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Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by Father Daniel Coughlin, Chaplain of the U.S. House of Representatives.

The guest Chaplain offered the following prayer:

Let us pray.

Lord God, Creator of all and Savior of those who put their trust in You, in this era of post-9/11, we pray that the children of this generation and their children's children may never experience another day like the one that is commemorated in various ceremonies across the Nation today. Protect and guide this Nation to a new security built upon human integrity and communal solidarity and the love of human freedom and human dignity. Empower the Senate of the United States and governments around the world to establish just laws and seek the common good that will lead to ways of equity and peace. Let our children dream dreams, equip themselves with the best education possible, and become the creative leaders of tomorrow, because they are attuned to Your holy will and give You glory now and forever.

Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 11, 2008.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting Democratic leader is recognized.

SCHEDULE

Mr. BROWN. Mr. President, following leader remarks, there will be a period of morning business with Senators permitted to speak for up to 10 minutes each, with the Republicans controlling the first 30 minutes, and the majority controlling the next 30 minutes. Following morning business, the Senate will resume consideration of S. 3001, the Department of Defense Authorization Act.

Today, there are a number of events to commemorate the seventh anniversary of the attacks of September 11, 2001. There will be a bipartisan, bicameral congressional ceremony at 11:45 on the west front steps of the U.S. Capitol and there will be a moment of silence at 12:30 p.m. in the Senate Chamber.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

SEVENTH ANNIVERSARY OF SEPTEMBER 11, 2001, TERRORIST ATTACKS

Mr. MCCONNELL. Mr. President, the horror of September 11, 2001, is still very fresh in our minds. This day will always be a sad one for Americans.

It also has become a day of solemn pride as we remember the tremendous heroism and self-sacrifice of so many in New York, at the Pentagon, and on a plane over Shanksville, PA.

Later this morning, the Senate will take time to remember, and it is fitting that we do so. It is fitting that we should pause as a body and as a nation to remember the victims and their families, as well as the heroes, and to remind ourselves of the dangers we still face.

Mr. President, I yield the floor.

MORNING BUSINESS

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

The Senator from Missouri is recognized.

Mr. BOND. I ask unanimous consent that I be recognized for 15 minutes and that I be advised when 13 minutes of that time has expired.

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

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

(The remarks of Mr. BOND pertaining to the submission of S. Res. 655 are located in today's RECORD under ''Submitted Resolutions.'')

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

COMMEMORATING SEPTEMBER 11, 2001

Mr. SESSIONS. Mr. President, it is important that we commemorate today, the seventh anniversary of the terrorist attacks on September 11, 2001. This Nation and the world should also remember that the first battle of the war against terror started in the skies over this country, and it was started not by the military but by an average group of American citizens who, by fate, found themselves on Flight 93, which had taken off from New Jersey, headed to San Francisco, CA. When they, as a group, figured out their plane had been taken over by terrorists who planned to use that plane and the passengers in it as a weapon of mass destruction against the Capitol of the United States, they did an extraordinary thing: This group of average citizens made a battle plan and executed that plan against America's enemies. This exceptional group of Americans knew they were risking and sacrificing their lives to stop an attack on America, which, in fact, was on the White House or this very building we are in today—this very building, the U.S. Capitol. The passengers of Flight 93 faced their enemies without hesitation and brought that plane to the ground in Shanksville, PA. That action was the opening battle in the war against terror.

Today, people are gathering in New York City at Ground Zero, where the World Trade Towers once stood so proudly. People will gather here in the Nation's Capital. This morning, the President observed a moment of silence on the White House lawn and then joined those gathering at the Pentagon, at the site where Flight 77 crashed, to dedicate a memorial to those who died in that building—a building that symbolizes the American military, the greatest fighting force in the world.

This remembrance is not just taking place in New York and in our Nation's Capital, it is taking place all across our Nation. Certainly, we are not alone in mourning the 2,975 people—citizens from more than 90 nations—who died in the terrorist attacks. So our allies and friends mourn with us.

These attacks carried out on September 11 changed the way we view our world. Many Americans, for the first time, felt vulnerable. While it was not the first terrorist attack on America, it was the largest on our soil since Pearl Harbor. So it is critically important to note that this attack wasn't an isolated incident but a carefully planned operation that was part of al-Qaida's war on America. Bin Laden had already declared war on America publicly. It was, at its foundation, an attack based on a belief that America was corrupt, decadent, and lacked the courage or the will to vigorously defend its very existence.

They were wrong. The attacks that led up to that day—I will just make a note of them—the attacks that led up to that event were:

In 1983, there was an attack on the Marine barracks in Beirut, Lebanon, that killed 241 American servicemen.

In 1985, the cruise ship *Achille Lauro* was hijacked by terrorists, and a 70-year-old American passenger was murdered and thrown overboard in his wheelchair.

In 1985, TWA Flight 847 was hijacked at Athens, and a U.S. Navy diver trying to rescue fellow passengers was murdered.

In 1988, Pan Am Flight 103 was bombed, leaving 270 dead.

In 1993, al-Qaida operatives attacked the World Trade Center and bombed it, killing 6 people and injuring 1,042. In June of 1996, 19 American servicemembers were killed, with 372 wounded, in the Khobar Towers barracks attack in Saudi Arabia.

In 1998, the U.S. Embassies in Kenya and Tanzania were bombed, killing 223 and wounding thousands.

On October 12, 2000, while a warship of the United States of America, the USS *Cole*, was harbored in the Yemeni port of Aden for a routine fuel stop, a small craft approached and detonated their payload, putting a 40-by-60-foot gash in the ship's port side, killing 17 American sailors.

All of that occurred before the hijacking of those four planes on September 11, 2001. Since that day, while there have been attacks on England, Spain, and around the world, there have been no further successful attacks on the United States.

Even though we are in an election campaign, it is important for us not to forget that the failure of al-Qaida to launch another attack on us is not due to the terrorist organization's relinquishing their objective, renouncing their goal of killing Americans and disrupting our lives and economy, but it is a testament to the vigilance of our law enforcement and military officials and President Bush's bold decision to stop sitting back, stop being on the defensive, and to treat these attacks for what they were—part of a war against the United States. He firmly declared that we should go after these terrorists and any who harbor them and utilize deadly force where necessary. This strategy has worked. No successful attacks have occurred since that time on our homeland. I don't think any of us would have felt that was likely the case, or would be the case, on September 11, 2001, even though I think all of us, as a nation, agreed it was time to move on the offensive. That is the best way to defend our great country.

Since September 11, 2001, 19 attacks have been thwarted in various stages of preparation. This chart is difficult to read, but the red lines across it indicate some of the successful interventions and defeats of terrorist plans. I will just mention those.

In December 2001, Richard Reid attempted to blow up an airplane headed to Miami from Paris, using explosives in his shoe.

In May 2002, Jose Padilla, who was charged with conspiring with Islamic terrorist groups, planned to set off a dirty bomb in the United States.

In September 2002, the Lackawanna Six from Buffalo, NY, were arrested and charged with conspiring with terrorist groups.

In May 2003, Lyman Faris, a naturalized U.S. citizen from Kashmir living in Columbus, OH, was arrested for plotting the collapse of the Brooklyn Bridge.

In June 2003, a Virginia jihad network, involving 11 men from Alexandria, was arrested for conspiring to support terrorists.

In August 2004, members of a terrorist cell were arrested for plotting to attack financial institutions in the United States and other sites in England.

In August 2004, two men were arrested for plotting to bomb a subway station near Madison Square Garden in New York.

In August 2004, two leaders of an Albany, NY, mosque were charged with plotting to purchase a shoulder-fired grenade launcher to assassinate a Pakistani diplomat in New York.

In June 2005, a California father-son terrorist team was charged with supporting terrorism.

In August 2005, four men in Los Angeles were accused of conspiring to attack National Guard facilities in Los Angeles and other targets in the area.

In December 2005, Michael C. Reynolds was arrested by the FBI and charged with being involved in a plot to blow up a Wyoming natural gas refinery.

In February 2006, three men from Toledo, OH, were arrested and charged with providing material support to a terrorist organization.

In April of 2006, Atlanta natives were accused of conspiring with terrorist organizations to attack targets in Washington, DC.

In June of 2006, seven men were arrested in Miami and Atlanta and charged with plotting to blow up the Sears Tower in Chicago, as well as FBI offices and other buildings.

In July 2006, 10 people were arrested after the FBI discovered a plot to attack underground transit tunnels in New York.

In August of 2006, British authorities stopped a plot to load 10 commercial airliners with liquid explosives and attack sites in New York, Washington, and California. Fifteen men were charged.

In March 2007, a senior operative for Osama bin Laden already in custody

confesses to have planned September 11 attacks and said he also planned attacks on Los Angeles, Chicago, New York, and other sites.

In May of 2007, six men were arrested and charged with plotting to attack soldiers at Fort Dix, NJ.

In June of 2007, four men were charged with plotting to blow up jet fuel in a residential neighborhood near JFK Airport in New York.

It is quite clear that it is imperative this Nation continue to be vigilant and keep these terrorist groups off balance, to keep our homeland and our allies secure.

I believe as the years go by, history will view the efforts of the U.S. Government favorably in keeping its citizens safe after the attacks on September 11, 2001.

President Bush made a bold decision. He took decisive action. A reorganized intelligence community that Senator BOND talked about was put in high gear and has dramatically improved our intelligence concerning terrorist groups. We were not where we should have been. We are still not, but we are dramatically improved. The FBI has dramatically changed its mode of operation from mere investigation after an attack to preventing further attacks. Unprecedented cooperation with and assistance from State and local law enforcement has raised our defensive capabilities and our intelligence-gathering networks manyfold. It is tremendous the improved relations we have with State and local law enforcement, and there are many more of those officers than there are Federal officers.

For 7 years, we may thank the Lord and the hard work of so many that this Nation has remained free from terrorist attack. Will it continue? We may all pray that it will, but we know we remain at risk. We know for decades to come there will be some in this world who are willing to even give their lives to attack free nations around the world.

We must remain vigilant. We must not forget what we have done wrong in the past, how we refused to recognize the reality of the threat, as the 9/11 Commission so clearly reported. But we must also not forget how going on the offensive, destroying the bases of operation of the radical Islamic networks, of attacking their military infrastructure, of attacking their soldiers, of capturing thousands and killing thousands of their operatives has made us safe and have put the terrorists on the defensive.

Despite what some say, these efforts have gained worldwide support. The terrorists are losing support throughout the world. Al-Qaida made Iraq the central front against the United States and poured people into that country. But they made a bad decision to challenge the magnificent, courageous, and lethal U.S. military.

Recent reports have declared that al-Qaida in Iraq has been decimated. There may still be some left, but the power of that network that 2 or 3 years ago existed has been decimated today, most experts say.

So let's remember what we have done right. Also, we must keep these efforts up because it may well take decades before we will be victorious in this effort. If we remain firm, if this Nation continues to be smart, determined, and dedicated, their doom is sure. This group cannot defeat us. They may succeed with an attack here, they may succeed with an attack there, but if we have the will, if we have the courage, if we have the maturity, if we have the determination to remember those heroic people who started this war defending this very Capitol Building, who gave their lives in Pennsylvania for us—and we will honor their memory and honor the memory of those in New York City and honor the memory of those in the Pentagon and on the ship, the USS *Cole*—we will honor them by being firm, being faithful. We will be successful.

I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

SEVENTH ANNIVERSARY OF THE 9/11 ATTACKS ON AMERICA

Mr. BROWN. Mr. President, 7 years ago today 19 people conspired to kill nearly 3,000 people in our country. It was by far, as we know, the most deadly civilian attack ever carried out on American soil. The images and sounds from that fateful morning continue to haunt us. As we continue to mourn those lost that day, today flags fly at half-staff in their honor. They were men, they were women, they were children, they were people of various nationalities and faiths. They were firefighters and police officers and emergency medical services personnel. They were investment bankers and convenience store clerks. They were attendants and pilots.

Four of the victims were Ohioans: Wendy Faulkner from Mason; William David Moskal from Brecksville; Christina Ryook from Cleveland; LTC David Scales from Cleveland.

We should remember these names represent lives cut needlessly short. We should remember the families who will forever miss them. We should remember the EMS personnel, the police officers and firefighters who responded to the attack when these names represented perfect strangers—perfect strangers whose circumstances met the simple criteria first responders use to determine when to take action: Someone needs help.

Hundreds of first responders risked and, in many cases, sacrificed their own lives to save others. So many of them died, so many of them were injured, so many of them have suffered illnesses as a result of their actions.

First responders in Ohio and all across this country continue to stand at the ready every day, ready to protect our families, ready to protect our communities at a moment's notice, and every day in this country they are there when buildings burn, when accident victims need treatment, when expectant mothers go into labor unexpectedly, when citizens need rescue. When other civilians are running away, they are running in.

It is nearly impossible to see today's date and not think back on the attacks of 7 years ago. But let's be sure to do more than to recount the images, the sounds, and the conversations that define our own personal experience of September 11.

Let's also remember and honor the heroic first responders, the innocent victims, and the victims' families left behind. Let's never, Mr. President, forget.

I yield the floor.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Mr. President, this morning 7 years to the minute since the terrorist attacks on the Nation, I attended the inauguration and dedication of the Pentagon Memorial. There have been countless personal memorials over the years. The Pentagon Memorial is America's first national memorial to those who died on that heartbreaking day. It is a beautiful, peaceful patch of land on the very spot where American Airlines flight 77 smashed into the west wall of the Pentagon. In that quiet place, there are 184 stainless steel benches, one bench for each of the 184 innocent victims who died at the Pentagon and on that plane that struck it 7 years ago today.

Thousands of people were at that ceremony this morning marking the dedication and opening of the Pentagon Memorial. They, of course, included the President and Vice President, the Cabinet, leaders in Congress, top military leaders, scores of Members of Congress, along with the survivors of the Pentagon attack and rescue workers who were the true heroes of the day. Most poignantly, we were joined by hundreds of husbands, wives, brothers, sisters, sons, daughters, friends of the loved ones who perished at the Pentagon.

While 9/11 comes once a year, for 9/11 families, every day brings painful reminders of what and whom they have lost. Their pain is still heartbreaking.

It was the families of the Pentagon victims who spearheaded the effort to create the Pentagon Memorial. We all hope they can find some measure of peace and comfort in their fine work in the creation of this memorial.

Yesterday afternoon I had a chance to visit in my office with a man with a small company near Chicago, IL, who worked for over a year to finish and polish the 184 stainless steel benches that make up the Pentagon Memorial. He lives and works in Elk Grove Village in Arlington Heights, and his name is Abe Yousif.

Abe came to America 29 years ago from Iraq. Abe's beautiful wife Angela moved to America 27 years ago, also

from Iraq. The 23 employees of their little company, many of them are immigrants, too, from Mexico, Bosnia, and many other countries.

For more than a year, they have worked for this day when there would be an official opening of this Pentagon Memorial. Their job was to take these raw metal benches, 184 of these benches, and polish them as smooth as glass. Abe calculated for me the amount of time he and his employees put into this work. They worked nearly 17,000 hours grinding and polishing these stainless steel benches, transforming them into perfectly uniform, flawlessly smooth memorials.

