happening is to make sure that people are able to defend themselves against violent crimes. My amendment would do just that.

My amendment is simple. It allows individuals the right to carry a lawfully concealed firearm across State lines, while at the same time respecting the laws of the host State.

This amendment is similar to my bipartisan stand-alone bill S. 845, which currently has 22 cosponsors.

The second amendment provides, and the Supreme Court held in Heller last summer, that law-abiding Americans have a fundamental right to possess firearms in order to defend themselves and their families.

Studies have shown that there is more defensive gun use by victims than there are crimes committed with firearms.

As such, I believe that a State's border should not be a limit on this fundamental right and that law-abiding individuals should be guaranteed their second amendment rights without complication as they travel throughout the 48 States that currently permit some form of conceal and carry.

While some States with concealed carry laws grant reciprocity to permitholders from other select States, my amendment would eliminate the confusing patchwork of laws that currently exists.

This amendment would allow an individual to carry a concealed firearm across State lines if they either have a valid permit or if, under their State of residence, they are legally entitled to do so.

After entering another State, an individual must respect the laws of the host State as they apply to conceal and carry permit holders, including the specific types of locations in which firearms may not be carried.

Reliable, empirical research shows that States with concealed carry laws enjoy significantly lower violent crimes rates than those States that do not.

For example, for every year a State has a concealed carry law, the murder rate declines by 3 percent, rape by 2 percent, and robberies by over 2 percent.

Additionally, research shows that ''minorities and women tend to be the ones with the most to gain from being allowed to protect themselves.''

The benefits of conceal and carry extend to more than just the individuals that actually carry the firearms.

Since criminals are unable to tell who is and who is not carrying a firearm just by looking at a potential victim, they are less likely to commit crimes when they fear that they may come in direct contact with an individual who is armed.

This deterrent is so strong that a Department of Justice study found that 40 percent of felons had not committed crimes because they feared the prospective victim was armed.

Additionally, research shows that when unrestrictive conceal and carry laws are passed, it not only benefits those who are armed, but also others like children.

My amendment, in comparison to others being debated in the Senate, would actually empower individuals to protect themselves before they become victims of a crime, instead of just punishing the perpetrators afterwards.

A great example of this occurred earlier this month. Stephen Fleischman is a 62-year-old jewelry salesman from Mobile, AL, who often travels for business.

On his recent business trip to Memphis a group of four men, two of whom were armed, confronted him in a parking lot and tried to take his merchandise.

Instead of becoming a victim, Mr. Fleischman, who was legally concealing his firearm, was able to pull his weapon and protect himself and his merchandise from the four attackers.

Who knows what would have happened to Mr. Fleischman or his jewelry if he was traveling in South Carolina or any of the other 27 States with which Alabama does not have reciprocity agreements.

My amendment would alleviate this problem, and I hope when we return next week and we have an opportunity to debate this amendment and to vote upon it, my colleagues will support it because I believe it is an important tool for safety, for self-defense, and it is consistent with our tradition in this country of respect of second amendment rights, allowing American citizens the opportunity and the right to defend and protect themselves.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. KAUFMAN. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

COMMENDING THE U.S. CAPITOL POLICE

Mr. SCHUMER. Mr. President, I would like to publicly thank the men and women of the U.S. Capitol Police for their bravery and heroic work during a particularly challenging week. Last evening after attempting a routine traffic stop, an armed man opened fire at our officers. Despite the extreme danger, these officers reacted quickly and skillfully to ensure that the situation did not escalate and present danger to those in and around the U.S. Capitol. The officers who responded willingly put their lives on the line and we owe them our deepest thanks. My thoughts and prayers are with them and their families today.

We see the men and women of the U.S. Capitol Police every day as we go about our business for the people of our home States. Tasked with protecting the iconic symbol of our democracy, the officers of the U.S. Capitol Police have shown a steadfast commitment to protecting us, our staff, our constituents, and visitors. The mission statement of the U.S. Capitol Police states their dedication to protecting ''the Congress, its legislative processes, Members, employees, visitors, and facilities from crime so it can fulfill its

constitutional responsibilities in a safe and open environment.''

I have no doubt in my mind that the Capitol Police has done just that in a manner that is nothing short of heroic.

The U.S. Capitol Police has faced every danger undeterred, ensuring that Congress and its mission can continue uninterrupted. Their courage, efficiency, and commitment allowed Congress to continue with its constitutional responsibilities. We could not do this without them. For this, and for our safety, all of us owe them a great debt of gratitude.

As we proceed today with the routine business of the Senate—floor consideration of the fiscal year 2010 Defense authorization bill, Judiciary Committee hearings on the nomination of Judge Sonia Sotomayor for the U.S. Supreme Court nomination hearings and other myriad legislative tasks—all of us are able to breathe easily knowing that we are protected by such a dedicated and talented force.

Thank you again for all of your hard work and sacrifice.

CONDEMNING ALL FORMS OF ANTI-SEMITISM

Mr. CARDIN. Mr. President, I am gratified that the Senate is poised to approve S. Con. Res. 11, which condemns all forms of anti-Semitism and reaffirms the support of Congress for the U.S. Special Envoy to monitor and combat anti-Semitism around the world.

I cosponsored this resolution with Senator COLLINS to affirm my commitment to ending global anti-Semitism, bigotry, and hatred. In the 21st century, there is no place for people or groups who would harm or deny rights to others based on their religion, race, gender, or ethnic identity. Yet anti-Semitism—spawned from centuries of hatred, persecution, and repeated attempts to destroy the Jewish people from their early days of slavery through the Inquisition, Holocaust, and beyond—still pervades many cultures and societies.

In some places around the world, this deeply rooted hatred can quickly turn political rallies into hate crimes, with chants of ''death to Israel'' and expressions of support for suicide or terrorist attacks against Israeli or Jewish civilians all too frequent. These calls have often been followed by violence and vandalism against synagogues and Jewish institutions. Hate crimes send a powerful message because they affect more than the individual victims; they are meant to intimidate and instill fear in entire groups of people. Hate crimes create a sense of vulnerability and insecurity in others who may share characteristics with the victims. And this sense of fear is precisely the intent of those who commit such crimes.

Even here in the United States, anti-Semitism frequently rears its ugly head, most recently in the horrific shooting attack at the U.S. Holocaust Memorial Museum.

I am privileged to be chair of the Helsinki Commission and a member of the both the Senate Foreign Relations Committee and the Senate Judiciary Committee. In those capacities and as a Senator generally, I am afforded numerous opportunities to speak out against the scourge of anti-Semitism, racial bigotry, and ethnic hatred worldwide. Part of the battle is to publicize intolerant and hateful activities. This resolution is meant to shed light upon anti-Semitism, and I am grateful that so many of my colleagues have joined me in these efforts and on this resolution.

COMMENDING NORM COLEMAN

Mr. BROWNBACK. Mr. President, I commend the extraordinary career of Norm Coleman. Norm began his public service as a prosecutor for the Minnesota State Attorney General's Office, working his way up to chief prosecutor before eventually serving as solicitor general of Minnesota. In 1993, he became mayor of St. Paul. During his tenure as mayor, Norm worked faithfully to revitalize the city, even securing a National Hockey League franchise for St. Paul. In 2002, at the urging of President Bush, Norm ran for U.S. Senate. He was the challenger in a close, hard-fought race, and his ultimate victory was an exciting one.

I am proud to have served alongside Norm in the Senate. He was an excellent comrade in the fight against partial birth abortion and worked hard to prevent waste and fraud at the United Nations. Known for his willingness to work with both parties, Norm fought for tax cuts, renewable energy, and prescription drug benefits for seniors. He worked for the passage of legislation improving rural health care, increasing funding for Pell Grants and securing our ports.

He leaves an impressive record as testament to his service in the Senate, but his presence here will be missed. Though the outcome of last fall's election ended differently than I had hoped, I know great things are in store for Norm. He has much more to offer our great country. I wish Norm, his wife Laurie, and their two children, Jacob and Sarah, all the best as they embrace the new and exciting opportunities before them.

COMMENDING REV. LEONARD ROBINSON

Mr. BARRASSO. Mr. President, the word ''hero'' is used often and lightly these days. Yet there are those special people that walk among us in our hometowns across America who genuinely rate that title. The terrible days of the Second World War produced an entire generation of such people. Today they are our friends and neighbors. They endured great trials and gave so much of themselves for so many of us in the most difficult of circumstances. They served in our nation's darkest hour. And then they came home. They went back to work, to school, bought homes, and raised families. Many did not care to speak about what they had seen or suffered through. I come to the floor of the U.S. Senate today to honor one such individual.

Mr. President, on April 9, 1942, American and Filipino forces defending the peninsula of Bataan from the invasion of Imperial Japan ended a gallant holding action to prevent the Japanese conquest of the Philippines. The soldiers lacked supplies and air support, and were crippled by starvation and disease when they were finally overwhelmed on that fateful day. What would follow the surrender would go down as one of the most brutal and ghastly chapters written in human history.

More than 75,000 men, including nearly 12,000 Americans, were turned out onto a broken, dusty road and forced to march nearly 70 miles to the dreadful prison camp, Camp O'Donnell, that would be their home until the war's end. The journey was barbarous. Over the next 5 days, thousands died from starvation, dehydration, disease, heat prostration, and sheer exhaustion. Survivors of the Death March of Bataan tell of the horrific atrocities of their captors. Prisoners were beaten at random and denied food and water. Those who fell behind or stopped to help fallen comrades were executed. One survivor tells the story of Japanese soldiers driving alongside the column of weary men with outstretched bayonets, slicing throats and decapitating those poor souls who happened to get in the way. The sides of the trail were littered with the bodies of the dead. There are no words that can describe such horrendous barbarity and inhumanity. It is estimated that 54,000 of the 75,000 who started the march made it to Camp O'Donnell—a death rate of about 1 in 4. Many more would meet their deaths at the Camp. But there were also those who made it.

A hero is someone who displays courage, bravery, and perseverance in the face of great adversity. Those who survived the Bataan Death March exhibited a heroism that we rarely see today. One of those heroes is from my hometown of Casper, WY, the Reverend Leonard L. Robinson. Leonard is my friend and neighbor. In fact, I had the privilege as a surgeon to replace both of his knees.

Leonard L. Robinson was born in Englewood, CO, and spent his youth growing up in the Englewood and Denver area. While attending college at the University of Colorado, Leonard was drafted to the U.S. Army in 1941. He was assigned to Battery E of the 200th Coast Artillery Regiment, Anti-Aircraft, at Fort Bliss, TX. In September 1941, he was shipped out to Fort Stotsenburg in the Philippines. Leonard was in the first group of U.S. soldiers captured at Cabcaben and started the march out of Bataan towards Camp O'Donnell. He was then held as a Japanese prisoner of war for 3½ years; 2 of

those years were spent as a forgotten slave on the docks of Niigata. At the war's end, he returned to Fort Logan, CO, where he was discharged from the U.S. Army.

Upon his discharge in 1946, Leonard returned to school on the G.I. bill and earned his bachelor of science in architectural engineering from the University of Colorado. He then attended Northwestern Seminary in Minneapolis, where he earned his bachelor of theology. He later earned his master's and doctorate in theology from Pioneer Seminary in Rockford, IL. Throughout his years as an ordained pastor, he served in Wyoming, Washington, Iowa, Minnesota, Nebraska, and Colorado before returning back to Wyoming. He has served as Chaplain for military, law enforcement and veterans groups. Leonard and his wife Erma enjoyed 53 years together and they were blessed with three children, Paula Chelewski, Len Robinson, and Pamela Robinson, as well as two grandchildren. His beloved Erma passed away in 2005. Mr. President, the life example of Rev. Leonard Robinson has taught so many to appreciate and be thankful for the blessings of life.

This week, all the eyes of Wyoming will be on Cheyenne as we kick off the annual Daddy of 'Em All, Cheyenne Frontier Days. And I am proud to announce that Wyoming will honor Leonard as he leads the Cheyenne Frontier Days Parade on Tuesday, July 21, as its grand marshal. It is but a small tribute to this brave man who sacrificed and suffered so much for our country, for you and for me.

My father was a veteran of World War II. He fought in the Battle of the Bulge. My wife Bobbi's father was in both World War II and Korea. My dad always told me that I should thank God every day that I was born in America and how fortunate I was. He was right. This is the greatest country on Earth. And it is because of the sacrifices made by men like Rev. Leonard Robinson. I was so honored to greet him and his fellow veterans on the National Mall this spring when they made the Wyoming Honor Flight trip to Washington to visit the World War II Memorial. He is a hero in every sense of the word. Leonard, thank you my friend. All of Wyoming, and indeed America, is proud of you.

ADDITIONAL STATEMENTS

COMMENDING CECIL HARRIS

● Mr. THUNE. Mr. President, today I recognize Cecil Harris. The following statement was read at the dedication of a highway named in his honor on May 25, 2009. I ask that the statement be printed in the RECORD.

The statement follows.

CECIL HARRIS HIGHWAY DEDICATION CEREMONY, CRESBARD, SOUTH DAKOTA, MAY 25, 2009

Thank you for the invitation to attend the recognition celebration for Captain Cecil E. Harris to honor his achievement as a World War II fighter pilot. While I regret I am unable to be with you to recognize Captain Harris at this important event, I want to extend my greetings and best wishes to all of you in attendance. I applaud those individuals, many of whom are here today, whose hard work and dedication have made this event possible.

It is especially fitting that you are celebrating this event on Memorial Day. We should pause to remember what Memorial Day is all about: honoring those who have defended our freedom and especially those who have paid the ultimate price. Captain Harris is certainly worthy of this celebration. As an educator by profession, his willingness to serve others was apparent at a young age. He answered the call to service while enrolled at Northern State Teachers College in March 1941. Twenty-seven years later, Captain Harris retired as one of the most decorated heroes of the United States Navy. During his World War II service, he was the second highest scoring Navy ace in the Pacific Theater with 24 victories.

Captain Harris serves as a shining example of South Dakota's proud legacy of military service that extends from our state's earliest days to our current conflicts around the globe. South Dakotans of every background have always answered the call to defend America from those who seek to destroy the freedom that we cherish. I doubt there are many South Dakotans who do not have a family member or friend who has worn our nation's uniform. Upon reflection, we quickly realize that without the liberty that these men and women have defended through the years, our nation would not be what it is today, nor would citizens enjoy the freedoms that we sometimes take for granted.

My father, Harold Thune, served in the same squadron as Cecil Harris in World War II, and was Cecil's assistant flight officer. I recently had the opportunity to interview my father about his World War II experience for the Veterans History Project, an oral history archive held at the Library of Congress, and my father spoke very highly of Cecil. In fact, the advice Cecil gave my father helped him avoid being shot down. Cecil Harris was responsible for training my father's squadron, and my father describes Cecil as unqualifiedly the best pilot he had ever seen, and that he had never seen a pilot fly a plane like he did.

The tragic reality is that our nation loses hundreds of veterans every day. Memorial Day gives us an opportunity to reflect on the sacrifices of our veterans from every conflict, and it is fitting that we do so. Our veterans deserve to be remembered and celebrated, and these programs help do just that.

Again, I wish you all the very best as you gather to celebrate in Cresbard. My thoughts are with you all.●

COMMENDING EMILY SUSANNA TSCHETTER

● Mr. THUNE. Mr. President, today I recognize Emily Susanna Tschetter, an intern in my Washington, DC, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several weeks.

Emily is a graduate of Brookings High School in Brookings, SD. Currently she is attending South Dakota State University, where she is majoring in biology. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Emily for all of the fine work she has done and wish her continued success in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE PRESIDENT

The following message from the President of the United States was transmitted to the Senate by one of his secretaries:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency and related measures dealing with the former Liberian regime of Charles Taylor are to continue in effect beyond July 22, 2009.

The actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property, continue to undermine Liberia's transition to democracy and the orderly development of its political, administrative, and economic institutions and resources. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency with respect to the former Liberian regime of Charles Taylor.

BARACK OBAMA.

THE WHITE HOUSE, *July 16, 2009*.

MESSAGE FROM THE HOUSE

At 11:51 a.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 bills, in which it requests the concurrence of the Senate:

H.R. 762. An act to validate final patent number 27–2005–0081, and for other purposes.

H.R. 934. An act to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.

H.R. 1044. An act to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes.

The message also announced that pursuant to 10 U.S.C. 9355(a), amended by Public Law 108–375, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Air Force Academy: Mr. POLIS of Colorado, Ms. LORETTA SANCHEZ of California, and Mr. LAMBORN of Colorado.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 762. An act to validate final patent number 27–2005–0081, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 934. An act to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands; to the Committee on Energy and Natural Resources.

H.R. 1044. An act to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1462. an original bill to promote clean energy technology development, enhanced energy efficiency, improved energy security, and energy innovation and workforce development, and for other purposes (Rept. No. 111–48).

By Mr. KERRY, from the Committee on Foreign Relations, without amendment:

S. 345. a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2009'', and for other purposes (Rept. No. 111–49).

By Mr. KERRY, from the Committee on Foreign Relations, with amendments:

S. 954. a bill to authorize United States participation in the replenishment of resources of the International Development Association, and for other purposes (Rept. No. 111–50).

By Mr. KERRY, from the Committee on Foreign Relations, without amendment:

S. 955. a bill to authorize United States participation in, and appropriations for the United States contribution to, the African Development Fund and the Multilateral Debt Relief Initiative, to require budgetary disclosures by multilateral development banks, to encourage multilateral development banks to endorse the principles of the Extractive Industries Transparency Initiative, and for other purposes (Rept. No. 111–51).

By Mr. SCHUMER, from the Committee on Rules and Administration, with amendments:

S. 1415. a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

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 Ms. LANDRIEU (for herself and Mr. INHOFE):

S. 1458. A bill to encourage the development and implementation of a comprehensive, global strategy for the preservation and reunification of families and the provision of permanent parental care for orphans; to the Committee on Foreign Relations.

By Mr. DEMINT (for himself and Mr. VITTER):

S. 1459. A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S. 1460. A bill to amend title VII of the Higher Education Act of 1965 to provide for college retention challenge grants; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER (for herself, Mr. NELSON of Florida, Mr. WYDEN, Mrs. FEINSTEIN, and Mrs. GILLIBRAND):

S. 1461. A bill to amend the Internal Revenue Code of 1986 to treat trees and vines producing fruit, nuts, or other crops as placed in service in the year in which it is planted for purposes of special allowance for depreciation; to the Committee on Finance.

By Mr. BINGAMAN:

S. 1462. An original bill to promote clean energy technology development, enhanced energy efficiency, improved energy security, and energy innovation and workforce development, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. BURRIS:

S. 1463. A bill to amend the Public Health Service Act to establish a National Organ and Tissue Donor Registry Resource Center, to authorize grants for State organ and tissue donor registries, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY:

S. 1464. A bill to amend title 18, United States Code, to establish the transfer of any nuclear weapon, device, material, or technology to terrorists as a crime against humanity; to the Committee on the Judiciary.

By Mr. ISAKSON (for himself, Mr. DODD, Mr. CHAMBLISS, and Mr. BURRIS):

S. 1465. A bill to amend the Child Care and Development Block Grant Act of 1990 to require child care providers to provide to parents information regarding whether such providers carry liability insurance; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Mr. GRAHAM, and Mr. LEVIN):

S. 1466. A bill to establish the position of Deputy United States Trade Representative for Trade Enforcement and a Trade Enforcement Division in the Office of the United States Trade Representative, to establish a Chief Manufacturing Negotiator in the Office of the United States Trade Representative, to strengthen enforcement of United States intellectual property rights at United States borders, and for other purposes; to the Committee on Finance.

By Mrs. McCASKILL:

S. 1467. A bill to amend title 38, United States Code, to provide coverage under Traumatic Servicemembers' Group Life Insurance for adverse reactions to vaccinations administered by the Department of Defense, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WEBB (for himself and Mr. BROWN):

S. 1468. A bill to increase access to adult education to provide for economic growth; to the Committee on Finance.

By Mrs. BOXER:

S. 1469. A bill to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHANNS:

S. Res. 212. A resolution expressing the sense of the Senate that any savings under the Medicare program should be invested back into the Medicare program, rather than creating new entitlement programs; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. Res. 213. A resolution recognizing the historical significance of the city of Santa Fe, New Mexico on the occasion of its 400th anniversary; to the Committee on the Judiciary.

By Mr. DEMINT (for himself and Mr. GRAHAM):

S. Res. 214. A resolution congratulating Lucas Glover on winning the 2009 United States Open golf tournament; to the Committee on the Judiciary .

By Mr. WHITEHOUSE (for himself, Mrs. MURRAY, Ms. STABENOW, Mr. VITTER, Mr. INHOFE, Mr. FEINGOLD, Mr. SCHUMER, and Mr. COCHRAN):

S. Res. 215. A resolution designating August 8, 2009, as ''National Marina Day''; to the Committee on the Judiciary.

By Mrs. GILLIBRAND (for herself and Ms. MIKULSKI):

S. Res. 216. A resolution acknowledging the 25th anniversary of the nomination of Representative Geraldine A. Ferraro as the first woman selected by a major political party to run for the Office of the Vice President; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 251

At the request of Mrs. HUTCHISON, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 251, a bill to amend the Communications Act of 1934 to permit targeted interference with mobile radio services within prison facilities.

S. 348

At the request of Mr. ROCKEFELLER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 384

At the request of Mr. LUGAR, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 384, a bill to authorize appropriations for fiscal years 2010 through 2014 to provide assistance to foreign countries to promote food security, to stimulate rural economies, and to improve emergency response to food crises, to amend the Foreign Assistance Act of 1961, and for other purposes.

S. 390

At the request of Mr. CRAPO, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 390, a bill to expand the authority of the Secretary of the Air Force to convey certain relocatable military housing units to Indian tribes located in Idaho and Nevada.

S. 461

At the request of Mr. CRAPO, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 461, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 461, supra.

S. 475

At the request of Mr. BURR, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 491

At the request of Mr. WEBB, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 572

At the request of Mr. WEBB, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 572, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 575

At the request of Mr. CARPER, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Mr. CARDIN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 575, a bill to amend title 49, United States Code, to develop plans and targets for States and metropolitan planning organizations to develop plans to reduce greenhouse gas emissions from the transportation sector, and for other purposes.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 694

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 694, a bill to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 711

At the request of Mr. BAUCUS, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 711, a bill to require mental health screenings for members of the Armed Forces who are deployed in connection with a contingency operation, and for other purposes.

S. 775

At the request of Mr. VOINOVICH, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 775, a bill to amend title 10, United States Code, to authorize the availability of appropriated funds for international partnership contact activities conducted by the National Guard, and for other purposes.

S. 823

At the request of Ms. SNOWE, the names of the Senator from North Carolina (Mrs. HAGAN), the Senator from North Carolina (Mr. BURR) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 831

At the request of Mr. KERRY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of nonregular service retired pay.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 832, 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. 883

At the request of Mr. KERRY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 908

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 944

At the request of Mr. FEINGOLD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 944, a bill to amend title 10, United States Code, to require the Secretaries of the military departments to give wounded members of the reserve components of the Armed Forces the option of remaining on active duty during the transition process in order to continue to receive military pay and allowances, to authorize members to reside at their permanent places of residence during the process, and for other purposes.

S. 951

At the request of Mr. NELSON of Florida, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Georgia (Mr. ISAKSON), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Utah (Mr. BENNETT) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 951, a bill to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk

on the moon; Edwin E. ''Buzz'' Aldrin Jr., the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and, the first American to orbit the Earth, John Herschel Glenn Jr.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1072

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1072, a bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve.

S. 1161

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1161, a bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes.

S. 1169

At the request of Mrs. GILLIBRAND, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1169, a bill to amend title 10, United States Code, to provide for the treatment of autism under TRICARE.

S. 1214

At the request of Mr. LIEBERMAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1214, a bill to conserve fish and aquatic communities in the United States through partnerships that foster fish habitat conservation, to improve the quality of life for the people of the United States, and for other purposes.

S. 1239

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1239, a bill to amend section 340B of the Public Health Service Act to revise and expand the drug discount program under that section to improve the provision of discounts on drug purchases for certain safety net providers.

S. 1274

At the request of Mr. ROCKEFELLER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1274, a bill to amend title 46, United States Code, to ensure that the prohibition on disclosure of maritime transportation security information is not used inappropriately to shield certain other information from public disclosure, and for other purposes.

S. 1304

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 1304, a bill to restore the economic rights of automobile dealers, and for other purposes.

S. 1318

At the request of Mr. GREGG, the names of the Senator from Wyoming (Mr. BARRASSO), the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1318, a bill to prohibit the use of stimulus funds for signage indicating that a project is being carried out using those funds.

S. 1321

At the request of Mr. UDALL of Colorado, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to provide a credit for property labeled under the Environmental Protection Agency Water Sense program.

S. 1331

At the request of Mrs. GILLIBRAND, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1331, a bill to amend the Food, Conservation, and Energy Act of 2008 to index for inflation the payment rate for payments under the milk income loss contract program.

S. 1398

At the request of Mrs. GILLIBRAND, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1398, a bill to amend the Food, Conservation, and Energy Act of 2008 to increase the payment rate for certain payments under the milk income loss contract program as an emergency measure.

S. 1415

At the request of Mr. SCHUMER, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Kansas (Mr. BROWNBACK), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Mississippi (Mr. WICKER), the Senator from North Carolina (Mr. BURR), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. RISCH), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Dakota (Mr. THUNE) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1415, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to ensure that absent uniformed services voters and overseas voters are aware of their voting rights and have a genuine opportunity to register to vote and have their absentee ballots cast and counted, and for other purposes.

S.J. RES. 17

At the request of Mrs. FEINSTEIN, the names of the Senator from Iowa (Mr. HARKIN), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S.J. Res. 17, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

S. CON. RES. 14

At the request of Mrs. LINCOLN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Con. Res. 14, a concurrent resolution supporting the Local Radio Freedom Act.

S. CON. RES. 25

At the request of Mr. MENENDEZ, the names of the Senator from Washington (Mrs. MURRAY), the Senator from New Mexico (Mr. UDALL) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. Con. Res. 25, a concurrent resolution recognizing the value and benefits that community health centers provide as health care homes for over 18,000,000 individuals, and the importance of enabling health centers and other safety net providers to continue to offer accessible, affordable, and continuous care to their current patients and to every American who lacks access to preventive and primary care services.

S. RES. 210

At the request of Mrs. LINCOLN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Michigan (Ms. STABENOW), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. Res. 210, a resolution designating the week beginning on November 9, 2009, as National School Psychology Week.

AMENDMENT NO. 1469

At the request of Mr. CARPER, his name was added as a cosponsor of amendment No. 1469 proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1476

At the request of Mr. REID, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of amendment No. 1476 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1484

At the request of Mr. GREGG, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from

Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 1484 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1494

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 1494 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1504

At the request of Mrs. LINCOLN, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of amendment No. 1504 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1515

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of amendment No. 1515 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1517

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 1517 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1526

At the request of Mr. FEINGOLD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 1526 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1528

At the request of Mr. LIEBERMAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of amendment No. 1528 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1534

At the request of Mr. VOINOVICH, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 1534 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1554

At the request of Mr. BURR, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Maryland (Mr. CARDIN), the Senator from Texas (Mr. CORNYN) and the Senator from Missouri (Mr. BOND) were added as cosponsors of amendment No. 1554 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1557

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 1557 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1558

At the request of Mr. NELSON of Florida, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Tennessee (Mr. CORKER), the Senator from Maine (Ms. COLLINS) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 1558 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 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. 1561

At the request of Mr. BINGAMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 1561 intended to be proposed to S. 1390, an original bill to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. INHOFE):

S. 1458. A bill to encourage the development and implementation of a comprehensive, global strategy for the preservation and reunification of families and the provision of permanent parental care for orphans; to the Committee on Foreign Relations.

Ms. LANDRIEU. Mr. President, I rise to introduce a bill called the Families for Orphans Act that Senator INHOFE and I are sponsoring.

We are very fortunate, indeed, to have a Secretary of State who is quite knowledgeable about this subject. The office we seek to create would be housed within the Department of State under the watchful eye of Secretary Hillary Clinton, who did so much work on this subject when she was a Member of the Senate and even prior to her service in the Senate as First Lady of both Arkansas and the United States. So I am particularly happy we would be recommending what is, I think, a very appropriate establishment of an office within the Office of the Secretary of State.

This bill has been discussed for several years here. We have had several opportunities for debate on the floor. But a great coalition has come together, representing advocates for orphans around the world, to come together in a unified way to make a strong argument that this kind of office should indeed be established. There are some very compelling reasons why this should be.

First of all, right now in our system, there is no coordination in the Office of the Secretary of State or in the Department of State for policies related to orphans. This is an alarming situation because the number of orphans is growing exponentially in the world due to an increase in conflicts in many parts of the world; severe droughts and natural disasters that are causing families to be separated, children from adults; and the AIDS epidemic. Some people have referred to it as a factory that produces orphans. And you can understand the nature of that disease.

So the actions we take relative to trying to get a more coordinated policy are very important, and that is what this bill seeks to do.

It is, I think, understood among all Members of this body—I do not even hear one dissenting voice—that the most appropriate place for children to grow up is in a family.

We think there are over 130 million orphans in the world who have been deprived for whatever reason—death or war or famine or disease—of their right to belong to a family. It is our obligation as the leaders of the world to try to find the best possible substitute family for these children.

Children don't do a very good job of raising themselves. That is a virtual impossibility. Our efforts, unfortunately, dealing with children have been focused on their survival, on just getting medical care and health care and food and nutrition. I don't think we are doing enough as a government to focus on reuniting children with whatever extended family might be possible for them to be raised by, and then looking out somewhere beyond the extended family opportunity to domestic families who would take in that child and their siblings. We most certainly have not made the kind of effort I think is appropriate and is a ready source of loving arms in families in terms of the international community that would like to step up and adopt many children who are unable to find families in their own countries. That is basically what this office would do.

It would coordinate efforts by the aid and development community that, as I said, are currently focused on nutrition, housing, education, and medical care, and would refocus efforts on that, plus reunification of families and then adoption opportunities.

First, as I said, the U.S. programs are disconnected. Secondly, the United States, right now, in our opinion, does not engage in enough proactive diplomacy on this issue. Third, the United States should be able to advise and support other countries in the development of their own child welfare systems. We know we have made so many mistakes in the United States. We hate to see countries making similar mistakes. Some of those mistakes would be terminating parental rights, not being aggressive enough in seeking placement within extended families, separating siblings in placement, and then, the worst of all—if those things aren't bad enough—the worst of all, leaving children who have had their parental rights terminated basically stuck in limbo for 10 or 12 or 14, and in some extreme cases, 18 years in foster care where they never have a permanent parent or a permanent family to call their own.

I would remind my colleagues, because I continue to remind myself, that a child is never too old to need a parent. We all think of adoption as adopting infants or toddlers or school-aged children, but I would suggest to this body and to those listening that you are never too old to need a father or a mother. At the age of 54, I continue to talk to my parents regularly. They continue to give me advice and counsel. I have been blessed to have grandparents well into my adult life. The thought of a child growing up at any age—18, 20, 5, 12—without any permanent attachment to a family is tragic. The fact is there are methods and resources we can bring to bear to change that outcome for the millions of orphans who are in the world in our own country and around the world. That is what this office does.

The primary functions will be to act as a primary adviser to the Secretary of State and to the President to provide diplomatic representation, to develop an evidence-based, comprehensive global strategy, to support foreign governments through sound policy and technical assistance, to develop best practices with cultural sensitivity, and to support in-country family preservation, reunification, and permanency as primary solutions, using domestic adoption and international adoption as basically the last possibilities.

One of the most important things in the bill is to conduct a census because we don't know how many orphans there are in the world and in what countries. Until we get a handle on the numbers, it is very hard to find appropriate solutions and to mobilize the world community to act.

I contend there are millions and millions and millions of families who are able and willing and ready to take in orphans, to build their family through adoption, to add to the blessing of biological children, children who have come to their families through adoption. I have had personal experience myself with that issue. I am excited about the possibility of coordinating this effort and can think of no better person than Secretary Hillary Clinton to provide the leadership to establish this office as the Congress seeks to fund it and provide the resources to make it work.

So that is a description of the Families for Orphans Act. It is a bipartisan bill. We are getting extremely exciting feedback from our colleagues in the House. Representative DIANE WATSON from California and Representative JOHN BOOZMAN from Arkansas have introduced an identical bill, so we are very encouraged by the work the House has done on this subject and look forward to a quick hearing and quick passage.

By Mr. BURRIS:

S. 1463. A bill to amend the Public Health Service Act to establish a National Organ and Tissue Registry Resource Center, to authorize grants for State organ and tissue donor registries, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BURRIS. Mr. President, today I rise to speak on the subject of organ donation. Every day in this country, 17 people die while waiting for a donated organ. Typically, people wait 3 to 5 years before an organ becomes available, and the organ waiting list grows at a rate five times faster than donations.

What we need are improvements to the organ donor registry system, to increase efficiency and share best practices between states. The Everson Walls and Ron Springs Gift for Life Act of 2009 is named in honor of two close friends and former NFL teammates, one of whom may not be here today were it not for the incredible generosity of ''living organ donation.'' Ron's struggle with diabetes led to the failure of both kidneys. Everson's decision to give Ron one of his kidneys, led them both to create the Gift for Life Foundation. The group spreads awareness of organ donation issues, particularly among minority communities, who suffer disproportionately from the organ shortage.

This act will establish a National Organ and Tissue Donor Registry Resource Center to provide technical assistance to state donor registries. The center will also serve as a State registry information clearinghouse for the evaluation and development of best practices for donor registries nationwide. Further, the act will codify minimum operating standards for donor registries, and establish a grant program to develop, expand, and evaluate State donor registries. Finally, the act will create a study on the feasibility of establishing a living donor database in order to track the short and long-term health effects for such individuals.

I urge the Senate to take action on this important issue. We must improve the functioning of our organ donation system. Thousands of lives hang in the balance.

By Mr. ISAKSON. (for himself, Mr. DODD, Mr. CHAMBLISS, and Mr. BURRIS):

S. 1465. A bill to amend the Child Care land Development Block Grant Act of 1990 to require child care providers to provide to parents information regarding whether such providers carry liability insurance; to the Committee on Health, Education, Labor, and Pensions.

Mr. ISAKSON. Mr. President, it was September 9, 2001, in Augusta, GA, when Jackie Boatwright, on her way home from church, got a horrific call on her cell phone. The little boy, Anthony DeJuan Boatwright, then 14 months of age that she had dropped off at day care in the morning had been rushed to the hospital.

Upon her arrival at the hospital, a doctor gave her the grim news. He said, ''It appears your son has suffered a near drowning accident from falling into a bucket of mop water containing bleach. He has been without a pulse for more than an hour but we have managed to get a heartbeat. It is not a strong one right now but we have one.''

Today, nearly 8 years later, Juan now resides with his wonderful mother Jackie. He is semi-comatose and dependent on a ventilator.

The child care center where Juan was injured was licensed, but not insured. At the time, there was no way for Jackie or other parents to know the insurance status of child care providers.

Today, Senators DODD, CHAMBLISS, BURRIS and I introduce straight-forward, bipartisan legislation that will require day care centers to disclose whether or not they carry appropriate insurance for the facility.

The House of Representatives has passed this legislation multiple times, but now we in this body take our turn to simultaneously both honor young Juan and provide parents with much-needed information about child care facilities.

It is time this body passed this legislation and sent it on to President Obama for his signature.

I urge my colleagues to support this legislation.

By Mr. WEBB (for himself and Mr. BROWN):

S. 1468. A bill to increase access to adult education to provide for economic growth; to the Committee on Finance.

Mr. WEBB. Mr. President, today I am introducing, with great pride, the Adult Education and Economic Growth Act of 2009. I wish to point out that I and my staff have been working on this legislation for more than a year. It is designed to address a problem that we quite frankly do not spend enough attention on, I think, as we discuss the challenges of education in America. This is not the problem that is often discussed with respect to technical degrees or how we can compete with foreign countries in the number of engineers we are putting out, with those sorts of issues. It is the question of how we can assure basic competencies at the working level of a lot of American companies. I have started calling this the Second Chance Act for Education. There are a lot of people in this country who, for a variety of reasons, when they are in their teens or their late teens, cease their educational pursuits even before they finish high school. Perhaps someone might have a child, or get in trouble with the law, or get an independent streak and decide to leave school. Then when you get to the age of say 30 or beyond, you realize the disadvantage you have in attempting to compete in the marketplace.

There are very few provisions in our law and in our policies that address this situation. This bill is designed to address it. We seek to reform and increase investment in what we call adult education, which is that span of education that will bring people beyond a high school degree and hopefully into postsecondary education. We are looking at job training and other workforce programs that we need as a country to build a 21st century workforce. I am pleased to be joined in this initiative as a principal cosponsor with Senator SHERROD BROWN. By almost any measure, our Nation faces a critical need to strengthen existing programs of adult education. Our current adult education system falls far short in preparing our people to compete in the global marketplace. In fact, it is estimated that only 2½ million of the 93 million people who could benefit from these types of services are actually receiving them today.

The American labor market has changed dramatically with the advent of new technology and with the loss of jobs in our manufacturing sector. The need for well-trained and highly skilled workers is obvious. It has increased. At the same time our adult education system, which should be effectively preparing low-skilled workers to meet the demands in this shifting economy, has not kept pace.