Abe and his workers hoped that by making each bench perfect, they might be able to give something back to a country that has given them so much. They hope that the calm, clear lines of their work might bring a sense of healing to a wounded nation and bring some beauty to a place scarred by tragedy.

Many people will look across this memorial. They will see these finely polished stainless steel benches and assume somewhere there was a machine that just churned them out. No, it was the hard work and sweat of Abe Yousif and his employees who took this on not just as another project but as a project of love.

When I think of 9/11, I recall, as every American does, what I was doing. I was just a few steps away from here in the Capitol Building in a meeting of the Democratic leadership with Senator Tom Daschle. The meeting had just started when we heard about the planes crashing into the World Trade Center in New York.

As the meeting continued, Tom was handed a note that we were going to have to evacuate the Capitol. We looked down The Mall toward the Washington Monument and saw black, billowing smoke coming from across the river. We didn't know what happened. We thought perhaps a bomb had been detonated. In fact, it was American Airlines flight 77 that crashed into the Pentagon causing so many deaths of so many innocent people.

We evacuated and raced to the yard outside the Capitol, people milling around not knowing where to turn. We heard the sonic booms from jets that were being scrambled and wondered if there were detonation of bombs or something worse. We just didn't know.

One of the staffers I had at that time was Pat Sargent. Pat is an officer in the U.S. Army. Occasionally, the Army will detail some of its professionals to work on Capitol Hill for a short time. Pat was terrific, one of our best employees. But he had a special interest in the Pentagon that day because his wife Sherry, also in the U.S. Army, was working there.

When Pat heard about the smoke and damage at the Pentagon, he raced out to catch the last commuter bus that runs between Capitol Hill and the Pentagon, the last one to make it across the bridge. He was desperate to find his wife.

He went there, and there was a sea of humanity, of people who evacuated the Pentagon lined up on the hills around it. He searched and searched until he finally found her, and she was safe. That was the good news of the day, along with the tragedy that so many of her fellow workers had died.

Sherry had been in the room near the spot where that plane crashed. She lingered for a moment to watch the scenes of New York on television while some of her fellow workers went back to their desks. Those workers perished when the plane crashed into the Pentagon. She was spared.

Of course, they appreciate the heroism of those who responded, and all the memorials that were given to this country, but I want to give a special tribute to Pat and Sherry and their daughter Samantha for their dedication to this country. You see, when Pat left my office, he continued to serve in the U.S. Army. He is in Iraq today in a command position with major responsibilities for the medical care of our troops and the people of Iraq. He is a true American hero, as is his wife. They have given so much to this country.

I thank the Lord that they were spared that day; that they were able to continue in their service to the country, along with so many others, but I do remember those who worked right alongside her who were not so fortunate. That is what our gathering was about today. Every year on September 11 we remember the horror and shock of that day and the grief that followed. But we remember something else. We remember the tremendous sense of unity that enveloped our Nation.

Buck O'Neill was a man who was legendary in the Negro League as a baseball player. Of course, in those days, a Black man couldn't make it to the majors. He became a scout for the Chicago Cubs and signed, among other people, Hall of Famers Ernie Banks and Lou Brock. In 1962, he became the first African-American coach in Major League Baseball history. He wrote a newspaper column. He has passed away now, but he wrote a newspaper column about a year after the 9/11 attacks, and he said:

> One thing about it is, the attacks brought us together. For a little while there after September 11, it didn't matter if you were Democrat or a Republican. It didn't matter if you were white or black. Yeah. We were Americans. We gave blood. We gave money. We cried. We all cried. That's the America we can be. This is a wonderful country.

He remembered from his youth some hateful things that were done to him because of his race. He said:

> When I was a young man, I used to see the way hate ripped this country apart. A man would hate me just for the color of my skin. I didn't feel angry. I felt sorry for that man. I wanted to say to him ''Don't you know how great America would be if we could all just get along?'' That's what I saw after September 11. We all got along. I wish we could hold on to that feeling.

There were strong emotions today at the Pentagon, I am sure in New York, in Pennsylvania, and across the Nation as we remembered the seventh anniversary of 9/11. But let us remember 9/12. Let's remember this Nation when it did come together with its allies around the world, the strength that we felt here at home, and the projected strength we felt around the world. Those days can return, and they should return. It is up to each and every one of us, whether we are elected officials or people going to work every day to raise a family, to do our best to make that spirit of coming together after 9/11 return.

Mr. President, I yield the floor.

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

Mr. MENENDEZ. Mr. President, I rise today to commemorate those whom we lost on September 11 of 2001, to remember how our Nation responded to the pain we felt that day with a towering display of heroism, and to urge us to rededicate ourselves to making sure we never have to experience terror on our soil again.

That day, the families and friends of nearly 3,000 Americans got the worst news imaginable, and almost 700 of them were from my home State of New Jersey. They were from all walks of life. We lost mothers, fathers, and children. Brothers lost their sisters, neighbors lost their friends. Today in New Jersey, you can go from town to town—from Englewood to West Windsor, Toms River, Mantua, and Hoboken—and you can see a ceremony in each one. Families in those towns are laying flowers on the gravestones and monuments and holding tightly one more time onto the pictures of the ones they lost.

So many communities were affected in so many ways, not the least of which was the American community. It felt as if it was a day when there were no borders between us. Terrorists tried to engulf us in the smoke of fear and hatred. For a moment, we felt like the whole world went dark. But the light of heroism burst through. Individuals rushed into burning buildings risking their lives to save others, strangers opened their homes to help people they didn't even know, and men and women all over the country rushed to give whatever they could to help those in need.

It was a day when we learned the meaning of Oscar Wilde's words when he said: ''Where there is sorrow, there is holy ground.'' It was a day when it didn't matter what part of the country you came from, what your family background was, or anything else. It was a day when we all stood together as Americans. People from all over the world said: We are Americans today.

There was a time when the events of September 11, 2001, gripped us so strongly that our minds couldn't focus on anything else. Yet 7 years later, we

have to talk about the dangers of forgetting. We have to talk about the dangers of forgetting, because 7 years later our obligations have not gone away.

Our obligations have not gone away to those whom we lost, and to their families and those who survived the attacks but came away injured. For them, it has been a long and heroic struggle to get by and find some sense of normalcy. People who ran out of burning buildings, the firefighters, EMTs, and other rescue workers who ran in, all breathed thick air as they were saving lives. Today, they are reminded of what they have to face with literally every breath they take. We think about them very deeply today, but those heroes triumph every day. Their supply of courage has never run out, and we can never walk out on them.

So not forgetting means caring for those whom we lost, and their families, and remembering them. But it also means caring for those who were made ill because of the attacks. Not forgetting means supporting all the heroes, paid and volunteer, who risked their lives to save others. Not forgetting means securing our ports, chemical and nuclear plants, so we don't have to experience another horrendous tragedy in the future, getting Federal grant money to our communities based on the risks they face, getting firefighters the funding they need for new equipment and increased personnel, and making sure our first responders can talk to each other during an emergency. And let's be very clear: Not forgetting means destroying the terrorist network that planned the attacks and bringing those responsible to justice.

Today, September 11 of 2008, we remember what has been lost, and we find strength in what we still have. No amount of time can ultimately heal what has been seared into our hearts and minds since September 11, 2001. But those wounds continue to drive us to make sure that no New Jersyan, no American ever has to experience them again. If we come together now, as we did on one of the darkest days of our history, then I believe our future can be filled with security, prosperity, and hope. On this day in which we remember that darkest day, we can see the light and our brightest days are yet to come.

Once again, my thoughts and prayers go out to the 700 New Jersyans who were lost on that fateful day, for their families who live with this for the rest of their lives and for which this day has an incredible resonance in their lives far beyond what anyone can imagine. But for votes here in the Senate, I would be in New Jersey today, and I wanted to take to the floor to let them know that we are one with them on this most sacred day.

CONCLUSION OF MORNING BUSINESS

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that all time for morning business be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3001, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 3001) to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities for the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Reid amendment No. 5290, to change the enactment date.

Reid amendment No. 5291 (to amendment No. 5290), of a perfecting nature.

Motion to recommit the bill to the Committee on Armed Services with instructions to report back forthwith, with Reid amendment No. 5292 (to the instructions of the motion to recommit), to change the enactment date.

Reid amendment No. 5293 (to the instructions of the motion to recommit the bill), of a perfecting nature.

Reid amendment No. 5294 (to amendment No. 5293), of a perfecting nature.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the previous order with respect to the prohibition on a motion to proceed remain in effect during today's session.

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

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

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

Mr. SESSIONS. Mr. President, we had an announcement yesterday by the Secretary of Defense on the procurement question for the tanker for the U.S. Air Force that is very disturbing and disappointing to me. Basically, the history of that was that the Secretary and the U.S. Air Force had evaluated the two competing bids and had selected the Northrop team's bid as the best aircraft and best buy for the country.

The GAO, Government Accountability Office, reviewed that and said the Air Force had made errors. I did not think great errors, but they said there were errors and they ought to review the process. The Secretary of Defense said he, in effect, was disappointed those errors had occurred and he personally would take the process under the Department of Defense's jurisdiction and he would direct individuals to evaluate the two bids and to make a decision on what the best aircraft would be and the best buy for the American warfighter.

Remember that the Air Force had declared that replacing the 50-, 60-year-old tanker fleet was their No. 1 priority in the entire U.S. Air Force. For those of us who know about the Air Force and know how much they like fighters and those kinds of aircraft, for them to say that was a significant thing. So we were proceeding along that path. Secretary Gates said he was going to do it fairly and objectively, and he would do his best to complete the process by the end of the year. So his announcement yesterday that they could not complete it at the end of the year, that there has been controversy about this, and that he would, therefore, put it off and cancel the bid process and let the next Congress and next President deal with it was a bad mistake. It was contrary to what he had said in the country needed to be done a few months ago.

I think this is a matter he made a mistake on. I respect Secretary Gates. I was pleased when he stood up and said: We need this tanker. We need to get this done. We are going to get it done. I am personally going to be responsible to ensure it is done right and fair. Then, to walk away from that, and to leave the impression the reason that occurred was because of a political brouhaha going on, and Members of Congress fussing here and there and making comments was doubly disturbing.

My view has always been the Department of Defense ought to pick the best aircraft, and I thought they had when they chose the plane they did. I will note the aircraft Northrop Grumman/EADS had offered was 16 years newer than the aircraft Boeing had submitted, it would have much more capabilities, and was a better aircraft. That is what it was, and that is how it was selected. The Northrop team submitted a very frugal bid, and even though it was an aircraft that had more capabilities, it was very competitive or lower on price. So I thought we were heading in the right direction.

I will note for the record I was involved in this early on. When Senator MCCAIN questioned a lease agreement that was entered into with the Boeing company, he felt something was not healthy there and he objected. It was going to release 60 of these aircraft. They had not been bid. It was a sole-source contract. It did not go through the Armed Services Committee. But it was actually done through the Appropriations Committee without the

Armed Services Committee studying the issue or looking at it. After all that happened—and it is unfortunate people went to jail over it in the Air Force, and others—we ordered, the Congress did, that a bid process take place. There were two bidders. Only two entities could supply this kind of aircraft. The Air Force selected the one they thought was best.

Some people did not like that, and we had a big fuss, and now we are at a position where we could literally be looking at a delay of 2 or 3 more years. It has already been delayed about 7 years. This is very disturbing and very concerning to me ultimately because the Air Force is going to be further delayed, substantially, in a new aircraft being chosen and put into the fleet. It can save money in the long run because it will be newer, require less upkeep and maintenance, carry more fuel, and it has more capability. It can do the work of three airplanes at once.

I know Senator WARNER and others on our committee, when this issue arose—Senator LEVIN and Senator MCCAIN—felt that a bid was the right thing to do. We ordered that we pass legislation to do that. I am sorry the Defense Department seems to have given up and punted it. Many are estimating this could result in a delay of 3 years before the matter comes to a conclusion now.

Mr. WARNER. Mr. President, if the Senator will yield, actually it was a series of appropriations. The committee approved it in the House and the Senate—the House Armed Services Committee. When it came to our committee—at that time I was the chairman—we decided this contract was not right, and a lot of work subsequent to that has been done to try to correct it. The Deputy Secretary of Defense contacted me yesterday. I look upon this latest development with some concern because this airplane is needed for the U.S. inventory.

But I thank the Senator for his support through the years. It was our committee that stopped that contract which we felt was faulty at that time, and the rest is history.

Mr. SESSIONS. I could not agree more, I say to Senator WARNER. I thank the Senator for his leadership at that time. Basically, it did point out, did it not, I ask Senator WARNER, that the authorizing committee is a valuable committee and that those kinds of major programs should be taken through the committee of authorization? Would the Senator agree to that as a matter of historical perspective here in the Senate?

Mr. WARNER. Mr. President, I share the views of my distinguished good friend.

Mr. President, I have been informed—and I will await the leadership to make the formal announcements—but I do believe we are going to move to some votes, hopefully, this afternoon on our bill.

Mr. SESSIONS. Very good.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I further ask that at the hour of 12:30, the Chair declare a moment of silence.

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

MOMENT OF SILENCE FOR THE VICTIMS AND FAMILIES OF THE SEPTEMBER 11, 2001, TERRORIST ATTACKS

The PRESIDING OFFICER. Under the previous order, the Senate will observe a moment of silence in memory of the victims of the September 11 attacks.

(Moment of silence.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SCHUMER. I ask unanimous consent to be recognized and speak for a moment on this day, 9/11.

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

Mr. SCHUMER. Mr. President, we just commemorated a moment of silence for those who were lost on 9/11. Of course, for the husbands and wives, sons and daughters, fathers and mothers and friends, that moment of silence, in a sense, lasts every day, every moment.

In New York, of course, we lost close to 3,000 people. Some people I knew—a person I played basketball with in high school; a firefighter I was close to and worked with to encourage people to donate blood; a business man who helped me on the way up; the range of people who were lost in every walk of life, every ethnic group, every profession, in every way of thinking. The enormity still, 7 years later, is hard to have it sink in. Furthermore, when one thinks of just the uselessness of this tragedy, it is even more confounding.

There are many things to say in the advent of 9/11 that would be relevant on this floor, but today is not the day for that. Today we just think and remember and try to do everything we can to give solace to those we know who mourn and will mourn for the rest of their lives the senselessness of this tragedy that took loved ones from them.

So I just wish to say to those who do walk around with holes in their hearts as a result of 9/11: We will never forget.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, if I may just for a moment echo the comments of the Senator from New York, this morning I watched on television the ceremony at the Pentagon. As I watched the calling of the names, a photo flashed on the screen of each individual. What you saw were young military men, you saw a lieutenant colonel, you saw the faces of whole families wiped out, young people, older people, you saw every race. In a sense, when you looked at the benches and the water flowing under the benches and the maples that will grow around them, as you listened to the sad song of the pipers, you realized what a great country this is and how we respect every single human life and how important that is; also, how important it is that the message remain true, that the message remain full of heart but also full of vigilance that this must never happen again in our homeland.