Since 2002, the Federal Government has consistently decreased spending on adult education. In addition, the Nation's primary Federal resource for adult education, job training and employment services, the Workforce Investment Act, has not been reauthorized for more than 10 years. One can imagine how the American economy and the American workforce has changed over the last 10 years.

There are other signs pointing to the need for a better approach to adult education. If we look at adult education enrollment rates, in 1998, there were more than 4 million individuals enrolled in these types of programs. By 2007, that number had dropped to only 2 million, basically a 40-percent drop from when the Workforce Investment Act was originally enacted.

One of the largest barriers to economic growth in many communities is the lack of a skilled workforce, particularly those with entry-level skills. It is critical that we increase the number of individuals who obtain a high school diploma and encourage them to go forward into postsecondary education. I am sure we can all agree that the best economic tool for any community is a well-educated, skilled workforce. A growing number of American skilled workers right now are facing retirement age, and the growth in skilled labor has actually stagnated. If we continue along the current path, we will see only a 19-percent increase in the number of postsecondary education equipped native-born workers, which is about one-seventh the rate of growth during the past two decades. By comparison, countries such as China and India are doubling and tripling the number of college graduates in their countries.

According to the Workforce Alliance, 80 percent of the jobs in today's economy require some sort of education past a high school degree, yet there are 8 million adults in the workforce today who have low literacy, limited English proficiency, or lack educational credentials beyond high school. With so many workers who are unemployed or underemployed, it is clear that we should be investing in the training or retraining of American workers to fill this growing gap. Our legislation begins that vital task by addressing these problems.

Today we are proposing a two-pronged approach to strengthen the Nation's workforce. First, we want to build on ramps for American workers who got off track, perhaps, in their teens and need new skills and a better education in order to improve their lives. Just as importantly, we want to encourage employers to help them by offering tax credits to businesses that invest in these employees. Our government has long provided employers with limited tax credits when they help their employees go to college or to graduate school. It is basic logic, and I believe to the national good, that we should provide similar incentives for this type of adult education.

This bill authorizes a rather modest $500 million increase in funding to invigorate State and local adult education programs nationwide in order to increase the number of adults with a high school diploma. As a result, the bill will inevitably increase the number of high school graduates who go on to college and update and expand the job skills of the American workforce writ large. All of this is relevant to my longstanding personal goal of promoting basic economic fairness in our society.

Other provisions in the bill will improve workers' readiness to meet the demands of a global workforce by providing pathways to obtain basic skills, job training, and adult education. It will provide workers with greater access to on-the-job training in adult education by encouraging public-private partnerships between government, business, and labor. It will increase the use of technology in workforce skills training. It will improve access to correctional educational programs to channel former offenders into productive endeavors and to reduce recidivism. It will encourage investment in lower-skilled workers by providing employers with a tax credit if they invest in their employees' education. This tax credit is aimed at encouraging general and transferable skills development that may be in the long-term interest of most of its employers but are not always so clearly rewarded by the marketplace.

This act focuses on addressing the unique needs of adults with limited basic skills, with no high school diploma, or with limited English proficiency. Those individuals who may have taken a different path early in their lives and who now find themselves eager to go back to school and receive additional job training and skills should be provided opportunities to get back on track.

My legislation also would bolster the President's just announced goal of ensuring that 5 million more Americans graduate from communities college by 2020 and updating curriculum to keep up with the skills needed in today's workforce.

I encourage my colleagues to support this important endeavor. I am very proud of the work my staff has done on this for more than a year. Our Nation's workforce and local communities will be stronger for it. It is my hope that this legislation could be passed in a timely manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1468

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 ''Adult Education and Economic Growth Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In order to remain competitive in today's global economy, the United States must reverse the trend of underinvestment in adult education and workforce development and empower its workforce through adequate resources and effective and innovative educational and workforce programs. Since 1979, investments in adult education and workforce development programs have declined in real terms by more than 70 percent.

(2) Current Federal adult basic education programs serve less than 3,000,000 individuals a year. Some States have experienced difficulties integrating adult education public job training and career and technical education programs that could help these individuals meet specific industry demand while advancing along a career path.

(3) In 2007, more than 25,000,000 adults ages 18 through 64 had no high school credential. Every year, 1 in 3 young adults—more than 1,200,000 people—drop out of high school.

(4) Employers need highly-skilled workers to be able to compete globally. Between 2004 and 2014, 24 of the 30 fastest-growing occupations are projected to demand workers with some form of postsecondary education or training. Yet nearly half of the United States workforce has a high school diploma or less.

(5) Technology and globalization, coupled with the unfolding economic recession, are rendering low-wage and low-skill workers particularly vulnerable. Unemployment is highest among those without a college degree and has grown at a faster rate among this group since the start of the economic recession in December 2007.

(6) According to the Bureau of Labor Statistics, the unemployment rate for individuals age 25 and older who have less than a high school diploma has risen from 7.5 percent in December 2007 to 14.8 percent in April 2009. The unemployment rate for high school graduates with no college degree has increased from 4.6 percent to 9.3 percent. The unemployment rate for high school graduates with some college experience or an associate degree has risen from 3.7 percent to 7.4 percent.

(7) The United States ranks 11th among OECD countries in percent of young adults with a high school diploma- the only country in which younger adults are less educated than the previous generation.

(8) In 2006, 18,400,000 adults spoke English ''less than very well'', according to the United States Census Bureau (2006 American Community Survey). Of these adults, 8,200,000 held no high school credential and 5,000,000 had completed high school but were not college or job ready.

(9) Although 88,000,000 adults ages 18 to 64 have a high school diploma or less, or limited English proficiency, funding for programs authorized under the Workforce Investment Act of 1998 for adults, dislocated workers, and youth declined by about 12 percent between 2000 and 2007.

(10) According to the National Commission on Adult Literacy, 1 in every 100 adults in the United States 16 and older is in prison or jail in the United States. About 43 percent do not have a high school diploma or its equivalent, and 56 percent have very low literacy skills. Ninety-five percent of incarcerated individuals return to our communities.

(11) In order to meet the needs of the workforce, there must be a strong connection between the adult education and workforce development system, in order to better meet the needs of limited English proficient job seekers and those with basic skills deficiencies. For example, in program year 2006, less than 1 percent of individuals who exited the title I adult program under the Workforce Investment Act of 1998 were co-enrolled in adult education.

(12) Workforce development programs, including adult education, throughout the Federal Government and the States are not aligned well, limiting their capacity to leverage resources, to provide full and appropriate access to services, and to provide reliable and comparable data related to activities and outcomes across the programs.

(13) In the current economic climate, it is imperative that the United States invest in the education, training, and development of all workers in the United States who are unemployed or underemployed, to help fill the labor demands of the United States so that they do not look elsewhere to find skilled workers.

SEC. 3. PURPOSES.

The purposes of this Act are the following:

(1) To increase access substantially to adult education, literacy, and workplace skills services for adults who have limited basic skills, lack a high school diploma or its equivalent, or are limited English proficient.

(2) To create seamless pathways from adult education and occupational skills development to postsecondary education or training and workforce development programs and services that help adult learners persist throughout the pipeline from the lowest levels of basic literacy or English language proficiency to the achievement of a level of proficiency that will enable the adult learner to successfully transition to family-sustaining jobs in careers with the promise of advancement.

(3) To develop an adult education, literacy, and work skills system that coordinates and integrates adult education, literacy, and workplace skills services with workforce development and postsecondary education and training opportunities across agencies and programs.

(4) To greatly improve outcomes for adults receiving adult education, literacy, and workplace skills services in terms of learning gains, acquisition of basic workforce skills, accelerated learning, acquisition of a high school diploma or its equivalent, or successful transition to postsecondary education or training or to family-sustaining jobs in the workplace.

TITLE I—WORKFORCE INVESTMENT SYSTEMS

SEC. 101. DEFINITIONS.

Section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801) is amended by adding at the end the following:

''(54) INTEGRATED EDUCATION AND TRAINING.—The term 'integrated education and training' means training that combines education or training for a specific occupation or occupational cluster with English literacy instruction or other adult education, literacy, and workplace skills activities, including programs that provide for dual or concurrent enrollment.

''(55) CAREER PATHWAY.—The term 'career pathway' means a high quality, rigorous, engaging set of education, training, and workplace experiences that—

''(A) align adult education, job training, postsecondary education, or occupational training to create a pathway to attaining a recognized postsecondary education credential that will qualify an individual for career advancement in projected employment opportunities identified in the State plan under section 112;

''(B) include advising and counseling to support the development of individual education and career plans; and

''(C) lead to a secondary school diploma or its recognized equivalent (for individuals who have not completed secondary school), a postsecondary degree, a registered apprenticeship or another recognized occupational certification, a certificate, or a license.

''(56) WORKPLACE SKILLS.—The term 'workplace skills' means the combination of basic skills, critical thinking skills, and self management skills with competency in utilizing resources, using information, working with others, understanding systems, working with technology, and other skills necessary for success in the workplace.

''(57) REGISTERED APPRENTICESHIP PROGRAM.—The term 'registered apprenticeship program' means an industry skills training program at the postsecondary level that combines technical and theoretical training through structured on-the-job learning with related instruction (in classrooms or through distance learning) while an individual is employed, working under the direction of qualified personnel or a mentor, and earning incremental wage increases aligned to enhanced job proficiency, resulting in the acquisition of a nationally recognized and portable certificate, under a plan approved by the Office of Apprenticeship or a State agency recognized by the Department of Labor.''.

SEC. 102. PURPOSE.

Section 106 of the Workforce Investment Act of 1998 (29 U.S.C. 2811) is amended by inserting ''adult education and'' before ''workforce investment systems''.

SEC. 103. STATE WORKFORCE INVESTMENT BOARDS.

Section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821) is amended—

(1) in subsection (b)(1)(C)—

(A) in clause (vi)(II), by striking ''and'' after the semicolon;

(B) by redesignating clause (vii) as clause (viii); and

(C) by inserting after clause (vi) the following:

''(vii) the lead State agency officials with responsibilities for the programs and activities carried out under title II; and''; and

(2) in subsection (d)(2), by inserting ''adult education and'' before ''workforce investment system''.

SEC. 104. STATE PLAN.

Section 112 of the Workforce Investment Act of 1998 (29 U.S.C. 2822) is amended—

(1) in subsection (a), by inserting ''and aligns with the State plan described in section 224'' before the period at the end; and

(2) in subsection (b)—

(A) in paragraph (4)—

(i) in subparagraph (B), by inserting ''academic levels and'' before ''job skills'';

(ii) in subparagraph (C), by striking ''and'' after the semicolon;

(iii) in subparagraph (D), by striking ''State;'' and inserting ''State, including education, training, and registered apprenticeship programs and their relationship to

such career opportunities and skills and economic development needs; and''; and

(iv) by adding at the end the following:

''(E) the integrated education and training activities that will be integrated and aligned with workforce programs and services under this title, and the State's efforts to increase the number of participants concurrently enrolled in adult education services under title II and training and employment activities under this title;''.

(B) in paragraph (8)—

(i) in subparagraph (A)(x), by striking ''and'' after the semicolon;

(ii) in subparagraph (B), by striking the semicolon and inserting '', including performance on the core indicators described in section 212; and''; and

(iii) by adding at the end the following:

''(C) a description of any integrated data systems used to track performance outcomes over time for the participants in the programs and activities described in subparagraph (A);'';

(C) in paragraph (9), by striking ''businesses and representatives of labor organizations'' and inserting ''businesses, representatives of labor organizations, and representatives of education and training (including adult education providers, postsecondary education providers, and training providers)''; and

(D) in paragraph (17)(A)(iv), by adding '', including individuals receiving services under title II'' after ''disabilities)''.

SEC. 105. LOCAL WORKFORCE INVESTMENT BOARDS.

Section 117(h)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2832(h)(2)(A)) is amended—

(1) in clause (v), by striking ''and'' after the semicolon; and

(2) by inserting after clause (vi), the following:

''(vii) representatives of adult education; and''.

SEC. 106. LOCAL PLAN.

Section 118(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2833(b)(1)) is amended—

(1) in subparagraph (B), by striking ''and'' after the semicolon;

(2) in subparagraph (C), by inserting ''academic levels and'' before ''job skills''; and

(3) by adding at the end the following:

''(D) the type and availability of workforce investment activities in the local area, including education, training, and registered apprenticeship programs and their relationship to such business, job seeker, and worker needs, employment opportunities, and economic development needs; and

''(E) the integrated education and training activities that will be carried out under this title or title II and the alignment of those activities.''.

SEC. 107. USE OF FUNDS FOR YOUTH ACTIVITIES.

Section 129 of the Workforce Investment Act of 1998 (29 U.S.C. 2854) is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking ''and'' after the semicolon;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) to provide opportunities for career pathways for eligible youth.''; and

(2) in subsection (c)—

(A) in paragraph (1)(C)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) in clause (iv)(II), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

''(v) opportunities for career pathways; and

''(vi) for the completion of secondary school, in appropriate cases.''; and

(B) in paragraph (2)—

(i) in subparagraph (I), by striking ''and'' after the semicolon;

(ii) in subparagraph (J), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(K) dual enrollment opportunities.''.

SEC. 108. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.

Section 134(d) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(d)) is amended—

(1) in paragraph (3)(A)(i)(I), by striking ''and are unable to obtain employment through core services provided under paragraph (2)''; and

(2) in paragraph (4)—

(A) in subparagraph (A)(i), by striking ''and who are unable to obtain or retain employment through such services'';

(B) in subparagraph (D)—

(i) in clause (viii), by striking ''and'' after the semicolon;

(ii) in clause (ix), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(x) integration of adult education and training.''; and

(C) in subparagraph (G)(ii)—

(i) in subclause (II), by striking ''or'' after the semicolon;

(ii) in subclause (III), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(IV) the local board determines that it would facilitate the training of multiple individuals in high-demand occupations; or

''(V) the local board determines that it would facilitate the provision of integrated education and training programs.''.

SEC. 109. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 136(b)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)(2)(A)) is amended—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking ''and (for participants who are eligible youth age 19 through 21) for youth activities authorized under section 129''; and

(B) in subclause (IV)—

(i) by inserting ''and performance on the core indicators described in section 212, as appropriate'' after ''recognized equivalent''; and

(ii) by striking '', or by participants who are eligible youth age 19 through 21 who enter postsecondary education, advanced training, or unsubsidized employment''; and

(2) in clause (ii)—

(A) in the matter preceding subclause (I), by striking ''(for participants who are eligible youth age 14 through 18)'';

(B) in subclause (I), by striking ''and, as appropriate, work readiness or occupational skills'' and inserting '', workplace skills, or occupation skills, as appropriate'';

(C) in subclause (II), by striking ''and'' after the semicolon;

(D) in subclause (III), by striking the period and inserting ''; and''; and

(E) by adding at the end the following:

''(IV) performance on measures described in subclauses (I), (II), and (III) of clause (i) by youth 18 years of age and older.''.

SEC. 110. DEMONSTRATION AND PILOT PROJECTS.

Section 171(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2916(b)(1)) is amended—

(1) in subparagraph (G), by striking ''and'' after the semicolon;

(2) in subparagraph (H), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(I) projects that assist low skill and limited English proficient workers to acquire the basic, English, work readiness, and applied technical or occupational skills through integrated education and training programs to successfully transition to postsecondary education, workforce development, and employment in career pathways; and

''(J) projects that test effective ways to develop comprehensive career pathways learning approaches that fully align adult education with secondary education, postsecondary education, including registered apprenticeship programs, workforce development, and supportive service activities, and with regional economic development strategies to meet the skill needs of existing and emerging regional employers as well as the needs of low skilled adults, helping adults, especially those who are low skilled, to advance through progressive levels of education and training as quickly as possible and gain education and workforce skills of demonstrated value to the labor market at each level.''.

TITLE II—ADULT EDUCATION, LITERACY, AND WORKPLACE SKILLS

SEC. 201. PURPOSE.

Section 202 of the Adult Education and Family Literacy Act (20 U.S.C. 9201) is amended—

(1) in paragraph (1), by inserting ''and postsecondary education or training'' after ''self-sufficiency'';

(2) in paragraph (2), by striking ''and'' after the semicolon;

(3) in paragraph (3)—

(A) by inserting ''and transition to postsecondary education and career pathways'' after ''education''; and

(B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(4) assist adults with limited English proficiency in improving their reading, writing, speaking, listening, and comprehension skills in English and mathematical skills and acquiring an understanding of the American system of government, individual freedom, and the responsibilities of citizenship.''.

SEC. 202. DEFINITIONS.

(a) IN GENERAL.—Section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202) is amended—

(1) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), and (18), as paragraphs (4), (5), (6), (7), (8), (9), (10), (11), (12), (15), (16), (17), (18), (19), (20), and (21), respectively;

(2) by inserting after paragraph (2) the following:

''(3) CAREER PATHWAY.—The term 'career pathway' has the meaning given the term in section 101 of the Workforce Investment Act of 1998.'';

(3) in paragraph (6), as redesignated by paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting ''an organization that has demonstrated effectiveness in providing adult education, literacy, and workplace skills activities that may include'' after ''means'';

(B) in subparagraph (B), by striking ''of demonstrated effectiveness'';

(C) in subparagraph (C), by striking ''of demonstrated effectiveness'';

(D) in subparagraph (H), by striking ''and'' after the semicolon;

(E) in subparagraph (I), by striking the period and inserting ''; and''; and

(F) by adding at the end the following:

''(J) a partnership between an entity described in any of subparagraphs (A) through (I) and an employer.'';

(4) in paragraph (8), as redesignated by paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ''the economic prospects for'' after ''sustainable changes in''; and

(ii) by inserting ''and that better enable parents to support their children's learning needs'' after ''a family'';

(B) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively; and

(C) by inserting before subparagraph (B), as redesignated by subparagraph (B), the following:

''(A) Parent adult education, literacy, and workplace skills activities that lead to readiness for postsecondary education or training, career advancement, and economic self-sufficiency.'';

(5) by inserting after paragraph (12), as redesignated by paragraph (1), the following:

''(13) INTEGRATED EDUCATION AND TRAINING.—The term 'integrated education and training' has the meaning given the term in section 101 of the Workforce Investment Act of 1998.

''(14) INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION PROGRAM.—The term 'integrated English literacy and civics education program' means programs of instruction designed to help an individual of limited English proficiency achieve competence in English through contextualized instruction on the rights and responsibilities of citizenship, naturalization procedures, civic participation, and United States history and Government to help such an individual acquire the skills and knowledge to become an active and informed parent, worker, and community member.''; and

(6) by adding at the end the following:

''(22) WORKPLACE SKILLS.—The term 'workplace skills' has the meaning given the term in section 101 of the Workforce Investment Act of 1998.''.

(b) CONFORMING AMENDMENT.—Section 173A(b)(8) of the Workforce Investment Act of 1998 (29 U.S.C. 2918a(b)(8)) is amended by striking ''section 203(10) of the Adult Education and Family Literacy Act (20 U.S.C. 9202(10))'' and inserting ''section 203(11) of the Adult Education and Family Literacy Act (20 U.S.C. 9202(11))''.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Adult Education and Family Literacy Act (20 U.S.C. 9204) is amended to read as follows:

''SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $850,000,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year.''.

SEC. 204. RESERVATION OF FUNDS; GRANTS TO ELIGIBLE AGENCIES; ALLOTMENTS.

Section 211 of the Adult Education and Family Literacy Act (20 U.S.C. 9211) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''$8,000,000'' and inserting ''$15,000,000'';

(B) in paragraph (2)—

(i) by striking ''1.5 percent'' and inserting ''1.25 percent'';

(ii) by striking ''$8,000,000'' and inserting ''$12,000,000''; and

(iii) by striking ''and'' after the semicolon;

(C) in paragraph (3), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(4) shall reserve 12 percent to carry out section 244.''; and

(2) in subsection (d), by striking paragraphs (1) through (4) and inserting the following:

''(1)(A) is at least 16 years of age;

''(B) is beyond the age of compulsory school attendance under the law of the State or outlying area;

''(C) does not have a secondary school diploma or its recognized equivalent; and

''(D) is not enrolled in secondary school; or

''(2) is an individual—

''(A) described in each of subparagraphs (A), (B), and (D) of paragraph (1); and

''(B) who is limited English proficient.''.

SEC. 205. PERFORMANCE ACCOUNTABILITY SYSTEM.

Section 212(b) of the Adult Education and Family Literacy Act (20 U.S.C. 9212(b)) is amended—

(1) in paragraph (1)(A)—

(A) in clause (i), by inserting ''and the employment performance indicator described in paragraph (2)(B)'' after ''paragraph (2)(A)''; and

(B) in clause (ii), by striking ''paragraph (2)(B)'' and inserting ''paragraph (2)(C)'';

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (ii), by striking ''in, retention in'' and all that follows through the period at the end and inserting ''in postsecondary education, including registered apprenticeship, or other skill training programs.''; and

(ii) by adding at the end the following:

''(iv) Attainment of work readiness, workforce skills, and certificates that are nationally or industry recognized or approved by the State board or local board, as appropriate.'';

(B) by redesignating subparagraph (B) as subparagraph (D);

(C) by inserting after subparagraph (A) the following:

''(B) EMPLOYMENT PERFORMANCE INDICATOR.—Consistent with applicable Federal and State privacy laws—

''(i) an eligible agency shall identify in the State plan an individual participant employment performance indicator, which shall be entry into employment; and

''(ii) the State agency responsible for maintaining and analyzing the data described in clause (i) shall assist the eligible agency in obtaining and using quarterly wage records to collect such data.

''(C) TECHNOLOGY LITERACY INDICATOR.—Beginning in 2013, an eligible agency shall include a technology literacy indicator in its performance measure.''; and

(D) by striking subparagraph (D), as redesignated by subparagraph (B), and inserting the following:

''(D) ADDITIONAL INDICATORS.—An eligible agency may identify in the State plan additional indicators, including customer feedback, for adult education, literacy, and workplace skills activities authorized under this subtitle.''; and

(3) in paragraph (3)(B)—

(A) in the heading, by inserting ''AND EMPLOYMENT PERFORMANCE INDICATOR'' after ''INDICATORS''; and

(B) by striking ''paragraph (2)(B)'' and inserting ''paragraph (2)(C) and for the employment performance indicator described in paragraph (2)(B)''.

SEC. 206. STATE DISTRIBUTION OF FUNDS; MATCHING REQUIREMENT.

Section 222(a) of the Adult Education and Family Literacy Act (20 U.S.C. 9222(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''not more than 10'' and inserting ''not less than 10''; and

(B) by striking ''82.5 percent'' both places the term appears and inserting ''80 percent''; and

(2) in paragraph (2), by striking ''12.5 percent'' and inserting ''15 percent''.

SEC. 207. STATE LEADERSHIP ACTIVITIES.

Section 223(a) of the Adult Education and Family Literacy Act (20 U.S.C. 9223(a)) is amended to read as follows:

''(a) ACTIVITIES.—

''(1) REQUIRED ACTIVITIES.—Each eligible agency shall use funds made available under section 222(a)(2) for the following adult education, literacy, and work readiness skills activities:

''(A) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 231(b).

''(B) The provision of technical assistance to eligible providers of adult education, literacy, and workplace skills activities to enable them to fulfill the purpose of this title, as described in section 202.

''(C) The monitoring and evaluation of adult education and related activities to determine what works and broadly disseminate information about models and best practices and tools within the State.

''(D) The provision of technology assistance, including staff training, to eligible providers of adult education, literacy, and workplace skills activities to enable the eligible providers to improve the quality of such activities.

''(E) Coordination with the workforce investment systems supported under title I.

''(2) PERMISSIBLE ACTIVITIES.—Each eligible agency may use funds made available under section 222(a)(2) for 1 or more of the following adult education, literacy, and workplace skills activities:

''(A) The support for State or regional networks of literacy resource centers.

''(B) Incentives for program coordination and integration, and performance awards.

''(C) Developing and disseminating curricula for postsecondary and job training readiness, including curricula for using technology for distance learning and for instructional and teacher training purposes.

''(D) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education, literacy, and workplace skills activities, to adults enrolled in such activities.

''(E) Developing innovative content and models for integrated education and training programs.

''(F) Developing innovative content and models to foster the transition to postsecondary education and career pathways.

''(G) Linkages with postsecondary educational institutions.

''(H) Linkages with community-based organizations.

''(I) Support for recruitment and outreach for instructors, students, and employers.''.

SEC. 208. STATE PLAN.

Section 224 of the Adult Education and Family Literacy Act (20 U.S.C. 9224) is amended—

(1) in subsection (b)—

(A) in paragraph (11), by striking ''and'' after the semicolon;

(B) in paragraph (12), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(13) a description of the knowledge and skills necessary for acceptance in postsecondary education and training;

''(14) a description of any certification or other requirements for instructors in eligible adult education, literacy, and workplace skills program providers in the State;

''(15) a description of the professional development needs of adult education, literacy, and workplace skills providers in the State;

''(16) a description of how the State will—

''(A) use technology to improve the quality of adult education, literacy, and workplace skills services; and

''(B) expand access to such services for workers and students;

''(17) a description of how the State will carry out programs described in section 244;

''(18) a description of the data system that the State will use to track over time student outcomes on the performance measures described in section 212;

''(19) a description of the State's program to invest in the skills of workers, including plans for involving business as an active partner in the effort; and

''(20) a description of how the adult education programs will be integrated with occupational skills programs and aligned with postsecondary education, career, and technical education, workforce development programs, and other Federal funds available under title I and other relevant Federal programs.'';

(2) by striking subsection (e) and inserting the following:

''(e) PEER REVIEW AND PLAN APPROVAL.—The Secretary shall—

''(1) establish a peer review process to assist in the review and approval of State plans;

''(2) in consultation with the National Institute for Adult Education, Literacy, and Workplace Skills, appoint individuals, representing the range of stakeholders, to the peer-review process, including—

''(A) representatives of adult learners, adult education, literacy, and workplace skills providers, eligible agencies, State educational agencies, institutions of higher education, representatives of local or State workforce investment boards; and

''(B) experts in the fields of adult education, literacy, and workplace skills;

''(3) approve a State plan within 120 days after receiving the plan, unless the Secretary makes a written determination, within 30 days after receiving the plan, that the plan does not meet the requirements of this section or is inconsistent with specific provisions of this subtitle; and

''(4) not finally disapprove of a State plan before offering the eligible agency the opportunity, prior to the expiration of the 30-day period beginning on the date on which the eligible agency received the written determination described in paragraph (3), to revise the plan, and providing technical assistance in order to assist the eligible agency in meeting the requirements of this subtitle.''; and

(3) by striking subsections (f) and (g).

SEC. 209. PROGRAMS FOR CORRECTIONS EDUCATION AND OTHER INSTITUTIONALIZED INDIVIDUALS.

Section 225 of the Adult Education and Family Literacy Act (20 U.S.C. 9225) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking ''and'' after the semicolon at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(5) integrated education and training programs;

''(6) career pathways programs;

''(7) dual enrollment programs; and

''(8) preparation for postsecondary education and training.'';

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

''(d) REPORT.—In addition to any report required under section 212(c), each eligible agency that receives assistance provided under this section shall annually prepare and submit to the Secretary a report on the progress, as described in section 212(c)(1), of the eligible agency with respect to the programs and activities of the eligible entity receiving assistance under this section.''.

SEC. 210. GRANTS AND CONTRACTS FOR ELIGIBLE PROVIDERS.

Section 231(b)(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9241(b)(1)) is amended to read as follows:

''(1) Adult education, literacy, and workplace skills services, which may include workplace literacy services, integrated education and training services, and transition to postsecondary education and training and career pathways.''.

SEC. 211. LOCAL APPLICATION.

Section 232 of the Adult Education and Family Literacy Act (20 U.S.C. 9242) is amended—

(1) in the matter preceding paragraph (1), by inserting ''the measurable goals to be accomplished as a result of the grant or contract and'' after ''including'';

(2) in paragraph (1), by striking ''and'' after the semicolon;

(3) in paragraph (2), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(3) a description of how the grantee or contractor will collect data for purposes of reporting performance measures to assess and evaluate the progress of adult education students and activities.''.

SEC. 212. ADMINISTRATIVE PROVISIONS.

Section 241 of the Adult Education and Family Literacy Act (20 U.S.C. 9251) is amended by adding at the end the following:

''(c) RULEMAKING.—

''(1) IN GENERAL.—The Secretary shall issue such regulations as are necessary to reasonably ensure compliance with this title.

''(2) CONSULTATION.—Before publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall consult with the Secretary of Labor and obtain the advice and recommendations of representatives of—

''(A) adult learners;

''(B) adult education, literacy, and workplace skills providers;

''(C) eligible agencies;

''(D) State educational agencies;

''(E) institutions of postsecondary education, including community colleges;

''(F) representatives of State and local workforce investment boards;

''(G) other organizations involved with the implementation and operation of programs under this title; and

''(H) community based organizations involved with the implementation and operation of programs under this title.

''(3) MEETINGS AND ELECTRONIC EXCHANGE.—The advice and recommendations described in paragraph (2) may be obtained through such mechanisms as regional meetings and electronic exchanges of information.''.

SEC. 213. NATIONAL INSTITUTE FOR ADULT EDUCATION, LITERACY, AND WORKPLACE SKILLS.

Section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252) is amended—

(1) by striking the section heading and inserting the following ''**NATIONAL INSTITUTE FOR ADULT EDUCATION, LITERACY, AND WORKPLACE SKILLS**'';

(2) by striking subsection (a) and inserting the following:

''(a) PURPOSE.—The purpose of the National Institute for Adult Education, Literacy, and Workplace Skills is to—

''(1) provide national leadership regarding adult education and family literacy;

''(2) coordinate adult education, literacy, and workplace skills services and policy; and

''(3) serve as a national resource for adult education, literacy, and workplace skills programs by—

''(A) providing the best and most current information available;

''(B) providing national leadership on the use of technology for adult education; and

''(C) supporting the creation of new ways to offer adult education, literacy, and workplace skills services of proven effectiveness.'';

(3) in subsection (b)—

(A) in paragraph (1), by striking ''National Institute for Literacy'' and inserting ''National Institute for Adult Education, Literacy, and Workplace Skills'';

(B) in paragraph (2), by striking ''separate'' and inserting ''independent''; and

(C) in paragraph (3), by striking ''National Institute for Literacy Advisory Board'' and inserting ''National Institute for Adult Education, Literacy, and Workplace Skills Advisory Board'';

(4) in subsection (c)(1)—

(A) in subparagraph (A)—

(i) in clause (iii), by striking ''and'' after the semicolon;

(ii) in clause (iv), by inserting ''and'' after the semicolon; and

(iii) by adding at the end the following:

''(v) effective practices for integrated English literacy and civics education programs;'';

(B) by striking subparagraph (D) and inserting the following:

''(D) to collect and disseminate information on methods of advancing education and literacy that show great promise for adults eligible for services under this title;'';

(C) by striking subparagraph (E) and inserting the following:

''(E) to provide policy and technical assistance to Federal, State, and local organizations for the improvement of adult education, literacy, and workplace skills services;'';

(D) in subparagraph (G), by inserting ''and integrated English literacy and civics education programs'' after ''workforce investment activities'';

(E) in subparagraph (H), by striking ''and'' after the semicolon;

(F) in subparagraph (I), by striking the period and inserting a semicolon; and

(G) by adding at the end the following:

''(J) to carry out section 306 of the Adult Education and Economic Growth Act of 2009; and

''(K) not later than 4 years after the date of enactment of the Adult Education and Economic Growth Act of 2009, to conduct an evaluation and submit a report to the Interagency Group, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and Labor of the House of Representatives on the effectiveness of programs funded under this title in achieving the purpose described in section 202, which evaluation and report shall include—

''(i) a longitudinal study of outcomes for adult learners served under programs under this title;

''(ii) an analysis of the adequacy of the performance measures identified in section 212; and

''(iii) recommendations for improved performance measures and on how to improve program effectiveness.''; and

(5) in subsection (e)—

(A) in the heading, by striking ''NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD'' and inserting ''NATIONAL INSTITUTE FOR ADULT EDUCATION, LITERACY, AND WORKPLACE SKILLS ADVISORY BOARD''; and

(B) in paragraph (1)(A), by striking ''National Institute for Literacy Advisory Board'' and inserting ''National Institute for Adult Education, Literacy, and Workplace Skills Advisory Board''.

SEC. 214. NATIONAL LEADERSHIP ACTIVITIES.

Section 243 of the Adult Education and Family Literacy Act (20 U.S.C. 9253) is amended to read as follows:

"SEC. 243. NATIONAL LEADERSHIP ACTIVITIES.

''The Secretary shall establish and carry out a program of national leadership activities to improve the quality and outcomes of adult education, literacy, and workplace skills programs nationwide. Such activities shall include the following:

''(1) Technical assistance, which may include—

''(A) assistance to eligible providers in developing and using certification systems, performance measures, and data systems for the improvement of adult education, literacy, and workplace skills activities, including family literacy services, transition to postsecondary education or career pathways, and integrated English literacy and civics education programs;

''(B) assistance related to professional development activities and assistance for the purpose of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education, literacy, and workplace skills activities, including family literacy services, transition to postsecondary education or career pathways, and integrated English literacy and civics education programs, based on scientific evidence where available; or

''(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

''(2) National demonstration projects for improving adult education, literacy, and workplace skills services, which may include projects that—

''(A) accelerate learning outcomes for adult learners with the lowest literacy levels;

''(B) promote career pathways;

''(C) allow dual enrollment in adult secondary education and credit bearing postsecondary coursework;

''(D) provide integrated education and training services;

''(E) build capacity to enhance the intensity of adult education, literacy, and workplace skills services;

''(F) establish partnerships to improve the quality of and expand adult education, literacy, and workplace skills services to more adults;

''(G) provide professional development opportunities to adult education, literacy, and workplace skills service providers;

''(H) develop new curricula and methods of instruction that improve learning outcomes in adult education, literacy, and workplace skills programs; and

''(I) provide integrated English literacy and civics education program instruction.

''(3) Dissemination of the results and best practices identified in the national demonstration projects described in paragraph (2).

''(4) Program evaluation and data collection and reporting.''.

SEC. 215. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION PROGRAMS.

Chapter 4 of subtitle A of the Adult Education and Family Literacy Act (20 U.S.C. 9251 et seq.) is amended by adding at the end the following:

"SEC. 244. INTEGRATED ENGLISH LITERACY AND CIVICS EDUCATION PROGRAMS.

''(a) IN GENERAL.—From funds reserved under section 211(a)(4) for each fiscal year, the Secretary shall award grants to States, in accordance with the allocations under subsection (b), for integrated English literacy and civics education programs.

''(b) ALLOCATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the funds described in subsection (a), the Secretary shall allocate—

''(A) 65 percent to States on the basis of a State's need for integrated English and civics education programs, as determined by calculating each State's share of a 10-year average of the data compiled by the Office of Immigration Statistics of the Department of Homeland Security, for immigrants admitted for lawful permanent residence for the 10 most recent years; and

''(B) 35 percent to States on the basis of whether the State experienced growth, as measured by the average of the 3 most recent years for which data compiled by the Office of Immigration Statistics of the Department of Homeland Security are available, for immigrants admitted for lawful permanent residence.

''(2) MINIMUM.—No State shall receive an allocation under paragraph (1) for a fiscal year in an amount that is less than $60,000.''.

TITLE III—21ST CENTURY TECHNOLOGY AND SKILLS FOR ADULT LEARNERS

SEC. 301. PURPOSES.

The purposes of this title are the following:

(1) To expand access to adult education services through the use of technology.

(2) To provide professional development for providers of adult education, literacy, and workplace skills services so that they are able to—

(A) effectively use technology in the delivery of adult education, literacy, and workplace skills services; and

(B) improve the quality of instruction and accelerate the—

(i) achievement of basic educational skills, English language literacy, and secondary school equivalency or postsecondary education; and

(ii) training readiness for adult learners.

(3) To assist States in developing a 21st Century delivery system for adult education, literacy, and workplace skills services.

(4) To assist adults in developing technology literacy.

SEC. 302. DEFINITIONS.

In this title:

(1) ADULT EDUCATION TERMS.—The terms ''adult education'', ''eligible agency'', ''eligible provider'', ''Secretary'', and ''State'' have the meanings given the terms in section 203 of the Adult Education and Family Literacy Act (20 U.S.C. 9202).

(2) DISTANCE EDUCATION.—The term ''distance education'' has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

(3) INSTITUTE.—The term ''Institute'' means the National Institute for Adult Education, Literacy, and Workplace Skills established under section 242 of the Adult Education and Family Literacy Act (20 U.S.C. 9252).

(4) TECHNOLOGY LITERACY.—The term ''technology literacy'' means the knowledge and skills in using contemporary information, communication and learning technologies in a manner necessary for successful lifelong learning and citizenship in the knowledge-based, digital, and global 21st Century, which includes the abilities—

(A) to effectively communicate and collaborate;

(B) to analyze and solve problems;

(C) to access, evaluate, manage, and create information and otherwise gain information literacy; and

(D) to do so in a safe and ethical manner.

SEC. 303. RESERVATION OF FUNDS AND ALLOTMENTS.