So I wish to join Senator SCHUMER and send our best wishes, our sympathy, our sorrow to these families 7 years later, and our thanks to those who gave their lives in the Pentagon.

I had a chance to sit down with the family of a captain of the American Airlines plane that flew into the Pentagon. It was very revealing because at the time they were convinced it was the heroic gesture of this captain in turning the plane away from the U.S. Capitol that played a role. I want them to know that I was thinking of them both during the Pentagon ceremony and the ceremony in front of the Capitol.

So all those victims remain in our hearts and in our minds, and we consecrate ourselves to work on their behalf.

Thank you very much, Mr. President.

Mr. DOMENICI. Mr. President, I rise today to pay tribute to the innocent Americans who were killed in the terrorist attacks of September 11, 2001. I ask that we commemorate the emergency responders who provided relief in the aftermath of the attacks. I also ask that we salute our brave men and women in uniform who have volunteered to serve their country in this time of need. Not to be forgotten are the families who support our troops and the families who lost loved ones on this tragic day; to them we must also pay tribute.

We should continue to remember the family of Al Marchand from Alamogordo, NM, a flight attendant on United Airlines flight 175 and one of the first casualties on that horrific day. He and his family remain in my thoughts and those of my fellow New Mexicans. Since that day, many New Mexicans have volunteered to serve their country by entering the ranks of our Armed Forces. Some of these brave men and women today live with the injuries and scars they received in this fight. Sadly, some lost their lives in

this war to protect our way of life. I pay tribute to Army SSG Kevin C. Roberts of Farmington, NM, and Army SGT Gary D. Willett of Alamogordo, NM, the two most recent casualties from New Mexico in the ongoing global war on terror.

Seven years have passed since al-Qaida terrorists struck our homeland. Yet even after 7 years, threats against our country still exist. We must continue on with vigilance and remain dedicated to the protection and security of our great Nation. Even now, the images and shock of that day are still with me. And while I am, years later, still saddened by our losses, I am also heartened by all the heroic acts of our citizens in what was the most shocking attack on our homeland. In the months following the attacks, our brave men and women in uniform toppled the regime in Afghanistan that provided a base of operations for the terrorists who carried out the 2001 attacks. We helped that country establish a democratic government and are working with allies in NATO to bring peace and stability to a country that has spent much of its recent history in the mire of civil war. It is a dangerous mission that continues today.

One of the important lessons that political and military leaders learned from the 2001 terrorist attacks was that America cannot stand by idly as threats to its security develop far from our shores. This required our intelligence and law enforcement agencies to work with friends and allies around the world and with each other to gather actionable intelligence that would help us disrupt terrorist plots at home and abroad. To help consolidate our domestic defense system, the Congress created the Department of Homeland Security. The Department of Homeland Security was organized to prevent attacks within the United States, reduce America's vulnerability to terrorism, and to minimize the damage and assist in the recovery from terrorists' attacks in America. The Congress also followed the recommendations of the National Commission on Terrorist Attacks Upon the United States—the 9/11 Commission—and passed historic legislation that reformed the agencies that make up our intelligence community. While these reforms were important and necessary, the disruption of a recent plot to hijack planes flying from London to the United States, shows us that our enemies are still bent on bringing terror into our cities.

Many of my fellow citizens from the State of New Mexico have contributed to strengthening our defenses in the global war on terror. An urban rescue team traveled from New Mexico to Virginia to help recover survivors from the ruins at the Pentagon. Sandia and Los Alamos National Laboratories helped identify the strains of anthrax that were found in government and office buildings shortly after the terrorist attacks. They helped develop a biological threat detection system that was deployed at the 2002 Winter Olympics, the 2004 Summer Olympics, and in locations around our Nation's Capital. The National Labs have also been at the forefront in developing tools to detect and dispose of materials that can be made used as a ''dirty bomb'' or other weapon of mass destruction. Finally, the National Infrastructure and Analysis Center, NISAC, is being used to develop response strategies for government officials and first responders for large and complex crises.

Over the past 7 years, we have learned a good deal more about how the attack was planned and executed, and we have spent countless man hours and resources to make our Nation safer. We can be proud of the fact that we have worked to implement most of the 9/11 Commission recommendations. We are more prepared as a nation for these types of dangers than we were prior to September 11, 2001, but this is a struggle that will not end with the same clarity and decisiveness of battles past. Therefore, even as we continue to adjust to a post-9/11 world, we must remain vigilant in our efforts to prevent such a tragedy from occurring on American soil again. I hope all Americans take time to reflect on the events of September 11, 2001, honor those that have fallen, and rededicate themselves for the struggle ahead.

Mr. MARTINEZ. Mr. President, 7 years ago, nearly 3,000 Americans perished in the worst terrorist attack on our soil. Today, let us remember the innocent lives lost in New York, Washington, and Pennsylvania and continue to pray for healing for their families.

The stories of their heroism, compassion, and last words spoken to a loved one all serve to inspire and remind us of the pain of that tragic day.

This anniversary is a somber reminder of the serious threats we face. Generations of Americans have fought for our country's freedom, and on this day, we can take solace in knowing our nation remains committed to preserving that blessing.

Since 9/11, the United States has led a global campaign against terrorism. Our Nation is safer because of the sacrifices of those serving in the cause of freedom, including the men and women of our Armed Forces, our National Guard, and our intelligence communities.

Our effort has been enhanced by the cooperation of allied nations that share our desire to see a world dominated by peace, freedom, and the rule of law.

On this day, let us remember those Americans who lost their lives in the attacks of 9/11, those who have made the ultimate sacrifice in defense of our country, and those who continue to defend our Nation today. God bless these individuals and their families, and may God bless America.

Mr. FEINGOLD. Mr. President, today, like any other day, Americans will be busy getting to work, getting the kids off to school, and getting dinner on the table. Despite all those demands, however, today Americans will also pause to remember, with deep sadness, the terrible events that occurred on September 11, 2001. We are united by that sadness, just as we are united by our conviction that we must do everything in our power to prevent another such tragedy.

Our common purpose today is to honor the memory of those who lost their lives on September 11, 2001; to remember a day that began like any other, but quickly descended into chaos, with fire and smoke that engulfed the World Trade Towers, billowed out of the Pentagon, and rose from an empty field near Shanksville, PA. But 7 years later, we not only remember what was lost, but what rose from the ashes, because since that day we have all learned a great deal about the strength of the American people. September 11 reminds us how resilient we are as a nation, and in a time when our Nation faces so many challenges at home and abroad, that reservoir of strength is invaluable.

It is with great pride in the American people, and deep gratitude to people around the world who stood with us on that day, that I remember that day, and its aftermath. I have so often thought, then and now, how senseless those attacks were, and how people from all over the world perished alongside so many Americans. It is our great diversity of every kind—of our people, our culture, our geography—that makes us such a strong and vibrant country. No act, however terrible, has ever changed that, or ever will.

This is a difficult day for all of us, but especially for those who lost loved ones on that day. We share in their sorrow, even though we cannot imagine their pain. In a day that may otherwise seem ordinary, we are all jolted back to the tragic events of that day in September which began with such calm, blue skies. It was a day unlike any we have ever known and unlike any we hope to see ever again. Seven years later, however, it is heartening to see how we have moved forward from that tragedy. More than ever, we are committed to our communities, to each other, and to this great Nation and its highest ideals. That is where our resilience lies, and, on this day of all days, that is what makes us stronger as a nation and as a people.

Mr. SALAZAR. Mr. President, on this day of commemoration, 7 years after the attack here on American soil, I think it is very important and proper for all of us here in the Senate and all across America to stop and reflect on the great peace and security we have in America; the fact that there are so many policemen and first responders and others who make sure America remains safe.

And to be sure, today it is important for us to remember those who gave their lives on 9/11—those who died in the field in Pennsylvania, and those who died at the Pentagon and in New York City.

It is also important, as we reflect on 9/11 and the events of, now, 7 years ago, to recognize the more than half a million men and women who wear the uniform of a firefighter or a law enforcement officer in our Nation. These men and women who are out there on the front lines of law enforcement really are the ones who keep America safe day and night, 24 hours a day, 7 days a week. We are able to live in the security of our homes, our communities, and counties in large part because we have more than half a million men and women who are out there every day making sure the laws of the Nation are upheld.

So today, as we commemorate that horrific tragedy of 7 years ago, it is important that we commemorate the lives of those who gave their lives that day and the lives of the families of those who died and were hurt that day. It also is important for us to recognize the great sacrifice and contribution of the men and women of law enforcement of America as well as the firefighters and first responders of our great country.

Mr. LAUTENBERG. Mr. President, today is a time for reflection and review of a particular moment in American history that is not yet fully established in the manner I believe it should be. America changed more on this day 7 years ago than perhaps at any other time in our history, save those moments we were at war. But the effects that linger on are far greater than those when we were engaged in wars or experienced natural disasters.

Our world has changed so much since that day, September 11, 2001, because we are reminded every day at some point in time, sometimes several points in time, about what changed. Our freedoms were substantially chipped away. One can't go anyplace—and this affects all ages, including our young friends who are pages this year—without having an ID card, without waiting in long lines, such as with transportation at an airport, without seeing uniformed personnel all over, keeping an eye out for terrorists, unable to move with the same freedom we knew before 9/11.

Though it is 7 years ago that this terrible catastrophe happened, the fact is, on this day, as with any other day, I stopped to have my car examined. I had the dogs sniffing around to see if we were carrying anything that might represent a threat in our vehicles. Much of it started with 9/11.

Today we mark the seventh year since America experienced the worst terrorist attacks in our history. We as a nation honor the memories of the Americans who died on that tragic day. We mourn with 3,000 families, including 700 families from New Jersey who lost loved ones. Over the past 7 years, wives, sisters, husbands, and sons have worked to rebuild their lives, their families, and their futures. They came from every walk of life, from every economic background. They have forged ahead despite the uncertainty of what tomorrow would hold.

As one 30-year-old widow from Middletown, NJ, put it: There is no guidebook for how a mother of a toddler whose husband was killed by terrorists is supposed to carry on with her life.

There is no instruction that is satisfactory. There is no help that is fully accommodated. But these folks have carried on. Many have done it by joining together and giving each other hope. They came together to trade stories about their lives, about the men and women they lost, to drive each other to support groups, to pick up each other's kids from schools, to celebrate birthdays, and to fight for a shared cause. Remember, it was the families of the victims who regularly piled into the minivans, came to Washington, pushed lawmakers to create the 9/11 Commission. Despite the shock they experienced and the sadness they still felt, they were committed to the future, to try to make sure that a tragedy such as this would never happen again to anyone.

That commitment led to crucial policy recommendations, such as improvements in port security and sending Federal funds to cities and towns based on the most vulnerable to terrorist attack. We had debate on the Senate floor about whether port security funds would be distributed on the basis of risk, as recommended by the 9/11 Commission, or distributed based on politics. We fought and made sure in the last couple of years to direct those funds to areas of most vulnerability.

I was once, before I came to the Senate, commissioner of the Port Authority of New York and New Jersey. I worked in the World Trade Center. I remember vividly traveling to my office on the 67th floor of the Twin Towers and looking out at the views from those towers, thinking about how invincible those buildings were, built with steel, concrete, a great design, a hundred stories high. Nothing, you believed, could ever happen there that would provide some insecurity for those who were working in the building. I remind everybody that we had a terrorist attack on the World Trade Center some years before 9/11, when people drove a truck loaded with explosives into the garage of the building, and it was detonated with great damage. But the building stood firm. Nothing could shake the well-being of that structure. But then we saw something different.

I got to know many port authority employees who perished when those massive towers collapsed. The port authority lost 84 of its own that day, including 37 members of the police department who died as they tried to rescue others, people who ventured into the dust and the heat and the destruction of the building trying to help others. They gave their lives, knowing very well that the position they were taking was one of great vulnerability, but they did it in any event.

Among the people lost was a very close friend of my daughter. Both of them worked downtown in a financial firm. My daughter left to go to law school, and her friend went to work for a company called Cantor Fitzgerald. She had three children. Her husband searched far and wide, from hospitals to clinics, every information source available, because he couldn't believe his wife was gone, that the mother of his children would no longer be there. After 3 weeks, after visiting all of the facilities searching for every bit of information he could find, he and his three young children were forced to accept her death.

There was a young man I knew, very energetic young man. He tried life as a golf professional. He learned computer skills. His name was Nicholas Lassman. He was still in his twenties. He described his enthusiasm to me one day about how he was looking forward to a new job that he had at the Trade Center. He perished that day.

We will always remember those who died, the firefighters, computer programmers. The firm, Cantor Fitzgerald, lost 700 of its employees that day. It is a firm I know very well. The President and CEO of that company, a very charitable, wonderful, still young fellow, whose lateness saved his life because he had to take his daughter to school, lost 700 others—700—including his brother and a lot of friends. This was a fellow who believed in loyalty as a trait above all for people in his organization. So he hired a lot of his friends from the place he grew up. I believe it was Brooklyn. Thusly, not only did his brother die, but lots of his friends perished during those same tragic moments.

The people who died left a loss that binds our Nation, and today, in New Jersey and across this country, we are honoring them in many ways.

There are events in New Jersey, events we saw this morning at Ground Zero. We had our moment of silence and our gathering together outside to hear some prayers and to listen to some music that reminds us of the greatness of our country.

In the city of Bayonne, we remember them at a monument called the Tear of Grief because Bayonne is one of those cities along the Hudson River from which lots of people commuted to the World Trade Center. The World Trade Center each day would see more than 50,000 people come there. It was like whole cities across our country. That is how big those buildings were. People would come—a lot by train, a lot by subway, by all kinds of means—who would come from all around the area to go to work or to have meetings there. So these are communities that are along the river, such as Bayonne.

Hoboken I was there at the dedication of a little park along the waterside that is called the Pier ''A'' Park. In Leonia—another town along the way—we remember them with two

granite towers that stand there as a reminder. In Jersey City there was a memorial put there called the Grove of Remembrance in Liberty State Park, just under the shadow of the Statue of Liberty—historic places.

But the best monument to those who died that day is to learn from the experience and to bring those perpetrators to justice and make our country safe. After that group of madmen destroyed the World Trade Center and damaged the Pentagon, we vowed to search for those who orchestrated these terrible acts and to make them pay for their atrocious deeds. But we know they are still out there. In fact, 2,558 days since 9/11, terrorism is on the rise, more threatening, perhaps more obvious than at any time, more obvious than at any time predating 9/11.

Terrorism is there challenging us in places around the world, especially in our own country here. Al-Qaida is on the move. Osama bin Laden is still on the loose. What has happened? We have to continue the pursuit of these perpetrators so we can say to the people who are innocently living their lives that they need not be worried about a terrorist attack. But we have not done that yet. We still have to continue our obligation.

We have a ruthless enemy out there, one whose front line is our homefront. The stretch from Port Newark, NJ, our harbor, to Newark Liberty International Airport is defined by the FBI as the most dangerous 2-mile stretch in the country that invites a terrorist attack. I say, again, we had to fight to get funding to protect to the fullest extent we could that area, that target that, if attacked, would injure or kill as many as several million people. It is a highly populated area, with a big chemical manufacturer there. We had to have assistance from the Federal Government to make sure we mounted as much protection as we could.