(a) RESERVATION OF FUNDS.—From the sums appropriated under section 307 for a fiscal year, the Secretary shall reserve 3 percent or $7,500,000 to carry out section 306, whichever amount is less.

(b) ALLOTMENT OF REMAINDER.—From the sums remaining for a fiscal year after making the reservation under subsection (a), the Secretary shall allot—

(1) 75 percent to carry out section 305;

(2) 20 percent to carry out section 304; and

(3) 5 percent for administrative costs in carrying out section 304.

(c) ALLOTMENTS TO ELIGIBLE AGENCIES.—

(1) IN GENERAL.—From the sums available to carry out section 304 for a fiscal year, the Secretary shall allot to each eligible agency with an approved application an amount that bears the same relationship to such sums as the amount received under section 211(c)(2) of the Adult Education and Family Literacy Act (20 U.S.C. 9211(c)(2)) by such eligible agency bears to the amount received under such section for such fiscal year by all eligible agencies.

(2) MINIMUM ALLOTMENT.—No eligible agency shall receive an allotment under paragraph (1) for a fiscal year in amount that is less than $100,000. If the amount appropriated to carry out section 304 for a fiscal year is not sufficient to pay such minimum allotment, the amount of such minimum allotments shall be ratably reduced.

SEC. 304. GRANTS TO ELIGIBLE AGENCIES.

(a) AUTHORIZATION OF GRANTS.—The Secretary shall award grants to eligible agencies from allotments under section 303(b).

(b) APPLICATION.—

(1) IN GENERAL.—Each eligible agency that desires to receive a grant under this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall contain the following:

(A) A description of the eligible agency's technology plan for the adult education system, including measurable goals to be achieved.

(B) A description of how the eligible agency will provide technical assistance and support to local programs.

(C) A description of how the eligible agency will use technology to expand adult education, literacy, and workplace skills services to more adults, including those in rural areas.

(D) A description of the long-term goals and strategies for improved outcomes for adult learners.

(E) A description of the professional development activities to be undertaken.

(F) A description of the performance benchmarks and how data will be collected.

(G) A description of how the eligible agency will ensure that grants or contracts to eligible providers are of sufficient size and scope to achieve the purposes of this title.

(c) ACTIVITIES.—An eligible agency that receives a grant under this title shall carry out the following:

(1) Developing a statewide technology plan for the adult education system.

(2) Providing professional development for adult education, literacy, and workplace skills service providers.

(3) Providing access to curricula, instruction, and assessment for adult learners and eligible providers.

(4) Supporting the development of curricula and assessment tools for adult education, literacy, and workplace skills service providers.

(5) Providing guidance and technical assistance to eligible providers.

(6) Supporting innovative pilot projects such as the use of assistive technology to deliver content to adult learners.

SEC. 305. GRANTS AND CONTRACTS TO ELIGIBLE PROVIDERS.

(a) AUTHORIZATION OF GRANTS AND CONTRACTS.—An eligible agency that receives a grant under this title shall award grants and contracts to eligible providers to carry out activities described in this section.

(b) ELIGIBLE PROVIDER APPLICATION.—An eligible provider that desires to receive a grant or contract under this title shall submit an application to an eligible agency, which shall include—

(1) a description of how the eligible provider will integrate technology into the eligible provider's delivery of adult education, literacy, and workplace skills services;

(2) a description of professional development activities to be undertaken; and

(3) a description of plans to regularly replace computers and servers that lack the functional capabilities to process new online applications and services, including video conferencing, video streaming, virtual simulations, and distance education courses.

(c) ELIGIBLE PROVIDER ACTIVITIES.—An eligible provider that receives a grant or contract under this title shall carry out the following:

(1) Acquiring and effectively implementing technology tools, applications, and other resources in conjunction with enhancing or redesigning adult education, literacy, and workplace skills curricula to increase adult learning outcomes and improve adult technology literacy.

(2) Acquiring and effectively implementing technology tools, applications, and other resources to—

(A) conduct on-going assessments and use other timely data systems to more effectively identify individual learning needs and guide personalized instruction, learning, and appropriate interventions that address those personalized student learning needs; and

(B) support individualized learning, including through instructional software and digital content that support the learning needs of each student or through providing access to high quality courses and instructors, especially in rural areas.

(3) Providing professional development activities for providers of adult education, literacy, and workplace skills services that includes—

(A) training that is on-going, sustainable, timely, and directly related to delivering adult education, literacy, and workplace skills services;

(B) training in strategies and pedagogy in the delivery of adult education, literacy, and workplace skills services that involves the use of technology and curriculum redesign as key components of changing teaching and learning and improving outcomes for adult learners;

(C) training in the use of technology to ensure that providers of adult education, literacy, and workplace skills services are able to use technology for data analysis to enable individualized instruction and to use technology to improve technology literacy for adult learners; and

(D) training that includes on-going communication and follow-up with instructors, facilitators, and peers.

(4) Acquisition and implementation of technology tools, applications, and other resources to be employed in professional development activities.

SEC. 306. NATIONAL ADULT LEARNING AND TECHNOLOGY RESOURCE CENTER.

(a) IN GENERAL.—The Institute shall establish and maintain the National Adult Learning and Technology Resource Center (referred to in this section as the ''Center'').

(b) DUTIES OF THE CENTER.—The Center shall—

(1) develop frameworks for technology-based learning and professional development materials for adult education, literacy, and workplace skills;

(2) develop frameworks for performance measures for technology literacy;

(3) provide technical assistance to eligible entities and eligible providers of adult education, literacy, and workplace skills;

(4) support distance education for professional development for eligible entities and eligible providers of adult education, literacy, and workplace skills services;

(5) support the innovative uses of technology, such as the use of assistive technology, to deliver content to adult learners; and

(6) be accessible to the public through the website of the Institute.

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 2010 and such sums as may be necessary for each succeeding fiscal year.

TITLE IV—RESEARCH IN ADULT EDUCATION

SEC. 401. RESEARCH IN ADULT EDUCATION.

(a) IN GENERAL.—Section 133(c)(2)(A) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9533(c)(2)(A)) is amended by inserting ''education and'' before ''literacy''.

(b) NATIONAL RESEARCH AND DEVELOPMENT CENTER.—

(1) IN GENERAL.—The Secretary of Education shall direct the Commissioner for Education Research of the National Center for Education Research established pursuant to section 131 of the Education Sciences Reform Act of 2002 (20 U.S.C. 9531) to establish a national research and development center for adult education, literacy, and workplace skills as described in section 133(c)(2)(A) of such Act (20 U.S.C. 9533(c)(2)(A)).

(2) PROVISION FOR EXPANSION OF RESEARCH.—If, as of the date of the enactment of this Act, the Commissioner for Education Research of the National Center for Education Research has established a center for adult literacy in accordance with section 133(c)(2)(A) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9533(c)(2)(A)), the Commissioner shall expand the topic of research of such center to include adult education, in accordance with the amendment made by subsection (a).

TITLE V—EMPLOYER INCENTIVES

SEC. 501. CREDIT FOR EMPLOYER EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 45R. CREDIT FOR EMPLOYER EDUCATIONAL ASSISTANCE PROGRAMS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the employer educational assistance program credit determined under this section for the taxable year is an amount equal to 50 percent of the qualified educational assistance expenses paid or incurred by the taxpayer to or on behalf of any employee of the taxpayer during the taxable year, regardless if the program is provided at the workplace or outside of the workplace.

''(b) LIMITATIONS.—

''(1) PER EMPLOYEE LIMITATION.—The amount of the qualified educational assistance expenses taken into account under subsection (a) with respect to any employee for the taxable year shall not exceed $5,250.

''(2) TOTAL LIMITATION.—The aggregate amount of the qualified educational assistance expenses taken into account under subsection (a) with respect to all employees of the taxpayer for the taxable year shall not exceed the average of the aggregate qualified educational assistance expenses with respect to all employees of the taxpayer taken into account under subsection (a) in the 3 taxable years preceding such taxable year.

''(3) TRANSITION RULE.—

''(A) IN GENERAL.—In the case of a taxable year in which qualified educational assistance expenses of the taxpayer have not been taken into account under subsection (a) for each of the 3 taxable years preceding such taxable year, the aggregate amount of the qualified educational assistance expenses taken into account under subsection (a) with respect to all employees of the taxpayer for such taxable year shall not exceed the average of the sum of—

''(i) the aggregate qualified educational assistance expenses with respect to all employees of the taxpayer taken into account under subsection (a) in any of the 3 taxable years preceding such taxable year, plus

''(ii) the aggregate amount of amounts paid or expenses incurred by the employer, for which an exclusion was allowable to any employee of the employer under section 127, in any of such 3 taxable years in which no expenses were taken into account under subsection (a), plus

''(iii) in the case of a taxable year in which expenses have not been taken into account under subsection (a) or section 127 for each of the 3 taxable years preceding such taxable year, an amount equal to—

''(I) $5,250, multiplied by

''(II) the number of employees of the taxpayer with respect to which the taxpayer has qualified educational assistance expenses in such taxable year.

''(c) QUALIFIED EDUCATIONAL ASSISTANCE EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified educational assistance expenses' means expenses paid for educational assistance pursuant to an educational assistance program (within the meaning of section 127(b)).

''(2) EDUCATIONAL ASSISTANCE.—The term 'educational assistance' has the meaning given such term by section 127(c)(1), applied without regard to subparagraph (B) thereof, except that such term includes a payment only if such payment is made with respect to an employee enrolled in a program provided at the workplace or outside of the workplace—

''(A) leading to a sub-baccalaureate degree or career technical certificate awarded by an accredited postsecondary institution; or

''(B) in basic education, workplace skills, or English language training leading to a nationally recognized certificate of proficiency.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—Rules similar to the rules of paragraphs (2) through (5) of section 127(c) shall apply for purposes of this section.

''(e) DENIAL OF DOUBLE BENEFIT.—No deduction or other credit shall be allowed under this chapter to an employer for any amount taken into account in determining the credit under this section.''.

(b) CREDIT INCLUDED IN GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the employer educational assistance program credit determined under section 45R(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 45R. Credit for employer educational assistance programs.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses relating to courses of instruction beginning after December 31, 2009.

By Mrs. BOXER:

S. 1469. A bill to provide for the administration of Port Chicago Naval Magazine National Memorial as a unit of the National Park System, and for other purposes; to the Committee on Armed Services.

Mrs. BOXER. Mr. President, the Port Chicago Naval Magazine National Memorial Enhancement Act of 2009 would help increase visitor access to the Port Chicago Naval Magazine National Memorial on the former Concord Naval Weapons Station and ensure the long-term preservation of this important World War II site. The legislation is strongly supported by the National Park Service, a coalition of more than 37 civil rights organizations in California, the National Parks Conservation Association, and the Friends of Port Chicago.

The Port Chicago Memorial marks the location of an explosion 65 years ago this week that killed and wounded numerous African American sailors and eventually paved the way for racial desegregation of the Armed Forces.

On the night of July 17, 1944, as sailors were loading ammunition at the Port Chicago Naval Magazine, a terrible explosion occurred. More than 5,000 tons of ammunition ignited, sending a blast more than 12,000 feet into the sky. The explosion killed 320 sailors, wounded hundreds more, and destroyed the surrounding town of Port Chicago. Less than a month after the explosion, survivors were ordered to resume work at a new site. Most survivors refused, citing the need for improved supervision, training, and working conditions to prevent another disaster. In response, the Navy charged 50 men with conspiring to mutiny, and all were convicted. The majority of men killed in the explosion and all those convicted of mutiny were African-American.

Following the conviction, future Supreme Court Justice Thurgood Marshall, who at the time was a lawyer with the National Association for the Advancement of Colored People, took up the case. Roughly a year later, the Navy began moving towards racial desegregation, and in 1948, President Truman issued an Executive Order desegregating all of the Armed Forces and guaranteeing ''equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion, or national origin.''

In 1992, Congress authorized the creation of a National Memorial at Port Chicago. However, under its current authorities, the National Park Service still has limited ability to provide visitor access to the Memorial or to assist with the site's preservation. My bill authorizes the Interior Department to work with the City of Concord and the East Bay Regional Park District to operate a visitor's center for the Memorial, allowing veterans, students, and other visitors to learn more about the events that transpired at Port Chicago. The bill also designates the Memorial as a unit of the National Park System, allowing the Park Service to become more actively involved in its preservation.

The bill specifically states that as much public access as possible will be provided ''without interfering with military needs,'' meaning that the timing and extent of public visitation will be adapted to accommodate military activities when they occur near the Memorial.

Eventually, when the Secretary of Defense determines that the land is excess to military needs, the bill authorizes the Secretaries of Defense and Interior to enter into a Memorandum of Understanding leading to the transfer of the Memorial to the National Park Service.

The Port Chicago National Memorial ensures that the stories of those who served and died at Port Chicago will not be forgotten. By enabling visitors to come to this site, future generations can continue to honor and learn from these brave sailors who selflessly served our Nation and who fought to overcome the barriers of racial segregation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 212—EXPRESSING THE SENSE OF THE SENATE THAT ANY SAVINGS UNDER THE MEDICARE PROGRAM SHOULD BE INVESTED BACK INTO THE MEDICARE PROGRAM, RATHER THAN CREATING NEW ENTITLEMENT PROGRAMS

Mr. JOHANNS submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 212

Whereas the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) is projected to be insolvent by 2017; and

Whereas the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is the largest source of general revenue spending on health care for both the Federal government and the States: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) any savings under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) should be invested back into the Medicare program, rather than creating new entitlement programs; and

(2) any savings under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) should be used to increase the Federal medical assistance percentage (as defined in section 1905(b) of such Act (42 U.S.C. 1396d(b)).

Mr. JOHANNS. Mr. President, the Medicare and Medicaid Programs are the largest single purchaser of health care in the world. These programs account for over 20 percent of all U.S. Federal Government spending. More than 1 in 5 taxpayer dollars we actually spend will go to the Medicare or Medicaid Program. By the time my children become senior citizens, these two programs are projected to consume every dollar of tax revenue raised per year. Recently, the Medicare trustees reported that the Medicare Program is literally projected to be bankrupt by 2017, just 8 short years away. That is 2 years earlier than projected last year.

Our ability to offer financial predictions provides little consolation to senior citizens who depend on the Medicare Program to receive their medical care. For the millions of baby boomers, my generation, expecting the Medicare Program to be there for them and their future health care needs, these projections basically say that on the current course, we are out of luck.

Unfortunately, the Medicaid Program outlook is not much better, a program I am very familiar with as a prior Governor. Medicaid is the largest source of general revenue spending on health care for both the Federal Government and State governments. In fact, Medicaid represents 40 percent of Federal Government general revenue spending on health care and 41 percent of such spending by the States. That is why, as economic conditions have continued to worsen, State Medicaid budgets are increasingly in crisis. States are struggling to pay Medicaid obligations and still balance their budgets. It is a tough job—I know from personal experience—one that is not for the faint of heart.

The President is proposing, in my judgment, to exacerbate the problem by creating another government-run entitlement program. Of course, in order to pay for this new program, he has identified cuts in Medicare and Medicaid. Let's be clear: We have one soon-to-be-bankrupt program that consumes a huge chunk of health care spending today, and the rushed reform would take money from it to pay for a new health care program. Seriously, this is a vicious cycle and something we would only see in Washington. The American people deserve a better effort.

I suggest that in the real world, when budgets get tight, leaders have to make very tough decisions. Programs are scrutinized with a fine-toothed comb to find out where savings can be found. If savings are identified, that money is used to shore up the programming shortfalls and to try to keep the current program viable. Medicare recipients are hoping we do that because the clock is ticking on their program. We don't see new programs created as existing programs fall deeper and deeper into the red. People and programs, they have to work together, rolling up their sleeves, prioritizing, scrutinizing every dollar in every program in order to fulfill current obligations, in order to meet the promise to those who are receiving the benefits today.

I have laid down a resolution. That is why this resolution I am submitting today is necessary, to restore some semblance of sanity to the process. Simply put, this resolution says that if we find savings within the Medicare

Program, we should put those savings back into the Medicare Program to keep the promise to our senior citizens that we will protect their program instead of creating yet another government entitlement program with the savings we have pulled from their program. It also says that if we find savings with the Medicaid Program, we should increase the Federal medical assistance percentage to help out States, to reduce the burden on State budgets; again, to fulfill the promise to those Medicaid recipients that we are serious about keeping their program going.

These are very practical, commonsense views the vast majority of Americans would agree with. Fix the programs in existence, Medicaid and Medicare, keep the promise to those receiving the benefits today, instead of taking the money from those programs to start yet another gigantic program. If we identify true savings within these current entitlement programs, I propose we fulfill that promise to the millions of Americans who are relying upon these important Federal programs. After all, it is not practical to rob Peter to pay Paul, especially when both Peter and Paul are going broke.

SENATE RESOLUTION 213—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE CITY OF SANTA FE, NEW MEXICO ON THE OCCASION OF ITS 400TH ANNIVERSARY

Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 213

Whereas, before 1598, the Pueblos of the Rio Grande region of New Mexico inhabited the area now officially known as Santa Fe;

Whereas, from the first arrival of Spanish colonists in August of 1598, the Pueblos of the Rio Grande and adjoining regions of New Mexico provided support and sustenance to those colonists, which allowed the colonists to persevere at San Gabriel del Yunque, the first villa and capital of New Mexico located in the Pueblo lands of Ohkay Owingeh;

Whereas, on March 30, 1609, the viceroy of New Spain, Luis de Velasco II, upon receiving a royal proclamation from the King of Spain and the captain general of New Mexico, ordered Governor Pedro de Peralta to arrive in New Mexico before the end of 1609 and establish a villa at the site of what is now known as Santa Fe;

Whereas some 70 years following the establishment of the villa of Santa Fe, the Pueblos took up arms and forced the inhabitants of the villa to retreat to El Paso de Guadalupe in what was then Mexico;

Whereas, in 1692, the Spanish colonists began to return to the villa, which, although initially peaceful, resulted in several armed conflicts lasting through 1696;

Whereas, following the repopulation of Santa Fe and reinstitution of the Spanish government in New Mexico, the Pueblos and Spanish colonists found ways to engage in mutual cultural interchange;

Whereas, over the following years, and despite intermittent disputes, the colonists and the descendants of the colonists formed alliances with the Pueblos and each accommodated the culture of the other, allowing Santa Fe to flourish;

Whereas the peaceful acceptance of each other's cultures continued through the conquest of New Mexico by the United States during the war with Mexico, contributed to the evolution of the cultural heritage of Santa Fe, and resulted in the recognition by the State and Federal governments of the sovereign rights of the Pueblos, including their right to self-government;

Whereas, during 2009 and 2010, Santa Fe will proudly observe the 400th anniversary of the settlement and subsequent founding as a villa and the multicultural heritage of the city with suitable events and observances to commemorate the occasion and to pass on to future generation the heritage of Santa Fe and the surrounding region; and

Whereas it is important that the commemoration provide a foundation for peace, hope, and collaboration for Santa Fe and its surrounding communities, and a foundation for moving forward as a flagship community within the State of New Mexico: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historical significance of the city of Santa Fe, New Mexico;

(2) recognizes the 400th anniversary of the establishment of Santa Fe; and

(3) encourages the people of the United States to observe the anniversary with appropriate ceremonies and activities.

Mr. BINGAMAN. Mr. President, I rise today to submit a resolution commemorating the 400th anniversary of the founding of the City of Santa Fe, NM. This bill is cosponsored by Senator TOM UDALL and a companion bill will be introduced in the House by Representatives BEN RAY LUJÁN, MARTIN HEINRICH, and HARRY TEAGUE.

Over the next year the City of Santa Fe will commemorate the arrival of Spanish settlers and the designation of the City as the capital city of the Spanish territory now known as New Mexico. On their arrival the Spaniards found a thriving Native American culture. These Native American and Spanish cultures served to enrich each other and led the creation of a vibrant social, cultural, and financial center that made the settlement of the Western United States possible.

Despite the difficulties and periodic clashes the Spanish, Native American, and Anglo cultures in Santa Fe fought and worked to create a unique and vibrant culture that enriched all in the area. It is this confluence of cultures and the incomparable natural beauty of the area that make Santa Fe, The City Different, an American treasure that should be recognized and celebrated.

Santa Fe is celebrated worldwide for its thriving artistic community, including the Santa Fe Opera, museums, and working artists. Many of these artists were drawn to its natural beauty, the light and air of the place. It is this special something that led artists like D.H. Lawrence and Georgia O'Keefe and countless others to visit and move to the area.

We in New Mexico know how lucky we are to have Santa Fe and its treasures the entire state stands with the City to commemorate its 400th anniversary. That is why I am proud to introduce this resolution with the entire New Mexico delegation calling on the Congress to recognize the historical significance of Santa Fe and calling on the People of the United States to observe the anniversary with appropriate ceremonies and activities.

Mr. UDALL of New Mexico. Mr. President, it gives me great pleasure to rise today and join my senior Senator in submitting a resolution commemorating the 400th anniversary of the founding of the city of Santa Fe, NM.

The Villa de Santa Fe was founded in 1609 by Don Pedro de Peralta as the capital of the Spanish province of New Mexico, making it the oldest capital city in the U.S.

The city of Santa Fe is blessed with a diversity of cultures, rooted in its remarkable history. At the time Spanish colonists arrived in New Mexico, they found many thriving Pueblo communities, including in the area around what was to become Santa Fe. Although there were conflicts between the two people, they learned from each other, shared knowledge, traditions, and skills, while preserving their own unique cultures that persist to this day. Descendents of the original Spanish colonists can still be found in Santa Fe, and the nearby Pueblos continue to enrich the city and the region today. The city continued to evolve and grow through history with influences from the Mexican Revolution and characters from the western American frontier such as Billy the Kid.

With the breathtaking landscape of the high desert, snow-capped Sangre de Cristo Mountains as a backdrop, and well-preserved historical landmarks including the Cathedral Basilica of St. Francis of Assisi and the Palace of the Governors, Santa Fe has become a major tourist destination and an inspiration to many artists, including Georgia O'Keeffe and D.H. Lawrence.

Today, Santa Fe is a modern American city, steeped in its rich history, arts, culture, and traditions. It is a treasure for the state of New Mexico and the Nation. I hope my colleagues will join us in honoring its past and celebrating the future of the ''City Different.''

SENATE RESOLUTION 214—CONGRATULATING LUCAS GLOVER ON WINNING THE 2009 UNITED STATES OPEN GOLF TOURNAMENT

Mr. DEMINT (for himself and Mr. GRAHAM) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 214

Whereas, on June 22, 2009, Lucas Glover, a native of Greenville, South Carolina, won the United States Open golf tournament at the Bethpage Black Course in Farmingdale, New York;

Whereas past United States Open champions include some of the greatest players in golf history, such as Bobby Jones, Walter

Hagen, Ben Hogan, Arnold Palmer, Gary Player, Jack Nicklaus, Tom Watson, and Tiger Woods;

Whereas Lucas Glover shot a final round 73 for a 72-hole total of 4 under par, 2 strokes better than any other competitor;

Whereas Lucas Glover showed great skill, patience, and will by withstanding the challenges of the weather and the course;

Whereas Lucas Glover is the first native South Carolinian to win a men's major championship in golf; and

Whereas Lucas Glover brings great pride and honor to his family and friends, his alma mater Clemson University, and the citizens of South Carolina with his victory: Now, therefore, be it

Resolved, That the Senate congratulates Lucas Glover on the outstanding accomplishment of winning the 2009 United States Open golf tournament.

SENATE RESOLUTION 215—DESIGNATING AUGUST 8, 2009, AS ''NATIONAL MARINA DAY''

Mr. WHITEHOUSE (for himself, Mrs. MURRAY, Ms. STABENOW, Mr. VITTER, Mr. INHOFE, Mr. FEINGOLD, Mr. SCHUMER, and Mr. COCHRAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 215

Whereas the people of the United States highly value their recreational time and their ability to access the waterways of the United States for enjoyment in and on one of the Nation's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word ''marina'' to describe a recreational boating facility;

Whereas the United States is home to over 12,000 marinas that contribute substantially to their local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect the waterways that surround them for the enjoyment of this generation and generations to come;

Whereas the Association of Marina Industries has joined with the National Youth Marine Alliance to offer youth service projects for the Preserve America's Waterways volunteer service initiative at marinas across the Nation;

Whereas the marinas of the United States provide their communities and visitors a place where friends and families, united by a passion for the water, can come together for recreation, rest, relaxation, and stewardship of the environment; and

Whereas the Association of Marina Industries has designated August 8, 2009, as ''National Marina Day'', to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to their communities: Now, therefore, be it

Resolved, That the Senate—

(1) designates August 8, 2009, as ''National Marina Day'';

(2) supports the goals of ''National Marina Day''; and

(3) urges that all marinas continue to provide environmentally-friendly gateways to boating for all the people of the United States.

SENATE RESOLUTION 216—ACKNOWLEDGING THE 25TH ANNIVERSARY OF THE NOMINATION OF REPRESENTATIVE GERALDINE A. FERRARO AS THE FIRST WOMAN SELECTED BY A MAJOR POLITICAL PARTY TO RUN FOR THE OFFICE OF THE VICE PRESIDENT

Mrs. GILLIBRAND (for herself and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 216

Whereas July 19, 2009, marks the 25th anniversary of the date Geraldine A. Ferraro accepted the nomination of the Democratic Party to run for the Office of the Vice President of the United States;

Whereas Geraldine A. Ferraro graduated from Fordham University School of Law at a time when very few women attended law school;

Whereas Geraldine A. Ferraro joined the Queens County District Attorney's Office, where she supervised the prosecution of violent crimes including child and domestic abuse;

Whereas in 1978, Geraldine A. Ferraro was elected to serve the Ninth Congressional District of New York in the United States House of Representatives, where she was 1 of only 16 women;

Whereas the colleagues of Geraldine A. Ferraro in the House of Representatives rewarded her legislative and political talents by electing her to serve as Secretary of the House Democratic Caucus, a key leadership position;

Whereas in 1984, the leadership of Geraldine A. Ferraro was confirmed when she became the first woman to serve as Chairwoman of the Platform Committee for the Democratic National Convention;

Whereas the legislative achievements of Geraldine A. Ferraro include sponsorship of the Women's Economic Equity Act, landmark legislation to end pension discrimination and provide increased job training and opportunities for women re-entering the workforce;

Whereas Geraldine A. Ferraro became the first woman to run for national office for either major political party when she was nominated as the running mate of Walter F. Mondale in the 1984 Presidential race;

Whereas the nomination of Geraldine A. Ferraro also marked the first and only time an Italian-American has been nominated as a major-party candidate in a national election;

Whereas the Vice Presidential candidacy of Geraldine A. Ferraro continued the progress begun by women who achieved political firsts before her, including—

(1) Jeanette Rankin, the first woman elected to Congress;

(2) Margaret Chase Smith, the first woman elected to the Senate;

(3) Patsy Takemoto Mink, the first Asian-American woman elected to Congress; and

(4) Shirley Chisholm, the first African-American woman elected to Congress;

Whereas the candidacy of Geraldine A. Ferraro helped tear down barriers that had prevented women from fully and equally participating in national politics;

Whereas in 1984, 2 women served in the United States Senate, and 22 women served in the United States House of Representatives;

Whereas in the 111th Congress, 17 women serve in the United States Senate, and 75 women serve in the United States House of Representatives, including Representative Nancy Pelosi, the first woman to serve as Speaker of the House;

Whereas in January 1993, President William Jefferson Clinton appointed Geraldine A. Ferraro to serve as United States Ambassador to the United Nations Commission on Human Rights, a role she used to champion the rights of women around the world;

Whereas in 2008, people of the United States watched historic barriers fall with a Presidential campaign that featured historic candidacies in both parties and culminated in the election of the first African-American President; and

Whereas the Vice Presidential candidacy of Geraldine A. Ferraro helped daughters join sons in believing they can achieve anything: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that the Vice Presidential candidacy of Geraldine A. Ferraro forever enriched the American political landscape and forged a new path for women of the United States;

(2) congratulates Geraldine A. Ferraro on the 25th anniversary of the acceptance of her nomination;

(3) pays tribute to the efforts of Geraldine A. Ferraro to improve the lives of women and families in the Ninth Congressional District of New York, which she represented so well, and across the United States; and

(4) appreciates the life story of Geraldine A. Ferraro, a daughter of immigrants who studied hard to become a teacher and later a prosecuting attorney, a wife and mother who has fought to create a more just world, and a Congresswoman and Vice Presidential candidate who inspired a generation of women to run for public office.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1575. Mr. JOHANNS (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 1576. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1577. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1578. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1579. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1580. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1581. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1582. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1583. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1584. Mr. DEMINT submitted an amendment intended to be proposed by him to the

bill S. 1390, supra; which was ordered to lie on the table.

SA 1585. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1586. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1587. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1588. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1589. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1590. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1591. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1592. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1593. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1594. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1595. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1596. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1597. Mr. BROWNBACK (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1598. Mrs. McCASKILL submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1599. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1600. Mr. NELSON, of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1601. Mr. NELSON, of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1602. Mr. DEMINT (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1603. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1604. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1606. Mrs. McCASKILL submitted an amendment intended to be proposed by her to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1607. Mr. KYL (for himself, Mr. INHOFE, Mr. DEMINT, Mr. SESSIONS, Mr. MARTINEZ, Mr. VITTER, and Mr. RISCH) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1608. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1609. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1610. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, supra.

SA 1611. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, supra.

SA 1612. Mr. NELSON, of Florida (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1613. Mr. LEAHY proposed an amendment to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, supra.

SA 1614. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1615. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1616. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1617. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, supra; which was ordered to lie on the table.

SA 1618. Mr. THUNE (for himself, Mr. VITTER, Mr. ENZI, Mr. BARRASSO, and Mr. COBURN) proposed an amendment to the bill S. 1390, supra.

TEXT OF AMENDMENTS

SA 1575. Mr. JOHANNS (for himself and Mr. BOND) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1232. REPORT ON ELECTRONIC SURVEILLANCE CAPABILITIES OF THE GOVERNMENT OF IRAN.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, the Secretary of the Treasury, and the Director of National Intelligence, shall submit to Congress a report on the domestic electronic surveillance capabilities of the Government of Iran that includes—

(1) an identification of the five persons that supply the most electronic surveillance equipment to the Government of Iran and the location of any global headquarters of each such person;

(2) an estimate of the value of the sales of such equipment by each such person in the year preceding the submittal of the report;

(3) an estimate of the annual value of such sales during previous years;

(4) a description of any actions taken by the United States to discourage such sales; and

(5) an identification of any contracts entered into with such persons by the Federal Government.

(b) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

(c) PERSON DEFINED.—In this section, the term ''person'' means—

(1) a natural person;

(2) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(3) any governmental entity operating as a business enterprise; and

(4) any successor to any entity described in paragraph (2) or (3).

SA 1576. Mr. BURR submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON HEALTH EFFECTS OF DEPARTMENT OF DEFENSE BURN PITS ON MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report

on the adverse health effects on members of the Armed Forces of the use of burn pits by the Department of Defense for the disposal of refuse.

(b) AIR QUALITY TESTS.—As part of the report submitted under subsection (a), the Secretary shall include the results of air quality and air pollutant tests carried out at each of the 15 military installations or facilities closest to a burn pit described in subsection (a) in which members of the Armed Forces reside. Such results shall specify the distance between the burn pit and the military installation or facility where the air quality and air pollutant tests were carried out.

SA 1577. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 F of title V, add the following:

SEC. 557. FULL ACCESS TO MENTAL HEALTH CARE FOR FAMILY MEMBERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVE WHO ARE DEPLOYED OVERSEAS.

(a) INITIATIVE TO INCREASE ACCESS TO MENTAL HEALTH CARE.—

(1) IN GENERAL.—The Secretary of Defense shall undertake an initiative intended to increase access to mental health care for family members of members of the National Guard and Reserve deployed overseas during the periods of mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

(2) ELEMENTS.—The initiative shall include the following:

(A) Programs and activities to educate the family members of members of the National Guard and Reserve who are deployed overseas on potential mental health challenges connected with such deployment.

(B) Programs and activities to provide such family members with complete information on all mental health resources available to such family members through the Department of Defense and otherwise.

(C) Requirements for mental health counselors at military installations in communities with large numbers of mobilized members of the National Guard and Reserve to expand the reach of their counseling activities to include families of such members in such communities.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on this section.

(2) ELEMENTS.—Each report shall include the following:

(A) A current assessment of the extent to which family members of members of the National Guard and Reserve who are deployed overseas have access to, and are utilizing, mental health care available under this section.

(B) A current assessment of the quality of mental health care being provided to family members of members of the National Guard and Reserve who are deployed overseas, and an assessment of expanding coverage for mental health care services under the TRICARE program to mental health care services provided at facilities currently outside the accredited network of the TRICARE program.

(C) Such recommendations for legislative or administration action as the Secretary considers appropriate in order to further assure full access to mental health care by family members of members of the National Guard and Reserve who are deployed overseas during the mobilization, deployment, and demobilization of such members of the National Guard and Reserve.

SA 1578. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 201, after line 25, insert the following:

SEC. 652. EXTENSION OF FIRST-TIME HOMEBUYER INCOME TAX CREDIT FOR MEMBERS OF THE ARMED FORCES DEPLOYED AWAY FROM THEIR PERMANENT DUTY STATIONS.

(a) IN GENERAL.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''In the case of'', and

(2) by adding at the end the following new paragraph:

''(2) DEPLOYED MEMBERS OF THE ARMED FORCES.—

''(A) EXCEPTION.—In the case of a purchase of a principal residence on or after December 1, 2009, and before the applicable extension date by a member of the Armed Forces who is deployed away from such member's permanent duty station on any day after June 30, 2009, and before December 1, 2009, such member may elect to treat such purchase as made on November 30, 2009, for purposes of this section (other than subsection (c)).

''(B) APPLICABLE EXTENSION DATE.—For purposes of this paragraph, the term 'applicable extension date' means, with respect to any member of the Armed Forces described in subparagraph (A), the earlier of—

''(i) the date that is the same number of days after November 30, 2009, as the number of days such member was deployed away from such member's permanent duty station after June 30, 2009, and before December 1, 2009, or

''(ii) May 1, 2010.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after November 30, 2009.

SA 1579. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CLASSES OF PERSONS AND LIMITATIONS.

(a) MEMBERS OF ARMED FORCES.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a member of the Armed Forces shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(b) RECRUITERS.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a recruiter for the United States military shall be imprisoned, fined, or both, in accordance section 249 of title 18, United States Code.

(c) PREGNANT WOMEN.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a pregnant woman shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(d) IMMUTABLE CHARACTERISTICS.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as possessing any immutable characteristic shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(e) UNBORN CHILDREN.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as an unborn child under the circumstances where the crime under such section 249 is also a crime under section 1531 of title 18, United States Code, shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(f) SENIOR CITIZENS.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a senior citizen who has attained the age of 65 shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(g) LAW ENFORCEMENT OFFICERS.—Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a law enforcement officer shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

(h) UNLAWFUL ALIENS.—Any alien, whether or not acting under color of law, who while unlawfully present in the United States willfully causes bodily injury to any national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to a national of the United States—

(1) shall be imprisoned not more than 10 years, fined in accordance with title 18, United States Code, or both; and

(2) shall be imprisoned for any term of years or for life, fined in accordance with title 18, United States Code, or both, if—

(A) death results from the offense; or

(B) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

(i) CERTIFICATION REQUIREMENT.—The certification requirements under section 249 of title 18, United States Code, as added by this Act, shall also include a certification in writing by the Attorney General, or the designee of the Attorney General, that the State has no law prohibiting the conduct constituting the alleged crimes of the defendant.

(j) RELIGIOUS BELIEFS.—No prosecution under section 249 of title 18, United States

Code, as added by this Act, may be based in whole or in part on religious beliefs quoted from the Bible, the Tanakh, or the Koran.

SA 1580. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CIRCUMSTANCES.

The circumstances described in section 249(a)(2)(B) of title 18, United States Code, as added by this Act, shall include that the conduct described in subparagraph (A) of such section 249(a)(2) is committed against a person in the process of practicing the religion of the person in a place of worship (including a Christian church, a Jewish synagogue, or a Muslim mosque) and is without due process or is a form of desecration to the place of worship itself, unless such action is under color of law after due process.

SA 1581. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. UNBORN CHILDREN.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as an unborn child under the circumstances where the crime under such section 249 is also a crime under section 1531 of title 18, United States Code, shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1582. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CERTIFICATION REQUIREMENT.

The certification requirements under section 249 of title 18, United States Code, as added by this Act, shall also include a certification in writing by the Attorney General, or the designee of the Attorney General, that the State has no law prohibiting the conduct constituting the alleged crimes of the defendant.

SA 1583. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RECRUITERS.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a recruiter for the United States military shall be imprisoned, fined, or both, in accordance section 249 of title 18, United States Code.

SA 1584. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SENIOR CITIZENS.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a senior citizen who has attained the age of 65 shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1585. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SEXUAL ORIENTATION.

The term ''sexual orientation'' as used in this Act or any amendment made by this Act does not include pedophilia.

SA 1586. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. MEMBERS OF ARMED FORCES.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a member of the Armed Forces shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1587. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. RELIGIOUS BELIEFS.

No prosecution under section 249 of title 18, United States Code, as added by this Act, may be based in whole or in part on religious beliefs quoted from the Bible, the Tanakh, or the Koran.