On the anniversary of 9/11, we commemorate the memory of those who perished 7 years ago, and we stand with their families whose future is our cause. It is critical for their future, for their families, our families, that we continue to protect the country the victims died for, the loved ones they left behind, and the freedoms they hold dear.

I yield the floor with a thought as to the pictures I saw of what the reaction was from people around the world when they saw the attack on America that day. One picture was taken in Israel, a very dear, vital friend to America. In that little country, that tiny country, people were weeping for America, crying giant tears—this small country for the giant—to put things into perspective to understand how this attack menaced everybody in the world no matter what their distance was from us, that they cried for America. We must not permit such an act of terrorism to happen again.

Mr. SMITH. Mr. President, on an otherwise beautiful September morning 7 years ago today, our Nation experienced the greatest of tragedies. The United States was brutally and deliberately attacked. Terrorists took innocent American lives on sovereign American soil.

This tragedy was brought to our shores by those who seek to destroy the American dream. The perpetrators declared war on the clearest symbols of our way of life: The Twin Towers in Manhattan, the center of American capitalism and prosperity; the Pentagon in Arlington, VA, a building that represents the strongest guarantor of freedom in history. A third target, either the White House or the U.S. Capitol, was spared only because of the brave and selfless passengers aboard United Airlines Flight 93, which crashed near Shanksville, PA.

The Civil War once tested the survivability of a nation founded on the concept that every citizen is endowed with fundamental freedoms. In the 7 years since September 11, we have tested America's devotion to these founding principles, bringing to this body a debate over where to draw the line between protecting liberties and preventing another attack. As a nation, I believe we have found a balanced solution to this challenge. And when we remember and defend the truths our founding fathers knew to be self-evident, we strengthen them for the next generation. We have done this all the while defending this great nation from another attack. And that is an accomplishment worth noting.

I know that in this hyper political season, we sometimes fail to see beyond daily politics and rhetoric. But it is my hope that as we continue to examine our freedoms in the context of fighting terrorism, we will not lose sight of what they mean for us here at home. This morning, President Bush dedicated the Pentagon Memorial in remembrance of 184 innocent Americans taken from us that morning. We do not identify the fallen as old or young, man or woman, black or white, Jewish or Protestant. We identify them as fellow Americans, all deserving of the same inalienable rights.

I thank and pray for our troops overseas, fighting to keep us safe here at home. I thank and pray for the survivors and families of those who have fallen in the defense of this great Nation. And I thank and pray for all those who remind us why this nation is worth defending. The United States will indeed persevere and will continue to serve as the finest example of a nation founded and dedicated to Liberty and justice for all.

Ms. SNOWE. Mr. President, on this solemn occasion in our national life, we pause with deep-seated reverence to remember and honor those who perished in the terrorist attacks on September 11, 2001, and we do so profoundly mindful of those families and loved ones whose lives have been forever altered by the heinous events of 7 years ago.

At this time, we share in the grievous anguish that will always exact an unbearable toll on those convening to pay homage to family and loved ones lost at Ground Zero in lower Manhattan, in Shanksville, PA, and in the Pentagon, where today there will be a ceremony, marking the official dedication of the Pentagon Memorial which will pay tribute to the 184 lives lost in the Pentagon and on American Airlines flight 77. Amid the arduous trial and pain that this date in our history evokes, we find mutual solace in the revelation that none of us grieves alone that, on this day, those whom we will never know are kept in our thoughts and prayers and that there are no strangers among us only Americans.

While we will never escape the unspeakable horror and inconsolable devastation that this anniversary represents to each and every one of us, at the same time, we cannot help but recall the countless remembrances of the indomitable spirit of the American people, who have, time and again, demonstrated a collective resilience and resolve to battle back despite inexpressible sorrow, and who have displayed a courageous summoning of purpose to move forward in the face of wrenching desolation. And so this year, as in times past, we face the indescribable inhumanity of those dark morning hours, but we are renewed and buoyed by the unfolding story from 2001 to the present of a resurgent nation that will overcome any adversity, no matter how perilous or daunting.

And nowhere is that inspiration, heart, and character more prevalent than in our recollection of the heroic sacrifice and noble devotion of firefighters, police officers, and rescue workers. The fearless and selfless example of seemingly ordinary Americans performing extraordinary deeds in the service of others will serve through time immemorial as an enduring and powerful testament that good will triumph over evil and that those benevolent forces that would seek to uplift humankind will ultimately prevail over those treacherous elements that would conspire to bring it down.

Time can never diminish the cavalcade of emotions we experience as we strive to comprehend how such vicious savagery could exist in the world and could be perpetrated so ruthlessly against innocent people. And those feelings only intensify when we put faces with names, and they become especially personal when we reflect upon Mainers whom we have lost—Anna Allison, Carol Flyzik, Robert Jalbert, Jacqueline Norton, Robert Norton, James Roux, Robert Schlegel, and Stephen Ward. Their lives were tragically cut short, but their memory is eternally etched upon our hearts.

As we confront once again these unforgivably grave and wicked injustices, we are also gratefully sustained by the supreme service and unfailing contribution of our exceptional men and women in uniform who protect and

defend our way of life. Whether on shores or soil here at home or around the globe, their steadfast sense of duty and bravery are an inspiration to us all, their commitment steels our determination, and their valor and professionalism steady our hand in an uncertain world.

Like every American, I vividly remember every detail of the morning of September 11, 2001, and how the day began with such beautiful blue skies, only to end with a nation grief-stricken and stunned in utter disbelief. In Washington, DC, I watched the images along with the rest of the world. Later, as the Sun set over the National Mall still capped by smoke billowing from the wound in the side of the Pentagon I joined my colleagues in the House and Senate on the Capitol steps in singing, ''God Bless America.''

We sang to send a message to the country and to the world that we would never be deterred that freedom is forged by something far more resolute than any act of terror a conviction that has only strengthened with each anniversary. While we extol those whom we have lost, we hold fast to the belief that the greatest memorial is to embrace all that we have retained as a nation from our inception and that the principles of liberty and justice and the primacy of self-government cannot be extinguished that we as a people will endure as long as we persevere shoulder-to-shoulder as Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, we have had two ceremonies today: one at the Pentagon and one on the west steps remembering what happened 7 years ago. I think everyone remembers what they were doing at that time 7 years ago. It happens that was the time I had the State chamber of commerce from my State of Oklahoma in. I was speaking with them. I remember so well being on the ninth floor of the Hart Building where we had a panoramic view. They were looking at me, and I saw all this smoke going up, not having any idea what it was. I actually witnessed what happened at the Pentagon.

Today as we think back, most of us know someone or have a friend who was killed on that fateful day in the greatest, most significant raid on our land in our country's history. Seven years later, we continue to fight for the oppressed and, more importantly, help the oppressed to fight for themselves. With our coalition of partners and allies, we continue to take the fight to the enemy of our place of choosing, keeping them there instead of here.

I had the privilege—and it really has been a privilege—to be in the area where the terrorists were, I think, more than any other Member. I have made some 18 trips, maybe more than that, to Africa, the Horn of Africa, Iraq, Afghanistan, and that area. We have taken away al-Qaida's base of operations, freedom of movement, forcing them into the no-man's land between Pakistan and Afghanistan. We have trained the Afghan National Army as they have grown to 65,000 troops. I am proud of this accomplishment. It was Oklahoma's 45th in charge of training the Afghan Army. I was over there, and I saw the pride in the faces of the Afghans as they were learning to defend themselves, learning to fight, learning to fight with dignity. We have trained the Afghan National Army as they have grown to 65,000 troops, and they are on track to meet their mandated strength of 82,000 by 2009.

We have defeated the Taliban in every encounter and have killed or captured over 60 of their senior leaders. We helped Afghanistan rebuild its infrastructure with over 1,000 bridges and 10,000 kilometers of roads. There are now more Afghan children in school than at any other time in history.

That is something we seem to forget, turning to Iraq, what is happening right now and the impact this is having in the Middle East where for the first time in the history of that country there are women going to school. They have been liberated from a tyrannical leader.

I was honored back in 1991 to be on what was called the first freedom flight. It was Democrats and Republicans. Tony Coelho was there and several others. But also the Ambassador from Kuwait to the United States was there. This was in 1991 at the end of the first gulf war. It was so close to the end of it that Iraq did not know it was over yet. They were still burning the fields off.

The Ambassador and his daughter—he had a 7- or 8-year-old daughter—wanted to see what their mansion on the Persian Gulf looked like because they had not seen it during the war. When we got there, we found it was used by Saddam Hussein for one of his headquarters. The little girl wanted to go to her bedroom and see her little animals. Saddam Hussein had used that bedroom for a torture chamber. There were body parts there.

During that period after 1991, many of us had the opportunity to look into the open graves, to see what a tyrannical person this was, hear the stories from firsthand observers who said people were begging to be dropped into the vats of acid head first or into the grinders.

Weapons of mass destruction were used on the Kurds up north, and hundreds of thousands of people were killed. The way he killed them with the type of gas, it was like burning yourself up from the inside. People described what the people went through.

Some on this floor and a lot of people on the campaign trail say no terrorists were in Iraq prior to the liberation. Evidence has shown the contrary. I say this because, first of all, if there had never been even a discussion of weapons of mass destruction, just the things that this guy had done to the hundreds of thousands of people was enough justification for going in. We, as a free nation, cannot allow that type of thing to happen.

Now we find, yes, there were terrorist training camps there. Sargat was an international training camp in northeastern Iraq near the Iranian border. It was run by Ansar al-Islam, a known terrorist organization. Based on information from the U.S. Army Special Forces, operators who led the attack on Sargat said it is more than plausible that al-Qaida members trained in that particular area. The Green Berets discovered among the dead in Sargat foreign ID cards, airline ticket receipts, visas, and passports from Yemen, Sudan, Saudi Arabia, Qatar, Morocco, and many other places.

Salman Pak was the name of another city there. That is where we found the fuselage of a 707. That is where they were training people—all the evidence was there—to hijack airlines. That was a terrorist training camp. That is in Iraq.

I don't think we will ever know whether the perpetrators of the tragedy 7 years ago today were trained in Salman Pak. I don't think there is any way of ever knowing that. Certainly, that is what they were doing at that time.

So in the aftermath of September 11 we have worked together to do things to preclude this kind of attack from happening—the PATRIOT Act, we created the Department of Homeland Security, the position of Director of National Intelligence to try to coordinate.

One of the things I remember when I came to the Senate from the House in 1994 is my predecessor was David Boren who happened to have been the chairman of the Senate Intelligence Committee. He said: I am hoping you may be able to do something I have never been able to do, and that is to get all these competing intelligence agencies—such as DIA and others—to work together. That wasn't happening until 9/11. That shock treatment is what it took to get people to work together. In doing so, we know many potential attacks on our country have been prevented.

When we look at what we are commemorating today and the people we know, the loved ones we lost, we recognize we have done some things we should have done before probably. Those of us who have traveled to Israel know they live from day to day not knowing if, when they are sitting in a coffee shop, it is going to blow up or when getting on a bus there are going to be bombs going off. They have learned to live with it. We now have

learned the lesson of 7 years ago. We have taken precautions. We have prevented attacks from happening. We have evidence of all kinds of things—water systems that were going to be contaminated—and we think of the tragedy of 7 years ago today.

If we look at the potential tragedy of an incoming missile hitting a major city in America, we would be looking at maybe 300,000 people. That is what it is all about now: making sure nothing of this dimension or anything else will happen again.

This is a very special day, and it is one that is very meaningful to most of us—I think to all Americans. One thing we can do is remember, remember that terrorists are still out there. I was asked on a radio show this morning: There are so many people out there saying, why don't you just forget this thing? That was 7 years ago. Why keep bringing it up? Why keep stirring it up? Why can't we get beyond that?

My response was we cannot do that because of what happened to so many people. But more importantly than that is this is a constant reminder. Every year we need to be reminded that there are terrorists still out there. They hate everybody who is in this building, and they hate this building. You think about what could have happened 7 years ago if those very brave people in Pennsylvania hadn't stopped what was happening. This dome, most likely, would not be here. It was an easy target. That is the reminder.

The terrorists are still out there. They still want to kill us. They are still cowards. They still have no country and they have no cause, except to destroy us. So this reminder is here today, and I just, at this time, want to pay homage once again to the families of all those who lost their loved ones in the tragedy that took place.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—Continued

Mr. AKAKA. Mr. President, I rise today to speak about the growing rate of suicide among Iraq and Afghanistan-era veterans. For all that is being done in this country to support our troops in battle, we must remember this truth: For many veterans, their battles do not end when they return from the war. Instead, war returns home with them and within them. That is a truth. Instead, they face an enemy that is hard to understand and harder to defeat. Their wounds and their enemy are unseen, but the reality and sometimes the deadly consequences of these invisible wounds cannot be ignored.

I am deeply troubled by the latest information we have received from VA. The number of veterans lost to the enemy of suicide is rising. Suicide among Iraq and Afghanistan-era veterans is at an alltime high. The most recently recorded year—2006—saw 113 Iraq and Afghanistan-era veterans lost to suicide, almost as many as we lost in the years 2002 to 2005 combined. This is disturbing.

Iraq and Afghanistan veterans are not the only ones suffering from service-related mental health injuries. Indeed, the number of veterans found to have service-connected PTSD is not just rising, it is rising several times faster than service-connected disabilities overall. Nor are suicide and mental health only a matter of concern among discharged veterans. Recent news reports show that suicides among Active-Duty soldiers are positioned to reach an alltime high, exceeding last year's record number.

Much is being done to protect and heal veterans with mental health issues. VA has expanded mental health outreach. The Vet Centers, run largely for vets and by vets, offer a safe haven and readjustment counseling. For those in desperate need, VA now operates a 24-hour suicide hotline. In the 1 year it has been operating, they have received tens of thousands of calls and performed over a thousand rescues of veterans about to take their own lives.

Unfortunately, these efforts are not enough. Veterans are committing suicide at a higher rate than their civilian counterparts. A recent RAND study found that nearly three out of four veterans in need of mental health care receive inadequate care or no care at all. This cannot be acceptable to a nation intent on protecting those who wear its uniform. More must be done in the days ahead, and not just by VA.

This Congress took an important step by passing the Joshua Omvig Suicide Prevention Act. But in the final weeks of this session, comprehensive veterans mental health legislation is still waiting for a vote in the House. Through S. 2162, the Veterans' Mental Health Care Improvement Act, which passed the Senate with unanimous support, Congress can do more to prevent veteran suicide. Congress can strengthen veterans' mental health care, outreach, support the homeless, services for families, and leverage community resources. I hope this critical legislation will become law before this Congress ends.

PTSD and other service-related invisible wounds are real injuries. They are also an enemy to veterans, to the families who support them, and to all Americans. It is not enough to bring our troops home; we must support them when the battle follows them home. It is unacceptable that veterans who come home safely later lose their lives to the enemy of suicide. We must do more to support those who have served us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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. 5413

Mr. THUNE. Mr. President, I rise today to speak to amendment No. 5413. I hope at some point to be able to call up that amendment and perhaps have it either included as part of the managers' package or have it debated and voted upon. Let me explain a little bit about the history of this and why I think this is so important to our Nation's military.