SA 1588. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. LAW ENFORCEMENT OFFICERS.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a law enforcement officer shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1589. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PREGNANT WOMEN.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as a pregnant woman shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1590. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. IMMUTABLE CHARACTERISTICS.

Whoever commits any offense described in section 249 of title 18, United States Code, as added by this Act, against any person because of the actual or perceived status of the person as possessing any immutable characteristic shall be imprisoned, fined, or both, in accordance with section 249 of title 18, United States Code.

SA 1591. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. INTENT REQUIRED.

Conduct shall only constitute a violation of section 249 of title 18, United States Code, as added by this Act, if the conduct is committed with intent to intimidate or terrorize the class of persons to which the person against whom the conduct is committed belongs.

SA 1592. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. UNLAWFUL ALIENS.

Any alien, whether or not acting under color of law, who while unlawfully present in the United States willfully causes bodily injury to any national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to a national of the United States—

(1) shall be imprisoned not more than 10 years, fined in accordance with title 18, United States Code, or both; and

(2) shall be imprisoned for any term of years or for life, fined in accordance with title 18, United States Code, or both, if—

(A) death results from the offense; or

(B) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

SA 1593. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 D of title VI, add the following:

SEC. 652. REPORT ON BONUSES AND INCENTIVES FOR RECRUITMENT AND RETENTION OF MEMBERS OF THE AIR FORCE IN NUCLEAR CAREER FIELDS.

(a) REPORT REQUIRED.—Not later than March 1, 2010, the Secretary of the Air Force shall submit to the congressional defense committees a report assessing the feasibility, advisability, utility, and cost effectiveness of establishing new retention bonuses or assignment incentive pay for members of the Air Force involved in the operation, maintenance, handling, and security of nuclear weapons in order to enhance the recruitment and retention of such members.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of current reenlistment rates, set forth by Air Force Specialty Code, of members of the Air Force serving in positions involving the operation, maintenance, handling, and security of nuclear weapons.

(2) A description of the current personnel fill rate for Air Force units involved in the operation, maintenance, handling, and security of nuclear weapons.

(3) An assessment of whether additional retention bonuses or assignment incentive pay could help to improve retention by the Air Force of skilled personnel in the positions described in paragraph (1).

(4) An assessment of whether assignment incentive pay should be provided for members of the Air Force covered by the Personnel Reliability Program.

(5) Such other matters as the Secretary considers appropriate.

SA 1594. Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON B-52H BOMBER AIRCRAFT ADVANCED WEAPONS CAPABILITY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to the congressional defense committees a report detailing plans to enhance the combat capabilities of the B-52H bomber aircraft through the integration into the aircraft of a MIL-STD-1760 common electrical and digital interface between weapons and the aircraft.

(b) ELEMENTS.—The report required by subsection (a) shall include an assessment of the following:

(1) The military requirement for incorporating smart weapons in the bomb bay of the B-52H bomber aircraft.

(2) The impact on the precision strike capability of the B-52H bomber aircraft resulting from the integration of a MIL-STD-1760 interface into the aircraft.

(3) Anticipated operating costs of the MIL-STD-1760 program.

(4) Anticipated research and development and acquisition costs of the MIL-STD-1760 program.

(5) Such other matters as the Secretary considers appropriate.

SA 1595. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, insert the following:

SEC. 2832. LAND CONVEYANCE, HAINES TANK FARM, HAINES, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Chilkoot Indian Association (in this section referred to as the ''Association'') all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 201 acres located at the former Haines Fuel Terminal (also known as the Haines Tank Farm) in Haines, Alaska, for the purpose of permitting the Association to develop a Deep Sea Port and for other industrial and commercial development purposes. To the extent practicable, the Secretary is encouraged to complete the conveyance by September 30, 2013, but not prior to the date of completion of all obligations referenced in subsection (e).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Association shall pay to the Secretary an amount equal to the fair market value of the property, as determined by the Secretary. At the election of the Secretary, the Secretary may accept in-kind consideration in lieu of all or a portion of the cash payment.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Association to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Association in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Association.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) SAVINGS PROVISION.—The Haines Tank Farm is currently under a remedial investigation (RI) for petroleum, oil and lubricants contamination. Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act (42

U.S.C. 4321 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 1596. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 F of title X, add the following:

SEC. 1059. CONDITION-BASED MAINTENANCE DEMONSTRATION PROGRAMS.

(a) TACTICAL WHEELED VEHICLES PROGRAM.—Not later than October 1, 2010, the Secretary of the Army may complete a condition-based maintenance demonstration program on tactical wheeled vehicles.

(b) GUIDED MISSILE DESTROYER PROGRAM.—Not later than October 1, 2010, the Secretary of the Navy may conduct a condition-based maintenance demonstration program on the guided missile destroyer class of surface combatant ships.

(c) ISSUES TO BE ADDRESSED.—The demonstration programs described in subsections (a) and (b) shall address the following:

(1) The top 10 maintenance issues.

(2) Nonevidence of failures.

(3) Projected cost, benefit, and return on investment analysis for a 10-year period.

(4) Management to cost benefit and return on investment to cost comparison to equivalent commercial applications of condition-based maintenance programs.

(d) REPORT.—Not later than December 1, 2010, the Secretary of the Army and the Secretary of the Navy shall submit to the congressional defense committees a report that assesses the condition-based maintenance programs described in subsections (a) and (b) and includes the findings of the Secretary of the Army and the Secretary of the Navy with respect to the issues addressed under subsection (c).

SA 1597. Mr. BROWNBACK (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1232. SENSE OF THE SENATE ON REDESIGNATION OF NORTH KOREA AS A STATE SPONSOR OF TERRORISM.

(a) FINDINGS.—The Senate makes the following findings:

(1) On October 11, 2008, the Department of State removed North Korea from its list of state sponsors of terrorism, on which it had been placed in 1988.

(2) North Korea was removed from that list despite its refusal to account fully for its abduction of foreign citizens, proliferation of nuclear and other dangerous technologies and weapon systems to terrorist groups and other state sponsors of terrorism, or its commission of other past acts of terrorism.

(3) On March 17, 2009, American journalists Euna Lee and Laura Ling were seized near the Chinese-North Korean border by agents of the North Korean government and were subsequently sentenced to 12 years of hard labor in a prison camp in North Korea.

(4) On April 5, 2009, the Government of North Korea tested a long-range ballistic missile in violation of United Nations Security Council Resolutions 1695 and 1718.

(5) On April 15, 2009, the Government of North Korea announced it was expelling international inspectors from, and recommissioning, its Yongbyon nuclear facility and ending its participation in disarmament talks.

(6) Those actions were in violation of the June 26, 2008, announcement by the President of the United States that the removal of North Korea from the list of state sponsors of terrorism was dependent on the Government of North Korea agreeing to a system to verify its declarations with respect to its nuclear programs.

(7) On May 25, 2009, the Government of North Korea conducted a second illegal nuclear test, in addition to conducting tests of its ballistic missile systems launched in the direction of the western United States.

(8) North Korea has failed to acknowledge or account for its role in building and supplying the secret nuclear facility at Al Kibar, Syria, has failed to account for all remaining citizens of Japan abducted by North Korea, and, according to recent reports, continues to engage in close cooperation with the terrorist Iranian Revolutionary Guard Corps on ballistic missile technology.

(9) There have been recent credible reports that North Korea has provided support to the terrorist group Hezbollah, including by providing ballistic missile components and personnel to train members of Hezbollah with respect to the development of extensive underground military facilities in southern Lebanon, including tunnels and bunkers.

(10) The 2005 and 2006 Country Reports on Terrorism of the Department of State state, with respect to Cuba, Iran, North Korea, and Syria, ''Most worrisome is that some of these countries also have the capability to manufacture WMD and other destabilizing technologies that can get into the hands of terrorists. The United States will continue to insist that these countries end the support they give to terrorist groups.''.

(11) President Barack Obama stated that actions of the Government of North Korea ''are a matter of grave concern to all nations. North Korea's attempts to develop nuclear weapons, as well as its ballistic missile program, constitute a threat to international peace and security. By acting in blatant defiance of the United Nations Security Council, North Korea is directly and recklessly challenging the international community. North Korea's behavior increases tensions and undermines stability in Northeast Asia. Such provocations will only serve to deepen North Korea's isolation. It will not find international acceptance unless it abandons it pursuit of weapons of mass destruction and their means of delivery.''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of State should designate North Korea as a country that has repeatedly provided support for acts of international terrorism for purposes of—

(1) section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));

(2) section 40 of the Arms Export Control Act (22 U.S.C. 2780); and

(3) section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

SA 1598. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 H of title X, add the following:

SEC. 1083. TRAUMATIC SERVICEMEMBERS' GROUP LIFE INSURANCE COVERAGE FOR ADVERSE REACTIONS TO VACCINATIONS ADMINISTERED BY DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—Section 1980A(b)(3) of title 38, United States Code, is amended—

(1) by striking ''The Secretary'' and inserting ''(A) Except as provided in subparagraph (B), the Secretary''; and

(2) by adding at the end the following new subparagraph:

''(B) The Secretary shall not exclude under subparagraph (A) a qualifying loss experienced by a member as a result of an adverse reaction to a vaccination administered by the Department of Defense, whether voluntarily or involuntarily, for the purposes of military accession, training, or deployment.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the provisions of and amendments made by section 1032 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 257).

SA 1599. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 565, after line 20, insert the following:

SEC. 2832. LAND CONVEYANCE, HAINES TANK FARM, HAINES, ALASKA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Chilkoot Indian Association (in this section referred to as the ''Association'') all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 201 acres located at the former Haines Fuel Terminal (also known as the Haines Tank Farm) in Haines, Alaska, for the purpose of permitting the Association to develop a Deep Sea Port and for other industrial and commercial development purposes. To the extent practicable, the Secretary is encouraged to complete the conveyance by September 30, 2013, but not prior to the date

of completion of all obligations referenced in subsection (e).

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Association shall pay to the Secretary an amount equal to the fair market value of the property, as determined by the Secretary. The determination of the Secretary shall be final.

(c) REVERSIONARY INTEREST.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance, all right, title, and interest in and to such real property, including any improvements and appurtenant easements thereto, shall, at the option of the Secretary, revert to and become the property of the United States, and the United States shall have the right of immediate entry onto such real property. A determination by the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) PAYMENT OF COSTS OF CONVEYANCES.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Association to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Association in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Association.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) SAVINGS PROVISION.—The Haines Tank Farm is currently under a remedial investigation (RI) for petroleum, oil and lubricants contamination. Nothing in this section shall be construed to affect or limit the application of, or any obligation to comply with, any environmental law, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERM AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SA 1600. Mr. NELSON (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 D of title V, add the following:

SEC. 537. COMPTROLLER GENERAL AUDIT OF ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the utilization by local educational agencies of the assistance specified in subsection (b) provided to such agencies for fiscal years 2001 through 2009 for the education of dependent children of members of the Armed Forces. The audit shall include—

(1) an evaluation of the utilization of such assistance by such agencies; and

(2) an assessment of the effectiveness of such assistance in improving the quality of education provided to dependent children of members of the Armed Forces.

(b) ASSISTANCE SPECIFIED.—The assistance specified in this subsection is—

(1) assistance provided under—

(A) section 572 the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3271; 20 U.S.C. 7703b);

(B) section 559 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1917);

(C) section 536 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1474);

(D) section 341 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2514);

(E) section 351 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1063); or

(F) section 362 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–76); and

(2) payments made under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–77; 20 U.S.C. 7703a).

(c) REPORT.—Not later than March 1, 2010, the Comptroller General shall submit to the congressional defense committees a report containing the results of the audit required by subsection (a).

SA 1601. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 429, between lines 8 and 9, insert the following:

SEC. 1073. REPORT ON DEFENSE TRAVEL SIMPLIFICATION.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive plan to simplify defense travel.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A comprehensive discussion of aspects of the Department of Defense travel system that are most confusing, inefficient, and in need of revision.

(2) Critical review of opportunities to streamline and simplify defense travel policies and to reduce travel-related costs to the Department of Defense.

(3) Options to leverage industry capabilities that could enhance management responsiveness to changing markets.

(4) A discussion of pilot programs that could be undertaken to prove the merit of improvements identified in accomplishing actions specified in paragraphs (1) and (2), including recommendations for legislative authority.

(5) Such recommendations and an implementation plan for legislative or administrative action as the Secretary of Defense considers appropriate to improve defense travel.

SA 1602. Mr. DEMINT (for himself and Mrs. SHAHEEN) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 483, between lines 8 and 9, insert the following:

SEC. 1232. STRATEGIC REVIEW OF BASING PLANS FOR THE UNITED STATES EUROPEAN COMMAND.

(a) REPORT REQUIREMENT.—Concurrent with the delivery of the report on the 2009 quadrennial defense review required by section 118 of title 10, United States Code, the Secretary of Defense, in coordination with the combatant commander of the United States European Command, shall submit to the appropriate congressional committees a report on the plan for basing of forces in the European theater. The report shall include a description of—

(1) how the plan supports the United States national security strategy;

(2) how the plan satisfies the commitments undertaken by the United States pursuant to Article 5 of the North Atlantic Treaty, signed at Washington, District of Columbia, on April 4, 1949, and entered into force on August 24, 1949 (63 Stat. 2241; TIAS 1964);

(3) how the plan addresses the current security environment in Europe, including United States participation in theater cooperation activities;

(4) how the plan contributes to peace and stability in Europe; and

(5) the impact that a permanent change in the basing of a unit currently assigned to the United States European Command would have on the matters described in paragraphs (1) through (4).

(b) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify Congress at least 30 days before the permanent relocation of a unit stationed outside the continental United States as of the date of the enactment of this Act.

(c) DEFINITIONS.—In this section:

(1) UNIT.—The term ''unit'' has the meaning determined by the Secretary of Defense for purposes of this section.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the congressional defense committees;

(B) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(C) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1603. Mr. DEMINT submitted an amendment intended to be proposed by

him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. COMPTROLLER GENERAL REVIEW OF FISCAL YEAR 2009 SPENDING BY THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense is under increasing budgetary pressure with the exponential rise in costs of weapon systems and personnel entitlements.

(2) Military departments in the Department of Defense are punished if they do not deplete all funds in their organizational accounts by the end of the fiscal year through a reduction in the allocation to such accounts for the next fiscal year.

(3) The end-of-year spending spree by military departments using ''fallout'' funds is executed in a condensed time frame that leads to wasteful spending practices and the purchase of unnecessary equipment and supplies.

(b) REVIEW OF SPENDING BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, in consultation with the Under Secretary of Defense (Comptroller), shall conduct a review of the obligation and expenditure by the Department of Defense of amounts appropriated to the Department for fiscal year 2009, with particular focus on the obligation and expenditure of such amounts near the end of the fiscal year to determine if policies with respect to spending by the Department contribute to hastened spending and poor use or waste of taxpayer dollars.

(c) REPORT.—Not later than the earlier of March 30, 2010, or the date that is 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report containing—

(1) the results of the review conducted under subsection (b); and

(2) any recommendations of the Comptroller General with respect to improving the policies pursuant to which amounts appropriated to the Department of Defense are obligated and expended.

SA 1604. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Subsection (b) of section 714 of title 31, United States Code, is amended by striking all after ''shall audit an agency'' and inserting a period.

(b) AUDIT.—Section 714 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(e) AUDIT AND REPORT OF THE FEDERAL RESERVE SYSTEM.—

''(1) IN GENERAL.—The audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed before the end of 2010.

''(2) REPORT.—

''(A) REQUIRED.—A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed, and shall be made available to the Speaker of the House, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests it.

''(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.''.

SA 1605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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:

Strike section 121.

SA 1606. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 XXXI, add the following:

SEC. 3136. SENSE OF THE SENATE ON DOMESTIC PRODUCTION OF MOLYBDENUM-99.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are fewer than five reactors around the world currently capable of producing molybdenum-99 (Mo-99) and there are no such reactors in the United States that can provide a reliable supply of Mo-99 to meet domestic medical needs.

(2) Since November 2007, there have been major disruptions in the global availability of Mo-99, including at facilities in Canada and the Netherlands, which have led to shortages of Mo-99-based medical products in the United States and around the world.

(3) Ensuring a reliable, domestically produced supply of medical radioisotopes, including Mo-99, is of great importance to the public health of the United States.

(4) It is also a national security priority of the United States, and specifically of the Department of Energy, to encourage the production of low-enriched uranium-based radioisotopes in order to promote a more peaceful international nuclear order.

(5) The National Academy of Sciences has identified a need to establish a reliable capability in the United States for the production of Mo-99 and its derivatives for medical purposes using low-enriched uranium.

(6) There also exists a capable industrial base in the United States that can support the development of Mo-99 production facilities and can conduct the processing and distribution of radiopharmaceutical products for use in medical tests.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) radioisotopes and radiopharmaceuticals, including Mo-99 and its derivatives, are essential components of medical tests that help diagnose and treat life-threatening diseases affecting millions of people in the United States each year; and

(2) the Secretary of Energy should continue and expand a program to ensure a reliable domestic source of Mo-99 and its derivatives for use in medical tests to help ensure the health security of the United States and promote peaceful nuclear industries through the use of low-enriched uranium.

SA 1607. Mr. KYL (for himself, Mr. INHOFE, Mr. DEMINT, Mr. SESSIONS, Mr. MARTINEZ, Mr. VITTER, and Mr. RISCH) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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 H of title X, add the following:

SEC. 1083. EXTENSION OF SUNSET FOR CONGRESSIONAL COMMISSION ON THE STRATEGIC POSTURE OF THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) Congress is grateful for the service and leadership of the members of the bipartisan Congressional Commission on the Strategic Posture of the United States, who, pursuant to section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 319), spent more than one year examining the strategic posture of the United States in all of its aspects: deterrence strategy, missile defense, arms control initiatives, and nonproliferation strategies.

(2) The Commission, comprised of some of the most preeminent scholars and technical experts in the United States in the subject matter, found a bipartisan consensus on these issues in its Final Report made public on May 6, 2009.

(3) Congress appreciates the service of former Secretary of Defense William Perry, former Secretary of Defense and Energy James Schlesinger, former Senator John Glenn, former Congressman Lee Hamilton, Ambassador James Woolsey, Doctors John Foster, Fred Ikle, Keith Payne, Morton Halperin, Ellen Williams, Bruce Tarter, and Harry Cartland, and the United States Institute of Peace.

(4) The Commission reached bipartisan consensus on more than 100 recommendations with only one issue not having bipartisan support.

(5) Congress values the work of the Commission and pledges to work with President Barack Obama to address the findings and review and consider the recommendations of the Commission.