The Defense Department authorization bill we have before us is a critical piece of legislation that we need as a Congress to deal with before Congress adjourns. We have done that for the past 42 years. It sets the policy and the framework and funding for matters that are important to our men and women in uniform and important to making America safe and secure as we head into the future. I believe this amendment fits right in with that overall objective. The amendment to which I speak today will advance innovative Air Force programs that are already positively affecting the critically important and complex issue of energy policy. As I said, that is a national security issue as well.

Furthermore, this amendment will expand these valuable programs to other Department of Defense services.

As we all know, the issue of fuel prices has significant implications not only for our economic security, but also for our military. In fact, the Department of Defense is the largest single consumer of fuel in the United States.

Consider this: In the last 4 years, the Air Force fuel bill has tripled. Furthermore, the Air Force spent over $6 billion buying energy last year, even though they used 10 percent less than the year before. This is a substantial sum, and I can almost guarantee it will cost the Air Force more next year to buy the same amount of energy. As the lead paragraph in an article headlined ''Worries of Rising Fuel Costs Extend to DoD's Budget'' published in Defense News on May 19, 2008, noted:

> The skyrocketing cost of fuel isn't just hitting U.S. drivers in the pocketbook—it's blowing a bit of a hole in the Pentagon's budget as well.

I ask unanimous consent that the entirety of this Defense News article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. THUNE. We are at a moment in our history when we must move toward more secure, domestic energy sources.

One need look no further than the embargos of the 1970s or the recent oil price spikes or the Russian-Georgian conflict to see the negative implications of relying on foreign sources for the preponderance of our energy needs. Additionally, continuing to fund unfriendly foreign regimes grows increasingly untenable by the day, and we should look to produce lower cost domestic alternatives that stop this capital flight.

It is well past time that we further the development of these lower cost domestic alternatives through responsible public policy.

Given this context, I am proud to report that the U.S. Air Force has already become a model for Government leadership in these areas. We should now expand these Air Force programs to the other Department of Defense services, as these valuable programs will undoubtedly pave the way for increased public-private cooperation.

One example of Air Force leadership in this area is evident in existing programs to find alternatives to increasingly expensive aviation fuel. Not only has the Air Force already flight tested the B–52, B–1, C–17, KC–135, F–15, and F–22s on a 50 percent synthetic fuel blend, it has plans to certify its entire inventory on this synthetic fuel blend by 2011. Moreover, the Air Force is dedicated to procuring at least half of its fuel needs from environmentally friendly, domesticaly produced, synthetic fuel blends by 2016.

We should now call for the other services to do the same. We should seek to understand how the Department of the Army and the Department of the Navy can also use these fuels and how the buying power of the entire Department of Defense can achieve efficiencies and decreased costs due to large economies of scale.

Because they are the largest user of fuel in the Department of Defense, this amendment specifies that the Air Force continue to be on the leading edge in finding lower cost, domestically produced alternatives to conventional aviation fuels. The amendment dictates that the Air Force continue to certify its entire fleet on a synthetic fuel blend and to press forward in its efforts to acquire half of its domestic fuel requirement by 2016 from a domestically sourced alternative fuel blend.

To protect the American taxpayer, it is important to note this acquisition would only occur if the price is less than or equal to the market prices for petroleum based fuels.

To protect the environment, the amendment specifies the fuel is ''greener'' than conventional petroleum based fuels. On this second point, it is important to note there has been recent uncertainty over section 526 of the Energy Independence and Security Act of 2007. The intent of this amendment is that the lifecycle emissions of these fuels will be lower than pending Department of Energy and Environmental Protection Agency baselines for conventional petroleum fuels.

A binding authorization for the Air Force to acquire this fuel will have a dramatic effect on the domestic aviation and fuels industries. With the Air Force and the other services of the Department of Defense leading the way, it is likely commercial airlines and fuel producers will see the increasing viability of these fuels and wish to build on these efforts. To further civil-military cooperation, the amendment also encourages the services to partner with the commercial aviation industry to engage in further research and development.

To encourage feedstock diversity, the language in the amendment is not specific regarding fuel source, and producers could use anything from cellulosic ethanol to biodiesel.

Ultimately, this amendment positively impacts energy policies in this country at no additional cost to the American taxpayer. Simply put, if the alternative fuels cost more than conventional fuels, the Department of Defense doesn't have to buy them. In actuality, it is likely to actually lower the cost of these fuels by inducing market based competition among synthetic fuel producers.

Some may argue this amendment is a Government giveaway program or that it is specially tailored to benefit a specific industry. This is simply not true. This amendment does not specify a specific feedstock from which to make fuels, nor does it offer loan guarantees or tax incentives to any specific industry.

We are at the beginning of a long energy crisis which is already one of the defining issues of our time. If Government agencies are going to be part of the solution, we need sound, responsible public policy that allows them to partner with industry and solve these important problems. This amendment is exactly this type of policy.

I hope my colleagues will support it. I hope, before we complete action on the Defense authorization bill, that we will have an opportunity to call up some of these amendments, to have them debated, have them voted on or, at a minimum, to have them accepted as part of a managers' package. But, in one way or another, I hope this very important issue of energy security can be addressed in the Defense authorization bill through the acquisition of fuels our services use to supply their energy needs and addressed in a way that not only helps America's energy security with regard to lessening this addiction we have to foreign sources of energy, but I also believe it will make our country safer because I think this is a national security issue that forces us to rely upon countries around the world that are hostile to our interests.

I believe that becoming energy independent means we have to lead by example. Our Air Force has stepped up to that challenge. I hope the other services will follow.

As I said before, this amendment does not require any particular feedstock. It is neutral with regard to the whole issue of whether that comes from cellulosic or whether that comes from biodiesel or whether that comes from coal to liquids.

At the end of the day, we need to adopt this amendment. It will be a savings to our military services and a savings to the taxpayer. As I said before, there is a requirement in this amendment that, whatever that source is, it be greener than petroleum-based fuels used today.

It has already been tested on a number of aircraft. The Air Force intends to move in the year 2016 to 50 percent, and I hope the other services will follow. This amendment will see that happens. I hope my colleagues will adopt it.

EXHIBIT 1

[From Defense News, May 19, 2008]

WORRIES OF RISING FUEL COSTS EXTEND TO DOD'S BUDGET

(By William H. McMichael and Rick Maze)

The skyrocketing cost of fuel isn't just hitting U.S. drivers in the pocketbook—it's blowing a bit of a hole in the Pentagon's budget as well.

DoD officials have asked Congress to appropriate another $3.69 billion for all fuels—an increase of $2.2 billion from their initial request—according to a revised request for supplemental war funding for fiscal 2009, submitted May 2.

That, of course, looks far ahead and could still prove to be inadequate. According to Pentagon budget documents, the request would support a crude oil price of $97.19 per barrel—and also assumes the military's overall fuel costs will drop by 4.8 percent.

The current world price, however, has climbed to and is hovering around $120 per barrel, and many analysts think rising global demand and other factors will keep prices high.

And 2009 isn't the only concern; the Pentagon needs more money for fuel to cover the remaining five months of this fiscal year.

This would come by way of the $108 billion war supplemental appropriation request, which has yet to be approved.

The Pentagon has asked for a total of $1.9 billion for fuel, an increase of $281.4 million over its original supplemental request.

All told, that's an additional $2.48 billion on top of the amounts included in the Pentagon's 2008 and 2009 base budgets—and Defense officials already acknowledge the 2009 supplemental request won't cover that entire fiscal year.

That would buy the Air Force another 19 F–22 fighters, or the Marine Corps 36 MV–22 Ospreys.

In the seven months ending in March, the Pentagon's average monthly cost for its most-used jet fuel, JP–8, rose 34 percent, from $2.34 to $3.13 per gallon, according to the Defense Logistics Agency (DLA).

The cost of JP–5, used primarily by Navy jets operating from the sea, increased from $2.22 to $2.94 per gallon.

Regular gasoline jumped from $2 to $2.79 per gallon, or 40 percent, over the same period. Only diesel fuel's rise was negligible, increasing just 5 cents per gallon.

The Pentagon's prices normally do not fluctuate much because DLA's Defense Energy Support Center (DESC) buys in bulk and sells fuel to the individual services at a ''standard price'' based on market projections for the ensuing year, according to DLA spokesman Jack Hooper.

In September 2007, for example, DESC set the standard price of JP–8 at $2.31 per gallon.

In a less volatile market, that price might have been good for the next 12 months. But the market forced a change and in December, DESC raised its price for JP–8 to $3.04 per gallon.

The House Armed Services subcommittee on readiness approved legislation May 8 to require the secretary of Defense ''to consider the full burdened cost of fuel and energy efficiency in the requirements development and acquisition process,'' said Rep. Randy Forbes of Virginia, the panel's ranking Republican.

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

HONORING FALLEN SALISBURY, NORTH CAROLINA FIREFIGHTERS

Mrs. DOLE. Mr. President, it is with a heavy heart that I rise today, on this solemn anniversary, to pay my respects to all of the dedicated emergency responders who have made the ultimate sacrifice to protect our citizens. We all remember with great sadness the horrendous loss of life at the Twin Towers and the Pentagon on that fateful morning, including the tragic loss of so many firefighters, police officers, and other first responders who heroically rushed into danger, risking their own lives to save the lives of others.

Nationwide, the men and women of our emergency response forces, like the comrades in arms of those New York and Washington first responders, share a common sense of purpose and dedication to defending their communities in times of peril.

Today, I would also like to honor the memories of two brave firefighters from my hometown of Salisbury, NC who died in the line of duty this year.

In March, the Salisbury Fire Department lost two of its finest, Justin Monroe and Victor Isler, while they were battling a blaze that may have been the worst in our town's history. Both men left behind many heartbroken family members and friends—and a grieving community.

Our thoughts have also been with several other Salisbury firefighters who suffered burns and other injuries while trying to rescue their comrades and contain the fire. As they continue to heal from that tragic day, I hope they know that our thoughts and prayers are continuously with them.

As a young boy, Justin Monroe dreamed of fighting fires. While in high school, he enrolled in the Millers Ferry Volunteer Fire Department's junior firefighter program, and in June of 2007, he accepted his dream job at the Salisbury Fire Department. Justin was proud of his work and looked forward to each and every day at the department. He was even studying for his fire technology degree at a local community college.

Justin's mother Lisa was working at Salisbury's Rowan Regional Medical Center when she learned that at least one firefighter had perished and that several others had been injured fighting the fire at Salisbury Millwork, a manufacturer of custom woodwork. Her greatest fear as a parent was realized when the body of her 19-year-old son, who had been living with her at home, was brought into the hospital. One of Lisa's colleagues summed up the emotion by saying, ''It's devastating when one of your coworkers loses a family member, but losing a child at such a young age is really heartbreaking. Children are not supposed to die before their parents.''

Justin's fallen comrade, Victor Isler, joined the Salisbury Fire Department a few days after Justin came on board. Victor moved to North Carolina from New York, where he served as a medic with the New York City Fire Department and helped save countless lives when our Nation was attacked on September 11. At age 40, Victor decided to head south and join the Salisbury department. A devoted husband to his wife Tracy and the proud parent of two teenagers, he quickly became a father figure to many of the department's younger firefighters.

Victor's childhood best friend, Chris Damato, also served in the Salisbury department. On the day after Victor gave his life, Chris' wife gave birth to a little boy, named Nicholas Victor as a tribute to their dear friend.

Our firefighters are always there in times of need. Very sadly, our communities sometimes lose some of their finest public servants like Justin Monroe and Victor Isler. Their sacrifice serves as a somber reminder of the dangers these men and women face each and every day. We owe all of our courageous firefighters and first responders a tremendous debt of gratitude for their selfless commitment to keeping us safe.

As we join together as a Nation to remember September 11, and the courage and sacrifice demonstrated by countless Americans on that day, my thoughts and prayers are also with Justin and Victor's loved ones and everyone who has been affected by these tragedies. I join with my neighbors and the entire Salisbury community in mourning their loss, and pray that they find solace in the knowledge that these men are remembered as heroes of the highest order, an inspiration to us all.

Mr. LIEBERMAN. Mr. President, in the fiscal year 2009 Defense Authorization Act, S. 3001 is section 256, Assessment of Standards for Mission Critical Semiconductors Procured by the Department of Defense.

The objective of this provision is to provide the DOD with assurance of dependable, continuous, long-term access to trusted, mission critical semiconductors from both foreign and domestic sources. In order to assure trust, the provision recommends the use of verification tools and techniques on commercially procured semiconductors.

The manufacture of semiconductors has continued to migrate to off-shore foundries, particularly to foundries in China. The few high end semiconductor manufacturers in the U.S. are driven by commercial interests and cannot be depended upon to supply the needs of the Deptartment of Defense for the long term. The U.S. military now comprises only 1 percent of the overall market and therefore no longer drives that market.

The DOD is currently depending on a single company, IBM, for high end semiconductors through the DOD Trusted Foundry Program. This program was put in place in 2004 as a stopgap measure. The February 2005 report by the Defense Science Board Task Force on High Performance Microchip Supply stated that the Trusted Foundry Program is an interim source of high performance ICs and a good start in addressing the immediate needs for trusted sources of IC supply. The Trusted Foundry Program does not address critical design software and design systems which are also subject to tampering. It is strongly recommended that the Trusted Foundry Program continue to be a key part of the overall strategy and the volume of parts that go through it increased. However, since that report was written, the trend of migration of semiconductor manufacturing overseas has continued, and it is now urgent to augment the Trusted Foundry by a more comprehensive approach for the procurement of trusted parts that includes acquisition of parts from ''nontrusted'' sources.

There are several issues which need to be addressed and they are the drivers for this legislative provision. First, the DOD must have assurance of dependable, continuous, long-term access to mission critical semiconductors from both foreign and domestic sources for its potentially vulnerable defense systems. Such access needs to be independent of the commercially driven decisions made by individual companies and foundries. DOD needs for integrated circuits include high end semiconductors, custom application specific integrated circuits, ASICs, and field programmable gate arrays, FPGAs. Second, there must be assurance of trust of the semiconductors installed on systems procured through Defense contractors and subcontractors from ''nontrusted'' sources. Assurance of trust means assurance that the semiconductor has not been tampered with or modified in any way, and performs the functions required—and no other functions. It also requires assurance that the design and design systems, fabrication, packaging, final assembly, and test of semiconductors are free from tampering. The legislative provision addresses each of the concerns stated above. It is recommended that the Department of Defense inventory and implement the best methods currently available for assuring trust. It needs to put in place an overall policy and direction, as well as a plan for the procurement of semiconductors that assures continuous access and trust as described above. It also needs to assure that there is sufficient oversight in implementation of the plan for the acquisition of critical semiconductors, employing new or improved techniques and approaches as they become available through technological advances.

Deliverables from the DARPA trusted circuits project, supplemented by procedures to assure trust in design, packaging and assembly need to be employed. It should also be recognized that a comprehensive strategy needs to include acquisition of mass-produced commercial parts which have low risk of sabotage.

The Under Secretary of Defense for Acquisition, Technology, and Logistics is requested to be available to brief Congress on its assessment of methods and standards no later than December 31, 2009. These need to be done in consultation with the intelligence community, private industry, and academia.

Mr. CORNYN. Mr. President, the right to vote is one of the most cherished civil rights, enshrined in the 15th, 17th, and 19th amendments of the Constitution. It is the cornerstone of democratic government, and it is what makes us a government ''of the people, by the people, and for the people.''

Throughout our history, whenever we have seen people deprived of this right, whether by law or by practice, brave Americans have stood up to fight for their right to vote. Today there is a significant portion of our population that has been disenfranchised.

Today, the very men and women who have joined the military to defend our right to vote have been effectively cut out of the democratic process. Make no mistake; this is one of the most important civil rights issues we face today, and we cannot afford to delay action to address it.

The Secretary of Defense has delegated the responsibility for safeguarding the voting rights of our troops to an office called the Federal Voting Assistance Program. Unfortunately, as our troops serve on far-away bases overseas and fight in foreign theaters of conflict, the Department of Defense's Federal Voting Assistance Program has failed to protect their most basic right as American citizens. This failure is twofold.

First, the DOD's voting office has failed to adequately educate our men and women in uniform about how to vote. Second, it has failed to take adequate steps to put in place a system that provides our troops a reasonable opportunity to vote—one which ensures their votes are counted.

Already, the DOD is required by law to provide troops with voting assistance, and information on how to get ballots, and how to cast their votes. But, its efforts have fallen woefully short. A recent survey found that less than 60 percent of troops knew where to obtain voting information on base.

Of our overseas troops who did ask for mail-in ballots, less than half of their completed ballots actually arrived at the local election office. What is worse, many of those arrived late, resulting in them being rejected and thus not counted at all.

It is absolutely shameful that so many of our troops and their families have been cut out of the democratic process through bureaucratic inefficiency.

In order to prevent this disenfranchisement from happening again, I introduced the Military Voting Protection Act, or MVP Act, to require the DOD to collect our overseas troops' completed ballots and expedite their delivery through express shipping. Electronic tracking would be required as well, so our troops would have the peace of mind of knowing their ballots actually arrived at the election office. The MVP Act would markedly improve the current system and help protect our troops' right to vote.

But yesterday, when I asked to bring this important, time-critical legislation forward as an amendment to the DOD authorization bill, the majority objected, saying they needed to hear from the Rules Committee first. My legislation would apply only to military servicemembers. We are working on the DOD authorization bill, so I am not sure why members of the Armed Services Committee need to wait and see what the Rules Committee thinks of an amendment this important. I am left scratching my head.

Rather than even considering this legislation, and debating how best to fix our broken military voting system, Democrats cited weak excuses for blocking this amendment. With a national election looming, and a disgraceful track record over the past two election cycles of our widespread troop disenfranchisement, I am dumbfounded as to why my colleagues would put off this civil rights issue and effectively cheat our troops out of a better, more reliable system for voting from overseas.

Last night, the Rules Committee offered me a counterproposal, which seeks to make the implementation of these important improvements to our troops' voting system optional. In essence, by making the implementation of this program optional, the Democrats are saying to our troops that their civil rights are not guaranteed but an option. That is an outrage.

I am afraid this is going to be just another item on a long list of critical issues the majority has put off, despite calls for action from the American people. Another notable example is gas prices—we have been waiting for over 2 years to address gas prices, but still no meaningful action from the majority leadership. Democrats have stonewalled and delayed qualified judicial nominees and have yet to pass a single appropriations bill for the fiscal year that starts in less than 3 weeks.

The rights of our troops to vote cannot fall victim to politics. Our military men and women stand vigilant in the defense of freedom and help safeguard the personal liberties of their fellow Americans. Now, we must be every bit as vigilant in defense of their personal liberties and civil rights. They willingly step into harm's way to ensure the safety of their fellow Americans at home, and they deserve better than a broken voting system and a refusal by their elected leaders to fix it.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

ADA AMENDMENTS ACT OF 2008

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 927, S. 3406, a bill to restore the intent and protections of the Americans with Disabilities Act of 1990; that the bill be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate; that upon passage, Senator HATCH and I be recognized to speak for a period not to exceed 40 minutes total.

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

The bill (S. 3406) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''ADA Amendments Act of 2008''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act ''provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities'' and provide broad coverage;

(2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;

(4) the holdings of the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;

(5) the holding of the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;

(6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;

(7) in particular, the Supreme Court, in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), interpreted the term ''substantially limits'' to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term ''substantially limits'' as ''significantly restricted'' are inconsistent with congressional intent, by expressing too high a standard.

(b) PURPOSES.—The purposes of this Act are—

(1) to carry out the ADA's objectives of providing ''a clear and comprehensive national mandate for the elimination of discrimination'' and ''clear, strong, consistent, enforceable standards addressing discrimination'' by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court's reasoning in Sutton v. United Air Lines, Inc., 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in School Board of Nassau County v. Arline, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the terms ''substantially'' and ''major'' in the definition of disability under the ADA ''need to be interpreted strictly to create a demanding standard for qualifying as disabled,'' and that to be substantially limited in performing a major life activity under the ADA ''an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives'';

(5) to convey congressional intent that the standard created by the Supreme Court in the case of Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002) for ''substantially limits'', and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress' expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term ''substantially limits'' as ''significantly restricted'' to be consistent with this Act, including the amendments made by this Act.

SEC. 3. CODIFIED FINDINGS.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;'';

(2) by striking paragraph (7); and

(3) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 4. DISABILITY DEFINED AND RULES OF CONSTRUCTION.

(a) DEFINITION OF DISABILITY.—Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended to read as follows:

''SEC. 3. DEFINITION OF DISABILITY.

''As used in this Act:

''(1) DISABILITY.—The term 'disability' means, with respect to an individual—

''(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

''(B) a record of such an impairment; or

''(C) being regarded as having such an impairment (as described in paragraph (3)).

''(2) MAJOR LIFE ACTIVITIES.—

''(A) IN GENERAL.—For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

''(B) MAJOR BODILY FUNCTIONS.—For purposes of paragraph (1), a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

''(3) REGARDED AS HAVING SUCH AN IMPAIRMENT.—For purposes of paragraph (1)(C):

''(A) An individual meets the requirement of 'being regarded as having such an impairment' if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

''(B) Paragraph (1)(C) shall not apply to impairments that are transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less.

''(4) RULES OF CONSTRUCTION REGARDING THE DEFINITION OF DISABILITY.—The definition of 'disability' in paragraph (1) shall be construed in accordance with the following:

''(A) The definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.

''(B) The term 'substantially limits' shall be interpreted consistently with the findings and purposes of the ADA Amendments Act of 2008.

''(C) An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability.

''(D) An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

''(E)(i) The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures such as—

''(I) medication, medical supplies, equipment, or appliances, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics including limbs and devices, hearing aids and cochlear implants or other implantable hearing devices, mobility devices, or oxygen therapy equipment and supplies;

''(II) use of assistive technology;

''(III) reasonable accommodations or auxiliary aids or services; or

''(IV) learned behavioral or adaptive neurological modifications.

''(ii) The ameliorative effects of the mitigating measures of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity.

''(iii) As used in this subparagraph—

''(I) the term 'ordinary eyeglasses or contact lenses' means lenses that are intended to fully correct visual acuity or eliminate refractive error; and

''(II) the term 'low-vision devices' means devices that magnify, enhance, or otherwise augment a visual image.''.

(b) CONFORMING AMENDMENT.—The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is further amended by adding after section 3 the following:

''SEC. 4. ADDITIONAL DEFINITIONS.

''As used in this Act:

''(1) AUXILIARY AIDS AND SERVICES.—The term 'auxiliary aids and services' includes—

''(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

''(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

''(C) acquisition or modification of equipment or devices; and

''(D) other similar services and actions.

''(2) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.''.

(c) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by striking the item relating to section 3 and inserting the following items:

''Sec. 3. Definition of disability.
''Sec. 4. Additional definitions.''.

SEC. 5. DISCRIMINATION ON THE BASIS OF DISABILITY.

(a) ON THE BASIS OF DISABILITY.—Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking ''with a disability because of the disability of such individual'' and inserting ''on the basis of disability''; and

(2) in subsection (b) in the matter preceding paragraph (1), by striking ''discriminate'' and inserting ''discriminate against a qualified individual on the basis of disability''.

(b) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Section 103 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12113) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and inserting after subsection (b) the following new subsection:

''(c) QUALIFICATION STANDARDS AND TESTS RELATED TO UNCORRECTED VISION.—Notwithstanding section 3(4)(E)(ii), a covered entity shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and consistent with business necessity.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)) is amended—

(A) in the paragraph heading, by striking ''WITH A DISABILITY''; and

(B) by striking ''with a disability'' after ''individual'' both places it appears.

(2) Section 104(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12114(a)) is amended by striking ''the term 'qualified individual with a disability' shall'' and inserting ''a qualified individual with a disability shall''.

SEC. 6. RULES OF CONSTRUCTION.

(a) Title V of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201 et seq.) is amended—

(1) by adding at the end of section 501 the following:

''(e) BENEFITS UNDER STATE WORKER'S COMPENSATION LAWS.—Nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or under State and Federal disability benefit programs.

''(f) FUNDAMENTAL ALTERATION.—Nothing in this Act alters the provision of section 302(b)(2)(A)(ii), specifying that reasonable modifications in policies, practices, or procedures shall be required, unless an entity can demonstrate that making such modifications in policies, practices, or procedures, including academic requirements in postsecondary education, would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations involved.

''(g) CLAIMS OF NO DISABILITY.—Nothing in this Act shall provide the basis for a claim by an individual without a disability that the individual was subject to discrimination because of the individual's lack of disability.

''(h) REASONABLE ACCOMMODATIONS AND MODIFICATIONS.—A covered entity under title I, a public entity under title II, and any person who owns, leases (or leases to), or operates a place of public accommodation under title III, need not provide a reasonable accommodation or a reasonable modification to policies, practices, or procedures to an individual who meets the definition of disability in section 3(1) solely under subparagraph (C) of such section.'';

(2) by redesignating section 506 through 514 as sections 507 through 515, respectively, and adding after section 505 the following:

''SEC. 506. RULE OF CONSTRUCTION REGARDING REGULATORY AUTHORITY.

''The authority to issue regulations granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation under this Act includes the authority to issue regulations implementing the definitions of disability in section 3 (including rules of construction) and the definitions in section 4, consistent with the ADA Amendments Act of 2008.''; and

(3) in section 511 (as redesignated by paragraph (2)) (42 U.S.C. 12211), in subsection (c), by striking ''511(b)(3)'' and inserting ''512(b)(3)''.

(b) The table of contents contained in section 1(b) of the Americans with Disabilities Act of 1990 is amended by redesignating the items relating to sections 506 through 514 as the items relating to sections 507 through 515, respectively, and by inserting after the item relating to section 505 the following new item:

''Sec. 506. Rule of construction regarding regulatory authority.''.

SEC. 7. CONFORMING AMENDMENTS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in paragraph (9)(B), by striking ''a physical'' and all that follows through ''major life activities'', and inserting ''the meaning given it in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)''; and

(2) in paragraph (20)(B), by striking ''any person who'' and all that follows through the period at the end, and inserting ''any person who has a disability as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).''.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on January 1, 2009.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Statement of Managers to Accompany S. 3406, the Americans With Disabilities Act Amendments Act of 2008, be printed in the RECORD.

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

STATEMENT OF THE MANAGERS TO ACCOMPANY S. 3406, THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT OF 2008

I. PURPOSE AND SUMMARY OF THE LEGISLATION

The purpose of S. 3406, the ''ADA Amendments Act of 2008'' is to clarify the intention and enhance the protections of the Americans with Disabilities Act of 1990, landmark civil rights legislation that provided ''a clear and comprehensive national mandate for the elimination of discrimination on the basis of disability.'' In particular, the ADA Amendments Act amends the definition of disability by providing clarification and instruction about the terminology used in the definition, by expanding the definition, and by rejecting several opinions of the United States Supreme Court that have had the effect of restricting the meaning and application of the definition of disability.

S. 3406 is the product of an extensive bipartisan effort that included many hours of meetings and negotiation by legislative staff as well as by stakeholders including the disability, business, and education communities. In addition, two hearings were held in the Senate Health, Education, Labor, and Pensions Committee to explore the issues addressed in this legislation. The goal has been to achieve the ADA's legislative objectives in a way that maximizes bipartisan consensus and minimizes unintended consequences.

This legislation amends the Americans with Disabilities Act of 1990 by making the changes identified below.

Aligning the construction of the Americans with Disabilities Act with Title VII of the Civil Rights Act of 1964, the bill amends Title I of the ADA to provide that no covered entity shall discriminate against a qualified individual ''on the basis of disability.''

The bill maintains the ADA's inherently functional definition of disability as a physical or mental impairment that substantially limits one or more life activities; a record of such impairment; or being regarded as having such an impairment. It clarifies and expands the definition's meaning and application in the following ways.

First, the bill deletes two findings in the ADA which led the Supreme Court to unduly restrict the meaning and application of the definition of disability. These findings are that there are ''some 43,000,000 Americans have one or more physical or mental disabilities'' and that ''individuals with disabilities are a discrete and insular minority.'' The Court treated these findings as limitations on how it construed other provisions of the ADA. This conclusion had the effect of interfering with previous judicial precedents holding that, like other civil rights statutes, the ADA must be construed broadly to effectuate its remedial purpose. Deleting these findings removes this barrier to construing and applying the definition of disability more generously.

Second, the bill affirmatively provides that the definition of disability ''shall be construed in favor of broad coverage of individuals under this Act, to the maximum extent permitted by the terms of this Act.'' It retains the term ''substantially limits'' from the original ADA definition but makes it clear that this is intended to be a less demanding standard than that enunciated by the U.S. Supreme Court in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams. With this rule of construction and relevant purpose language, the bill rejects the Supreme Court's holding in Toyota v. Williams that the terms ''substantially'' and ''major'' in the definition of disability must be ''be interpreted strictly to create a demanding standard for qualifying as disabled,'' as well as the Court's interpretation that ''substantially limits'' means ''prevents or severely restricts.''

Third, the bill prohibits consideration of mitigating measures such as medication, assistive technology, accommodations, or modifications when determining whether an impairment constitutes a disability. This provision and relevant purpose language rejects the Supreme Court's holdings in Sutton v. United Air Lines and its companion cases that mitigating measures must be considered. The bill also provides that impairments that are episodic or in remission are to be assessed in an active state.

Fourth, the bill provides new instruction on what may constitute ''major life activities.'' It provides a non-exhaustive list of major life activities within the meaning of the ADA. In addition, the bill expands the category of major life activities to include the operation of major bodily functions.