(b) EXTENSION OF SUNSET.—Section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 319) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(2) in subsection (h), as redesignated by paragraph (1), by striking ''June 1, 2009'' and inserting ''September 30, 2010''; and

(3) by inserting after subsection (e) the following new subsection:

''(f) FOLLOW-ON REPORT.—Not later than May 1, 2010, the commission shall submit to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of State, the Committee on Armed Services of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Armed Services of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives a follow-on report to the report submitted under subsection (e). With respect to the matters described under subsection (c), the follow-on report shall include, at a minimum, the following:

''(1) A review of—

''(A) the nuclear posture review required by section 1070; and

''(B) the Quadrennial Defense Review required to be submitted under section 118 of title 10, United States Code.

''(2) A review of legislative actions taken by the 111th Congress.''.

SA 1608. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title X, insert the following:

SEC. ___. COMPTROLLER GENERAL REPORT ON STOCKPILE STEWARDSHIP PROGRAM.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on the progress of the Stockpile Stewardship Program since its inception and the remaining challenges facing the program. The report shall include recommendations for ensuring—

(1) the preservation of the core intellectual and technical competencies of the United States in nuclear weapons, including weapons design, system integration, manufacturing, security, use control, reliability assessment, and certification; and

(2) the safety, security, and reliability of the nuclear weapons stockpile without the use of underground nuclear weapons testing.

SA 1609. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 478, between lines 21 and 22, insert the following:

(E) a list of all investments in the energy sector of Iran and assessment of whether any person making such an investment is transacting any economic activity in the United States, including with the United States Government;

SA 1610. Mr. BROWNBACK submitted an amendment intended to be proposed to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; as follows:

Strike page 16, line 24 through page 17, line 7 and insert the following:

SEC. ____. CONSTRUCTION AND APPLICATION.

Nothing in this division, or an amendment made by this division, shall be construed or applied in a manner that infringes on any rights under the first amendment to the Constitution of the United States, or substantially burdens any exercise of religion (regardless of whether compelled by, or central to, a system of religious belief), speech, expression, association, if such exercise of religion, speech, expression, or association was not intended to—

(1) plan or prepare for an act of physical violence; or

(2) incite an imminent act of physical violence against another.

SA 1611. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE STUDY AND SUPPORT FOR CRIMINAL INVESTIGATIONS AND PROSECUTIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, division E of this Act (relating to hate crimes), and the amendments made by that division, shall have no force or effect.

(b) STUDIES.—

(1) COLLECTION OF DATA.—

(A) DEFINITION OF RELEVANT OFFENSE.—In this paragraph, the term ''relevant offense'' means a crime described in subsection (b)(1) of the first section of Public Law 101-275 (28 U.S.C. 534 note) and a crime that manifests evidence of prejudice based on gender or age.

(B) COLLECTION FROM CROSS SECTION OF STATES.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the National Governors' Association, shall, if possible, select 10 jurisdictions with laws classifying certain types of offenses as relevant offenses and 10 jurisdictions without such laws from which to collect the data described in subparagraph (C) over a 12-month period.

(C) DATA TO BE COLLECTED.—The data described in this paragraph are—

(i) the number of relevant offenses that are reported and investigated in the jurisdiction;

(ii) the percentage of relevant offenses that are prosecuted and the percentage that result in conviction;

(iii) the duration of the sentences imposed for crimes classified as relevant offenses in the jurisdiction, compared with the length of sentences imposed for similar crimes committed in jurisdictions with no laws relating to relevant offenses; and

(iv) references to and descriptions of the laws under which the offenders were punished.

(D) COSTS.—Participating jurisdictions shall be reimbursed for the reasonable and necessary costs of compiling data collected under this paragraph.

(2) STUDY OF RELEVANT OFFENSE ACTIVITY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall complete a study and submit to Congress a report that analyzes the data collected under paragraph (1) and under section 534 of title 28, United States Code, to determine the extent of relevant offense activity throughout the United States and the success of State and local officials in combating that activity.

(B) IDENTIFICATION OF TRENDS.—In the study conducted under subparagraph (A), the Comptroller General of the United States shall identify any trends in the commission of relevant offenses specifically by—

(i) geographic region;

(ii) type of crime committed; and

(iii) the number and percentage of relevant offenses that are prosecuted and the number for which convictions are obtained.

(c) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE.—At the request of a law enforcement official of a State or a political subdivision of a State, the Attorney General, acting through the Director of the Federal Bureau of Investigation and in cases where the Attorney General determines special circumstances exist, may provide technical, forensic, prosecutorial, or any other assistance in the criminal investigation or prosecution of any crime that—

(1) constitutes a crime of violence (as defined in section 16 of title 18, United States Code);

(2) constitutes a felony under the laws of the State; and

(3) is motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(d) GRANTS.—

(1) IN GENERAL.—The Attorney General may, in cases where the Attorney General determines special circumstances exist, make grants to States and local subdivisions of States to assist those entities in the investigation and prosecution of crimes motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(2) ELIGIBILITY.—A State or political subdivision of a State applying for assistance under this subsection shall—

(A) describe the purposes for which the grant is needed; and

(B) certify that the State or political subdivision lacks the resources necessary to investigate or prosecute a crime motivated by animus against the victim by reason of the membership of the victim in a particular class or group.

(3) DEADLINE.—An application for a grant under this subsection shall be approved or disapproved by the Attorney General not later than 10 days after the application is submitted.

(4) GRANT AMOUNT.—A grant under this subsection shall not exceed $100,000 for any single case.

(5) REPORT AND AUDIT.—Not later than December 31, 2010, the Attorney General, in consultation with the National Governors' Association, shall—

(A) submit to Congress a report describing the applications made for grants under this subsection, the award of such grants, and the effectiveness of the grant funds awarded; and

(B) conduct an audit of the grants awarded under this subsection to ensure that such grants are used for the purposes provided in this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2010 and 2011 to carry out this section.

SA 1612. Mr. NELSON of Florida (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 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:

Beginning on page 419, strike line 10 and all that follows through page 420, line 2, and insert the following:

(a) IN GENERAL.—Section 2281(d) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''the Secretary of Defense'' and inserting ''the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing,''; and

(B) by striking ''the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives'' and inserting ''the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on Armed Services, Energy and Commerce, and Transportation and Infrastructure of the House of Representatives''; and

(2) by striking paragraph (2) and inserting the following new paragraph (2):

''(2) In preparing each report required under paragraph (1), the Deputy Secretary of Defense and the Deputy Secretary of Transportation, in their capacity as co-chairs of the National Executive Committee for Space-Based Positioning, Navigation, and Timing, shall consult with the Secretary of Defense, the Secretary of State, the Secretary of Transportation, and the Secretary of Homeland Security.''.

SA 1613. Mr. LEAHY proposed an amendment to amendment SA 1511 proposed by Mr. LEAHY (for himself, Ms. COLLINS, Mr. KENNEDY, Ms. SNOWE, Mr. LEVIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mr. DURBIN, Mr. CARDIN, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mr. SPECTER, Mr. FRANKEN, Ms. MIKULSKI, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. MENENDEZ Mrs. SHAHEEN, Mr. KERRY, Mr. UDALL of Colorado, Mr. DODD, Mr. HARKIN, Mr. WYDEN, Mr. CASEY, Ms. CANTWELL, Mr. LAUTENBERG, Mr. LIEBERMAN, Mrs. BOXER, Mr. BROWN, Mr. AKAKA, Mr. SANDERS, Mrs. MURRAY, Mr. REED, Mr. BINGAMAN, Mr. KAUFMAN, Mr. INOUYE, Ms. STABENOW, and Mr. REID) to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; as follows:

At the end of the amendment, insert the following:

(b) FIRST AMENDMENT.—Nothing in this division, or an amendment made by this division, shall be construed to diminish any rights under the first amendment to the Constitution of the United States.

(c) CONSTITUTIONAL PROTECTIONS.—Nothing in this division shall be construed to prohibit any constitutionally protected speech, expressive conduct or activities (regardless of whether compelled by, or central to, a system of religious belief), including the exercise of religion protected by the first amendment to the Constitution of the United States and peaceful picketing or demonstration. The Constitution does not protect speech, conduct or activities consisting of planning for, conspiring to commit, or committing an act of violence.

SA 1614. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON PROSECUTIONS.

(a) IN GENERAL.—All prosecutions under section 249 of title 18, United States Code, as added by this Act, shall be undertaken pursuant to guidelines issued by the Attorney General.

(1) to guide the exercise of the discretion of Federal prosecutors and the Attorney General in their decisions whether to seek death sentences under such section when the crime results in a loss of life; and

(2) that identify with particularity the type of facts of such cases that will support the classification of individual cases in term of their culpability and death eligibility as low, medium, and high.

(b) REQUIREMENTS FOR DEATH PENALTY.—If the Government seeks a death sentence in crime under section 249 of title 18, United States Code, as added by this Act, that results in a loss of life—

(1) the Attorney General shall certify with particularity in the information or indictment how the facts of the case support the Government's judgment that the case is properly classified among the cases involving a hate crime that resulted in a victim's death;

(2) the Attorney General shall document in a filing to the court—

(A) the facts of the crime (including date of offense and arrest and location of the offense), charges, convictions, and sentences of all state and Federal hate crimes (committed before or after the effective date of this legislation) that resulted in a loss of life and were known to the Assistant United States Attorney or the Attorney General; and

(B) the actual or perceived race, color, national origin, ethnicity, religion, gender, sexual orientation, gender identity, or disability of the defendant and all victims; and

(3)(A) the court, either at the close of the guilt trial or at the close of the penalty trial, shall conduct a proportionality review in which it shall examine whether the prosecutorial death seeking and death sentencing rates in comparable cases in Federal prosecutions are both greater than 50 percent; and

(B) if the State fails to satisfy the test under subparagraph (A), by a preponderance of the evidence, the court shall dismiss the Government's action seeking a death sentence in the case.

SA 1615. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

title, or both, and shall be subject to the penalty of death in accordance with chapter 228, if—

''(i) death results from the offense; or

''(ii) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

''(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY.—

''(A) IN GENERAL.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B) or paragraph (3), willfully causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person—

''(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

''(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, and shall be subject to the penalty of death in accordance with chapter 228, if—

SA 1616. Mr. SESSION submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal

year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ATTACKS ON UNITED STATES SERVICEMEN.

(a) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following:

''§ 1389. Prohibition on attacks on United States servicemen on account of service

''(a) IN GENERAL.—Whoever knowingly assaults or batters a United States serviceman or an immediate family member of a United States serviceman, or who knowingly destroys or injures the property of such serviceman or immediate family member, on account of the military service of that serviceman or status of that individual as a United States serviceman, or who attempts or conspires to do so, shall—

''(1) in the case of a simple assault, or destruction or injury to property in which the damage or attempted damage to such property is not more than $500, be fined under this title in an amount not less than $500 nor more than $10,000 and imprisoned not more than 2 years;

''(2) in the case of destruction or injury to property in which the damage or attempted damage to such property is more than $500, be fined under this title in an amount not less than $1000 nor more than $100,000 and imprisoned not more than 5 years; and

''(3) in the case of a battery, or an assault resulting in bodily injury, be fined under this title in an amount not less than $2500 and imprisoned not less than 16 months nor more than 10 years.

''(b) EXCEPTION.—This section shall not apply to conduct by a person who is subject to the Uniform Code of Military Justice.

''(c) DEFINITIONS.—In this section—

''(1) the term 'Armed Forces' has the meaning given that term in section 1388;

''(2) the term 'immediate family member' has the meaning given that term in section 115; and

''(3) the term 'United States serviceman'—

''(A) means a member of the Armed Forces; and

''(B) includes a former member of the Armed Forces during the 5-year period beginning on the date of the discharge from the Armed Forces of that member of the Armed Forces.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 67 of title 18, United States Code, is amended by adding at the end the following:

''1389. Prohibition on attacks on United States servicemen on account of service.''.

SA 1617. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1390, to authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''(3) REGULATIONS.—All prosecutions conducted by the United States pursuant to this section shall be undertaken pursuant to guidelines issued by the Attorney General that shall establish neutral and objective criteria for determining whether a crime was motivated by the status of the victim.

SA 1618. Mr. THUNE (for himself, Mr. VITTER, Mr. ENZI, Mr. BARRASSO, and Mr. COBURN) proposed an amendment to the bill S. 1390, to authorize appropriations for fiscal year 2010 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; as follows:

At the end of subtitle H of title X, add the following:

SEC. 1083. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) FINDINGS.—Congress finds the following:

(1) The second amendment to the Constitution of the United States protects the right of an individual to keep and bear arms, including for purposes of individual self-defense.

(2) The right to bear arms includes the right to carry arms for self-defense and the defense of others.

(3) Congress has previously enacted legislation for national authorization of the carrying of concealed firearms by qualified active and retired law enforcement officers.

(4) Forty-eight States provide by statute for the issuance of permits to carry concealed firearms to individuals, or allow the carrying of concealed firearms for lawful purposes without need for a permit.

(5) The overwhelming majority of individuals who exercise the right to carry firearms in their own States and other States have proven to be law-abiding, and such carrying has been demonstrated to provide crime prevention or crime resistance benefits for the licensees and for others.

(6) Congress finds that the prevention of lawful carrying by individuals who are traveling outside their home State interferes with the constitutional right of interstate travel, and harms interstate commerce.

(7) Among the purposes of this Act is the protection of the rights, privileges, and immunities guaranteed to a citizen of the United States by the fourteenth amendment to the Constitution of the United States.

(8) Congress therefore should provide for the interstate carrying of firearms by such individuals in all States that do not prohibit the carrying of concealed firearms by their own residents.

(b) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

''§ 926D. Reciprocity for the carrying of certain concealed firearms

''(a) Notwithstanding any provision of the law of any State or political subdivision thereof—

''(1) a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a government-issued photographic identification document and a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm, may carry a concealed firearm in any State other than the State of residence of the person that—

''(A) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

''(B) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes;

''(2) a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, and who is carrying a government-issued photographic identification document and is entitled to carry a concealed firearm in the State in which the person resides otherwise than as described in paragraph (1), may carry a concealed firearm in any State other than the State of residence of the person that—

''(A) has a statute that allows residents of the State to obtain licenses or permits to carry concealed firearms; or

''(B) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

''(b) A person carrying a concealed firearm under this section shall—

''(1) in a State that does not prohibit the carrying of a concealed firearms by residents of the State for lawful purposes, be entitled to carry such firearm subject to the same laws and conditions that govern the specific places and manner in which a firearm may be carried by a resident of the State; or

''(2) in a State that allows residents of the State to obtain licenses or permits to carry concealed firearms, be entitled to carry such a firearm subject to the same laws and conditions that govern specific places and manner in which a firearm may be carried by a person issued a permit by the State in which the firearm is carried.

''(c) In a State that allows the issuing authority for licenses or permits to carry concealed firearms to impose restrictions on the carrying of firearms by individual holders of such licenses or permits, a firearm shall be carried according to the same terms authorized by an unrestricted license of or permit issued to a resident of the State.

''(d) Nothing in this section shall be construed to—

''(1) effect the permitting process for an individual in the State of residence of the individual; or

''(2) preempt any provision of State law with respect to the issuance of licenses or permits to carry concealed firearms.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18 is amended by inserting after the item relating to section 926C the following:

''926D. Reciprocity for the carrying of certain concealed firearms.''.

(d) SEVERABILITY.—Notwithstanding any other provision of this Act, if any provision of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. BROWN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 2:30 p.m. to conduct a hearing entitled ''Contracting Preferences for Alaska Native Corporations.''

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

COMMITTEE ON ARMED SERVICES

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 9 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on July 16, 2009, at 9:30 a.m., to conduct hearing entitled ''Preserving Homeownership: Progress Needed to Prevent Foreclosures.''

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, July 16, 2009 at 9:30 a.m. in room 406 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 9:30 a.m., to hold a hearing entitled ''$150 Oil: Instability, Terrorism and Economic Disruption.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 2:30 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BROWN. 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 ''Modernizing the Workforce Investment Act (WIA) of 1998 to Help Workers and Employers Meet the Changing Demands of a Global Market,'' on Thursday, July 16, 2009. The hearing will commence at 10 a.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. BROWN. 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, July 16, 2009, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. BROWN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 9:30 a.m., in room SH–216 of the Hart Senate Office Building, to continue the hearing on the nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BROWN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. BROWN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, July 16, 2009, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent that Heather Blackwell, an Air Force major who is a military fellow in my office this year, be granted the privileges of the floor during the pendency of S. 1390.

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

Mr. HATCH. Mr. President, I ask unanimous consent that Paul Williams, a detailee in my office from the Food and Drug Administration, and LTC Lyle Drew, a military fellow in my office from the United States Air Force, both be granted the privilege of the floor for the remainder of the first session of the 111 Congress.

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

Mr. MERKLEY. Madam President, I ask unanimous consent that Gabrielle Dreyfus, a fellow in Senator DORGAN's office, be granted the privilege of the floor until the end of this session of Congress.

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

Mr. DEMINT. Mr. President, I ask unanimous consent that Andrew Julson of my staff be given the privilege of the floor throughout the duration of the debate on the Department of Defense Authorization Act.

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

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that floor privileges be granted to Joseph Mastrangelo during consideration of S. 1390, the National Defense Authorization Act.

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

Mr. LEAHY. Madam President, I ask that Joseph Thomas of the Judiciary Committee be allowed privileges of the floor throughout the debate on the pending legislation.

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

UNITED STATES PATENT AND TRADEMARK OFFICE AUTHORIZATION

Mr. KAUFMAN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3114, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3114) to authorize the Director of the United States Patent and Trademark Office to use funds made available under the Trademark Act of 1946 for patent operations in order to avoid furloughs and reductions-in-force, and for other purposes.

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

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

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

The bill (H.R. 3114) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR MONDAY, JULY 20, 2009

Mr. KAUFMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, July 20; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 1390, the Department of Defense authorization bill.

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

PROGRAM

Mr. KAUFMAN. Mr. President, Senators should expect a series of up to four rollcall votes to begin around 3 p.m. on Monday. Those votes would be in relation to the four amendments relating to hate crime.

ADJOURNMENT UNTIL MONDAY, JULY 20, 2009, AT 1 P.M.

Mr. KAUFMAN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 11:27 p.m., adjourned until Monday, July 20, 2009, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JACQUELINE A. BERRIEN, OF NEW YORK, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2014, VICE CHRISTINE M. GRIFFIN, TERM EXPIRED.

FARM CREDIT ADMINISTRATION

KENNETH ALBERT SPEARMAN, OF FLORIDA, 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.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

ANNE S. FERRO, OF MARYLAND, TO BE ADMINISTRATOR OF THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, VICE JOHN H. HILL, RESIGNED.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

JOSEPH G. PIZARCHIK, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, VICE BRENT T. WAHLQUIST, RESIGNED.