Fifth, the bill removes from the third ''regarded as'' prong of the disability definition the requirement that an individual demonstrate that he or she has, or is perceived to have, an impairment that substantially limits a major life activity. Under the bill, therefore, an individual can establish coverage under the law by showing that he or she has been subjected to an action prohibited under the Act because of an actual or perceived physical or mental impairment. Because the bill thus broadens application of this third prong of the disability definition, entities covered by the ADA will not be required to provide accommodations or to modify policies and procedures for individuals who fall solely under the third prong. Such entities will, however, still be subject to discrimination claims.

Finally, the bill clarifies that the agencies that currently issue regulations under the ADA have regulatory authority related to the definitions contained in Section 3. Conforming amendments to Section 7 of the Rehabilitation Act of 1973 are intended to ensure harmony between federal civil rights laws.

II. BACKGROUND AND NEED FOR LEGISLATION

When Congress passed the ADA in 1990, it adopted the functional definition of disability from the Section 504 of the Rehabilitation Act of 1973, in part, because after 17 years of development through case law the requirements of the definition were well understood. Within this framework, with its generous and inclusive definition of disability, courts treated the determination of disability as a threshold issue but focused primarily on whether unlawful discrimination had occurred.

More recent Supreme Court decisions imposing a stricter standard for determining disability had the effect of upsetting this balance. After the Court's decisions in Sutton that impairments must be considered in their mitigated state and in Toyota that there must be a demanding standard for qualifying as disabled, lower courts more often found that an individual's impairment did not constitute a disability. As a result, in too many cases, courts would never reach the question whether discrimination had occurred.

Thus, some 18 years later we are faced with a situation in which physical or mental impairments that would previously have been found to constitute disabilities are not considered disabilities under the Supreme Court's narrower standard. These can include individuals with impairments such as amputation, intellectual disabilities, epilepsy, multiple sclerosis, diabetes, muscular dystrophy, and cancer. The resulting court decisions contribute to a legal environment in which individuals must demonstrate an inappropriately high degree of functional limitation in order to be protected from discrimination under the ADA.

The ADA Amendments Act rejects the high burden required in these cases and reiterates that Congress intends that the scope of the Americans with Disabilities Act be broad and inclusive. It is the intent of the legislation to establish a degree of functional limitation required for an impairment to constitute a disability that is consistent with what Congress originally intended, a degree that is lower than what the courts have construed it to be. In addition, the bill provides for application of this standard to a wider range of cases by expanding the category of major life activities. These steps, resulting from extensive bipartisan negotiation and discussion among legislators and stakeholders, are intended to provide for more generous coverage and application of the ADA's prohibition on discrimination through a framework that is more predictable, consistent, and workable for all entities subject to responsibilities under the ADA.

III. EXPLANATION OF THE BILL AND MANAGER'S VIEWS

Overview

The Americans with Disabilities Act of 1990 (''the ADA'') is a landmark statute that has fundamentally changed the lives of many millions of Americans with disabilities. The managers of this legislation were proud to be leaders in that effort that was accomplished in a deliberative careful manner that allowed for the development of a strong bipartisan coalition in both Houses of Congress and the Administration of President George H. W. Bush and led to Senate passage with a definitive vote of 91–6.

However, as discussed in more detail below, a series of Court decisions have restricted the coverage and diminished the civil rights protections of the ADA, especially in the workplace, by narrowing its definition of disability. As a result, lower court cases have too often turned solely on the question of whether the plaintiff is an individual with a disability rather than the merits of discrimination claims, such as whether adverse decisions were impermissibly made by the employer on the basis of disability, reasonable accommodations were denied inappropriately, or qualification standards were unlawfully discriminatory.

The managers have introduced the ADA Amendments Act of 2008 to restore the proper balance and application of the ADA by clarifying and broadening the definition of disability, and to increase eligibility for the protections of the ADA. It is our expectation that because this bill makes the definition of disability more generous, some people who were not covered before will now be covered. The strong bipartisan support for this legislation once again demonstrates the continuing bipartisan commitment to protecting the civil rights of individuals with disabilities among members of the Senate Committee on Health Education Labor and Pensions and the Senate as a whole.

The ADA Amendments Act renews our commitment to ensuring that all Americans with disabilities, including a new generation of disabled veterans who are just beginning to grapple with the challenge of living to their full potential despite the limitations imposed by their disabilities, are able to participate to the fullest possible extent in all facets of society, including the workplace. We acknowledge and applaud the substantial improvements in medical science and the courageous efforts of individuals with disabilities to overcome the impact of those disabilities, but in no way wish to exclude them thereby from protection under the ADA.

By retaining the essential elements of the definition of disability including the key term ''substantially limits'' we reaffirm that not every individual with a physical or mental impairment is covered by the first prong of the definition of disability in the ADA. An impairment that does not substantially limit a major life activity is not a disability under this prong. That will not change after enactment of the ADA Amendments Act, nor will the necessity of making this determination on an individual basis. What will change is the standard required for making this determination. This bill lowers the standard for determining whether an impairment constitute a disability and reaffirms the intent of Congress that the definition of disability in the ADA is to be interpreted broadly and inclusively.

Findings and Purposes

Given the importance the Court has placed upon findings and purposes particularly in civil rights statutes like the ADA, the ADA Amendments Act contains a detailed Findings and Purposes section that the managers believe gives clear guidance to the courts and that they intend to be applied appropriately and consistently. As described above, the legislation deletes two findings in the ADA that have been interpreted by the Supreme Court to require a narrow definition of disability. We continue to believe that individuals with disabilities ''have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society.''

In addition to deleting the findings forming the basis of the Sutton and Toyota decisions, the bill states explicitly its purpose to reject the holdings in those cases (and their progeny), and to ensure broad coverage under the ADA. To be clear, the purposes section conveys our intent to clarify not only that ''substantially limits'' should be measured by a lower standard than that used in Toyota, but also that the definition of disability should not be unduly used as a tool for excluding individuals from the ADA's protections.

The bill expresses the clear intent of Congress that the EEOC will revise its regulations that similarly improperly define the term ''substantially limits'' as ''significantly restricted''; again, this sets too high a standard.

The bill's purposes also reject the Supreme Court's holding that mitigating measures must be considered when determining whether an impairment constitutes a disability. With the exception of ordinary eyeglasses and contact lenses, impairments must be examined in their unmitigated state.

These purposes are specifically incorporated into the statute by the rule of construction providing that the term ''substantially limits'' shall be construed consistently with the findings and purposes of the ADA Amendments Act of 2008. This rule of construction, together with the rule of construction providing that the definition of disability shall be construed in favor of broad coverage of individuals sends a clear signal of our intent that the courts must interpret the definition of disability broadly rather than stringently.

Definition of Disability

In the ADA of 1990, Congress sought to protect anyone who experiences discrimination because of a current, past, or perceived disability. Under the ADA, there are three prongs of the definition of disability, with respect to an individual:

(1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) a record of such an impairment; or

(3) being regarded as having such an impairment.

This definition is of critical importance because as a threshold issue it determines whether an individual is covered by the ADA. The ADA Amendments Act retains the definition of disability but further defines and clarifies three critical terms within the existing definition (''substantially limits,'' ''major life activities,'' ''regarded as having such impairment'') and, under the rules of construction for the definition, adds several standards that must be applied when considering the definition of disability.

Physical or Mental Impairment

The bill does not provide a definition for the terms ''physical impairment'' or ''mental impairment.'' The managers expect that the current regulatory definition of these terms, as promulgated by agencies such as the U.S. Equal Employment Opportunity Commission (EEOC), the Department of Justice (DOJ) and the Department of Education Office of Civil Rights (DOE OCR) will not change.

Substantially Limits

We do not believe that the courts have correctly instituted the level of coverage we intended to establish with the term ''substantially limits'' in the ADA. In particular, we believe that the level of limitation, and the intensity of focus, applied by the Supreme Court in Toyota goes beyond what we believe is the appropriate standard to create coverage under this law.

We have extensively deliberated with regard to whether a new term, other than the term ''substantially limits'' should be used in this Act. For example, in its ADA Amendments Act, H.R.3195, the House of Representatives attempted to accomplish this goal by stating that the key phrase ''substantially limits'' means ''materially restricts'' in order to convey that Congress intended to depart from the strict and demanding standard applied by the Supreme Court in Sutton and Toyota.

We have concluded that adopting a new, undefined term that is subject to widely disparate meanings is not the best way to achieve the goal of ensuring consistent and appropriately broad coverage under this Act. The resulting need for further judicial scrutiny and construction will not help move the focus from the threshold issue of disability to the primary issue of discrimination.

We believe that a better way is to express our disapproval of Sutton and Toyota (along with the current EEOC regulation) is to retain the words ''substantially limits,'' but clarify that it is not meant to be a demanding standard. In addition, we believe eliminating the source of the Supreme Court's decisions narrowing the definition and providing more appropriate findings and purposes for properly construing that definition will accomplish our goal without introducing novel statutory terms.

We believe that the manner in which we understood the intended scope of ''substantially limits'' in 1990 continues to capture our sense of the appropriate level of coverage under this law for purposes of placing on employers and other covered entities the obligation of providing reasonable accommodations and modifications to individuals with impairments. As we described this in our committee report to the original ADA in 1989:

''A person is considered an individual with a disability for purposes of the first prong of the definition when [one or more of] the individual's important life activities are restricted as to the conditions, manner, or duration under which they can be performed in comparison to most people. A person who can walk for 10 miles continuously is not substantially limited in walking merely because on the eleventh mile, he or she begins to experience pain because most people would not be able to walk eleven miles without experiencing some discomfort. S. Rep. No 101–116, at 23 (1989).''

We particularly believe that this test, which articulated an analysis that considered whether a person's activities are limited in condition, duration and manner, is a useful one. We reiterate that using the correct standard—one that is lower than the strict or demanding standard created by the Supreme Court in Toyota—will make the disability determination an appropriate threshold issue but not an onerous burden for those seeking accommodations or modifications. At the same time, plaintiffs should not be constrained from offering evidence needed to establish that their impairment is substantially limiting.

Thus, we believe that the term ''substantially limits'' as construed consistently with the findings and purposes of this legislation establishes an appropriate functionality test for determining whether an individual has a disability.

Major Life Activities

The bill provides significant new guidance and clarification on the subject of major life activities. First, a rule of construction clarifies that that an impairment need only substantially limit one major life activity to be considered a disability under the ADA. This responds to and corrects those courts that have required individuals to show that an impairment substantially limits more than one life activity. It is additionally intended to clarify that the ability to perform one or more particular tasks within a broad category of activities does not preclude coverage under the ADA.

For purposes of clarity, the bill provides an illustrative list of ''major life activities'' including activities such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. In addition, for the first time, the category of ''major life activities'' is defined to include the operation of major bodily functions, thus better addressing chronic impairments that can be substantially limiting. Major bodily functions include functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Both the list of major life activities and major bodily functions are illustrative and non-exhaustive, and the absence of a particular life activity or bodily function from the list does not create a negative implication as to whether such activity or function constitutes a ''major life activity'' under the statute.

Finally, we also want to illuminate one area which may be easily misunderstood, with respect to individuals with specific learning disabilities. When considering the condition, manner, or duration in which an individual with a specific learning disability performs a major life activity, it is critical to reject the assumption that an individual who has performed well academically cannot be substantially limited in activities such as learning, reading, writing, thinking, or speaking.

Rules of Construction on the Definition of Disability

The bill further clarifies the definition of disability with a series of rules of construction. As discussed elsewhere, the rules of construction specifically require that the definition of disability be interpreted broadly and that the term ''substantially limits'' be interpreted consistent with this legislation. This construction is also intended to reinforce the general rule that civil rights statutes must be broadly construed to achieve their remedial purpose. In addition, the rules of construction provide that impairments that are episodic or in remission be assessed in their active state for purposes of determining coverage under the ADA.

Mitigating Measures

The bill also prohibits consideration of the ameliorative effects of mitigating measures when determining whether an individual's impairment substantially limits major life activities, overturning the Supreme Court's decision in Sutton and its companion cases. This provision is intended to eliminate the situation created under current law in which impairments that are mitigated do not constitute disabilities but are the basis for discrimination. We expect that when such mitigating measures are ignored, some individuals previously found not disabled will now be able to claim the ADA's protection against discrimination.

The legislation provides an illustrative but non-comprehensive list of the types of mitigating measures that are not to be considered. This list also includes low vision devices, which are devices that magnify, enhance, or otherwise augment a visual image, such as magnifiers, closed circuit television, larger-print items, and instruments that provide voice instructions. The absence of any particular mitigating measure from this list should not convey a negative implication as to whether the measure is a mitigating measure under the ADA.

We also believe that an individual with an impairment that substantially limits a major life activity should not be penalized when seeking protection under the ADA simply because he or she managed their own adaptive strategies or received accommodations (including informal or undocumented ones) that have the effect of lessening the deleterious impacts of their disability.

The bill provides one exception to the rule on mitigating measures, specifying that ordinary eyeglasses and contact lenses are to be considered in determining whether a person has a disability. The rationale behind this exception is that the use of ordinary eyeglasses or contact lenses, without more, is not significant enough to warrant protection under the ADA. Nevertheless, if an applicant or employee is faced with a qualification standard that requires uncorrected vision (as the sisters in the Sutton case were), an employer will be required to demonstrate that the qualification standard is job-related and consistent with business necessity.

Regarded As

Under this bill, the third prong of the disability definition will apply to impairments, not only to disabilities. As such, it does not require a functional test to determine whether an impairment substantially limits a major life activity.

This section of the definition of disability was meant to express our understanding that unfounded concerns, mistaken beliefs, fears, myths, or prejudice about disabilities are often just as disabling as actual impairments, and our corresponding desire to prohibit discrimination founded on such perceptions. In 1990 we relied extensively on the reasoning of School Board of Nassau County v. Arline that the negative reactions of others are just as disabling as the actual impact of an impairment. This legislation restates our reliance on the broad views enunciated in that decision and we believe that courts should continue to rely on this standard.

We intend and believe that the fact that an individual was discriminated against because of a perceived or actual impairment is sufficient. Thus, the bill clarifies that contrary to Sutton, an individual who is ''regarded as having such an impairment'' is not subject to a functional test. If an individual establishes that he or she was subjected to an action prohibited by the ADA because of an actual or perceived impairment—whether the person actually has the impairment or whether the impairment constitutes a disability—then the individual will qualify for protection under the Act.

This provision is subject to two important limitations. First, individuals with impairments that are transitory and minor are excluded from eligibility for the protections of the ADA under this prong of the definition, and second, the bill relieves entities covered under the ADA from the obligation and responsibility to provide reasonable accommodations and reasonable modifications to an individual who qualifies for coverage under the ADA solely by being ''regarded as'' disabled.

Transitory and Minor

The bill contains an exception that clarifies that coverage for individuals under the ''regarded as'' prong is not available where an individual's impairment is both transitory (six months or less) and minor. Providing this exception responds to concerns raised by employer organizations and is reasonable under the ''regarded as'' prong of the definition because individuals seeking coverage under this prong need not meet the functional limitation requirement contained in the first two prongs of the definition. A similar exception for the first two prongs of the definition is unnecessary as the functional limitation requirement already excludes claims by individuals with ailments that are minor and short term.

Accommodations

The bill establishes that entities covered under the ADA do not need to provide reasonable accommodations under Title I or modify policies, practices, or procedures under Titles II or III when an individual qualifies for coverage under the ADA solely by being ''regarded as'' having a disability under the third prong of the definition of disability.

Under current law, a number of courts have required employers to provide reasonable accommodations for individuals who are

covered solely under the ''regarded as'' prong. In each of those cases, the plaintiffs were found not to be covered under the first prong of the definition of disability because of the overly stringent manner in which the courts had been interpreting that prong. Because of our strong belief that accommodating individuals with disabilities is a key goal of the ADA, some members continue to have reservations about this provision. However, we believe it is an acceptable compromise given our strong expectation that such individuals would now be covered under the first prong of the definition, properly applied.

Discrimination on the Basis of Disability

The bill amends Section 102 of the ADA to mirror the structure of nondiscrimination protection provision in Title VII of the Civil Rights Act of 1964. It changes the language from prohibiting discrimination against a qualified individual ''with a disability because of the disability of such individual'' to prohibiting discrimination against a qualified individual ''on the basis of disability.'' This ensures that the emphasis in questions of disability discrimination is properly on the critical inquiry of whether a qualified person has been discriminated against on the basis of disability, and not unduly focused on the preliminary question of whether a particular person is a ''person with a disability.''

Rules of Construction

Benefits Under State Worker's Compensation Laws

The bill provides that nothing in the Act alters the standards for determining eligibility for benefits under State worker's compensation laws or other Federal or State disability benefit programs.

Fundamental Alteration

The bill reiterates that no changes are being made to the underlying ADA provision that no accommodations or modifications in policies are required when a covered entity can demonstrate that making such modifications would fundamentally alter the nature of the service being provided. This provision was included at the request of the higher education community and specifically includes ''academic requirements in postsecondary education'' among the types of policies, practices, and procedures that may be shown to be fundamentally altered by the requested modification or accommodation to reaffirm current law. It is included solely to provide assurances that the bill does not alter current law with regard to the obligations of academic institutions under the ADA, which we believe is already demonstrated in case law on this topic. Specifically, the reference to academic standards in postsecondary education is unrelated to the purpose of this legislation and should be given no meaning in interpreting the definition of disability.

Claims of No Disability

The bill prohibits reverse discrimination claims by disallowing claims based on the lack of disability, (e.g., a claim by someone without a disability that someone with a disability was treated more favorably by, for example, being granted a reasonable accommodation or modification to services or programs). Our intent is to clarify that a person without a disability does not have the right under the Act to bring an action against an entity on the grounds that he or she was discriminated against ''on the basis of disability'' (i.e., on the basis of not having a disability).

Regulatory Authority

In Sutton, the Supreme Court stated that ''[n]o agency . . . has been given authority to issue regulations implementing the generally applicable provisions of the ADA which fall outside Titles I–V.'' The bill clarifies that the authority to issue regulations is granted to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation and specifically includes the authority to issue regulations implementing the definition of disability as amended and clarified by this legislation.

We anticipate that the agencies charged with regulatory authority under the ADA will make any necessary modifications to their regulations to reflect the changes and clarifications embodied in the ADA Amendments Act, including the addition of major bodily functions as major life activities and the broadening of the ''regarded as'' prong. We also expect that the Equal Employment Opportunity Commission (EEOC) will revise the portion of its ADA regulations that defines ''substantially limits'' as ''unable to perform a major life activity. . . . or significantly restricted as to . . . a particular major life activity . . . .'' given the clear inconsistency of that portion of the regulation with the intent of this legislation.

Conforming Amendment

The bill ensures that the definition of disability in Section 7 of the Rehabilitation Act of 1973, which shares the same definition, is consistent with the ADA. The Rehabilitation Act of 1973 preceded the ADA in providing civil rights protections to individuals with disabilities, and in drafting the definition of disability in the ADA, the authors relied on the statute and implementing regulations of the Rehabilitation Act. Maintaining uniform definitions in the two federal statutes is important so that such entities will generally operate under one consistent standard, and the civil rights of individuals with disabilities will be protected in all settings. The ADA, under Title II and Title III, and Section 504 of the Rehabilitation Act provide overlapping coverage for many entities, including public schools, institutions of higher education, childcare facilities, and other entities receiving federal funds.

We expect that the Secretary of Education will promulgate new regulations related to the definition of disability to be consistent with those issued by the Attorney General under this Act. We believe that other current regulations issued by the Department of Education Office of Civil Rights under Section 504 of the Rehabilitation Act are currently harmonious with Congressional intent under both the ADA and the Rehabilitation Act.

Conclusion

We intend that that the sum of these changes will make the threshold definition of disability in the ADA—under which individuals qualify for protection from discrimination more generous, and will result in the coverage of some individuals who were previously excluded from those protections.

We note that with the changes made by the ADA Amendments Act, courts will have to address whether an impairment constitutes a disability under the first and second, but not the third, prong of the definition of disability. The functional limitation imposed by an impairment is irrelevant to the third ''regarded as'' prong.

In general, individuals may find it easier to establish disability under this bill's more generous standard than under the Supreme Court's demanding standard. To repeat, we intend this bill to return the legal analysis to the balance that existed before the Supreme Court's Sutton and Toyota decisions. The determination of disability is a necessary threshold issue in many cases, but an appropriately generous standard on that issue will allow courts to focus primarily on whether discrimination has occurred or accommodations improperly refused.

IV. LEGISLATIVE HISTORY AND COMMITTEE ACTION

Prior to introduction of the ADA Amendments Act of 2008 on July 31, 2008 with 55 original cosponsors the following actions occurred in the 110th Congress.

On July 26, 2007, Senator Tom Harkin introduced S. 1881, the ADA Restoration Act of 2007 together with Senator Arlen Specter. Senator Edward Kennedy, the Chairman of the Senate Health, Education, Labor and Pensions Committee cosponsored the legislation along with Senator Ted Stevens. The bill was referred to the Senate Health, Education, Labor, and Pensions Committee.

Similarly, on July 26, 2007, Representatives Steny H. Hoyer (D-MD) and James F. Sensenbrenner (R-WI) introduced H.R. 3195, the ADA Restoration Act of 2007, with 144 original cosponsors. The bill was referred to the House Committees on Education and Labor, Judiciary, Transportation and Infrastructure, and Energy and Commerce.

On October 4, 2007, the House Judiciary Committee held a hearing on H.R. 3195. Six witnesses appeared before the committee: Honorable Steny Hoyer (D-MD), House Majority Leader; Cheryl Sensenbrenner, Chair of the Board, American Association of People with Disabilities; Stephen Orr, Pharmacist (Plaintiff in Orr v. Wal-Mart); Michael Collins, Executive Director, National Council on Disability; Lawrence Lorber, Attorney, on behalf of the U.S. Chamber of Commerce; Chai Feldblum, Director, Federal Legislation Clinic and Professor of Law, Georgetown Law Center.

On November 15, 2007, the Senate HELP Committee held a hearing chaired by Senator Tom Harkin, ''Restoring Congressional Intent and Protections under the Americans with Disabilities Act'' Five witnesses appeared before the committee: John D. Kemp, President, United States International Council on Disabilities; Dick Thornburgh, Former United States Attorney General and Counsel, Kirkpatrick & Lockhart; Steven Orr, Pharmacist (Plaintiff in Orr v. Wal-Mart), Camille Olson, Labor and Employment Attorney, Seyfarth & Shaw; Chai Feldblum, Director, Federal Legislation Clinic and Professor of Law, Georgetown Law Center.

On January 29, 2008, the House Committee on Education and Labor held a hearing on H.R. 3195. Five witnesses appeared before the committee: Honorable Steny Hoyer (D-MD), House Majority Leader; Andrew Imparato, President and CEO, American Association of People with Disabilities; Carey McClure, Electrician (Plaintiff in McClure v. General Motors); Robert L. Burgdorf, Professor of Law, University of the District of Columbia; David K. Fram, Director, ADA & EEO Services, National Employment Law Institute.

On June 18, 2008, the House Committee on Education & Labor held a markup to consider H.R. 3195. An amendment was offered as a substitute to the original bill, and it was reported out of the Committee by a vote of 43 to 1.

On June 18, 2008, the Committee on the Judiciary held a markup to consider H.R. 3195. An amendment was offered as a substitute to the original bill, and it was reported out of the Committee by a vote of 27 to 0.

On June 25, 2008, the United States House of Representatives held a vote on H.R. 3195 and passed the legislation by a vote of 402–17.

On July 15, 2008, the Senate HELP Committee held a Roundtable: ''H.R. 3195 and Determining the Proper Scope of Coverage for the Americans with Disabilities Act'' Eight individuals gave testimony before the committee: Samuel R. Bagenstos, Professor of

Law, Washington University School of Law; Carey McClure, Electrician (Plaintiff in McClure v. General Motors); JoAnne Simon, Disability Rights Attorney; Sue Gamm, Elementary and Secondary Education Consultant; Terry Hartle, Senior Vice President, American Council on Education; Chai Feldblum, Professor, Federal Legislation Clinic, Georgetown University Law Center, Washington, DC; Michael Eastman, Executive Director of Labor Policy, U.S. Chamber of Commerce; Andrew Grossman, Senior Legal Policy Analyst, Heritage Foundation.

On July 31, 2008, Senators Tom Harkin and Orrin Hatch introduced S. 3406, The ADA Amendments Act of 2008. The bill was placed on the Senate calendar (under general orders/pursuant to Rule XVI?).

V. APPLICATION OF THE LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 3604 does not amend any act that applies to the legislative branch.

VI. REGULATORY IMPACT STATEMENT

The managers have determined that the bill may result in some additional paperwork, time, and costs to the Equal Employment Opportunity Commission, which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessity by the bill, but the committee does not believe it will be significant. Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has determined that the bill will not have a significant regulatory impact.

VII. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This Act may be cited as the 'ADA Amendments Act of 2008.'

Sec. 2. Findings and Purposes. Acknowledges Congressional intent of the Americans with Disabilities Act of 1990 (ADA) to ''provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities'' and to provide broad coverage, and that the U.S. Supreme Court subsequently erroneously narrowed the definition of disability in a series of cases. The purposes of the Act are to reinstate a broad scope of protection to be available under the ADA, to reject several Supreme Court decisions, and to re-establish original Congressional intent related to the definition of disability.

Sec. 3. Codified Findings. Amends one finding in the ADA to acknowledge that many people with physical or mental impairments have been subjected to discrimination, and strikes one finding related to describing the population of individuals with disabilities as ''a discrete and insular minority.''

Sec. 4. Disability Defined and Rules of Construction. Amends the definition of ''disability'' and provides rules of construction for applying the definition. The term ''disability'' is defined to mean, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment; provides an illustrative list of 'major life activities' including major bodily functions; and defines 'regarded as having such an impairment' as protecting individuals who have been subject to an action prohibited under the ADA because of an actual or perceived impairment, whether or not the impairment is perceived to limit a major life activity. Requires the definition of disability to be construed broadly and consistent with the findings and purposes. Provides rules of construction regarding the definition of disability, requiring that impairments need only limit one major life activity; clarifying an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and prohibiting the consideration of the ameliorative effects of mitigating measures such as medication, learned behavioral modifications, or auxiliary aids or services, in determining whether an impairment is substantially limiting, while excluding ordinary eyeglasses and contact lenses.

Sec. 5. Discrimination on the Basis of Disability. Prohibits discrimination under Title I of the ADA 'on the basis of disability' rather than 'against a qualified individual with a disability because of the disability of such individual.' Clarifies that covered entities that use qualification standards based on uncorrected vision must show that such a requirement is job-related and consistent with business necessity.

Sec. 6. Rules of Construction. Provides that nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or other disability benefit programs. Prohibits reverse discrimination claims by disallowing claims based on the lack of disability. Provides that nothing in this Act alters the provision in Title III that a modification of policies or practices is not required if it fundamentally alters the nature of the service being provided. Establishes that entities covered under all three titles of the ADA are not required to provide reasonable accommodations or modifications to an individual who meets the definition of disability only as a person 'regarded as having such an impairment.' Authorizes the EEOC, Attorney General, and the Secretary of Transportation to promulgate regulations implementing the definition of disability and rules of construction related to the definition.

Sec. 7. Conforming Amendments. Amends Section 7 of the Rehabilitation Act of 1973 to cross-reference the definition of disability under the ADA.

Sec. 8. Effective Date. Amendments made by the Act take effect January 1, 2009.

September 11, 2008.

TOM HARKIN,
U.S. Senator.
ORRIN HATCH,
U.S. Senator.

Mr. HARKIN. Madam President, I am extremely proud to be the chief sponsor of the ADA Amendments Act of 2008, along with the distinguished senior Senator from Utah, Senator ORRIN HATCH. This bipartisan legislation will allow us to advance and fulfill the original promise of the Americans With Disabilities Act, which was signed into law 18 years ago.

I am especially grateful to Senator HATCH for his leadership and for his friendship through all these years in helping to craft and move this bill here in the Senate. Senator HATCH was one of the key players in helping get through the original ADA back in 1989 and 1990 when we passed it. And in this effort we have here today, he has become a true partner. I deeply appreciate his willingness to take on this critical role. I think it is safe to say that without the help and intense interest of Senator HATCH on this issue, and especially on the whole ADA process, the bill would not be here today. Again, I am so grateful to Senator HATCH for his friendship and his support through all of this long process.

And it has been a long process. We are not here today because we just met the other day to put this together. It has been a couple of years or more in the making, and at least over a year of very intense negotiations with the business community, the disability community, and others to get to where we are today.

This bill is similar to legislation that was introduced in the other body by the majority leader, STENY HOYER, and Congressman JIM SENSENBRENNER of Wisconsin. That bill passed by a 402-to-17 margin in June, and of course the bill we have here today is going to pass unanimously.

I am also grateful that from the outset these bills have been conceived and crafted in a spirit of genuine bipartisanship, with Members of both parties coming together to do the right thing for Americans with disabilities. Today, we have nearly 80 Senators cosponsoring this bill. Of course, passage of the original ADA was also a bipartisan effort.

As the chief sponsor of that bill in the Senate, I worked very closely with a great number of people on both sides of the aisle, both here and in the administration—Senator Bob Dole, of course, and others on both sides of the aisle. We received invaluable support from then-President George Herbert Walker Bush and key members of his administration, including White House counsel Boyden Gray, who worked so hard to get the original bill through; and Attorney General Richard Thornburgh, who helped us craft the bill and made sure we did it in the right way. Dick Thornburgh was so instrumental in that initial passage, and ever since then, for the last 18 years, I have kept in contact with Attorney General Thornburgh periodically, talking about the ADA, what it was doing, how it was being implemented, and of course because of the recent court decisions, discussing with him how we could get to this point today and have a bill that would overturn those court decisions. Former Transportation Secretary Sam Skinner was very involved in this also.

But I would be remiss if I didn't state forthrightly the one person through all these years who was the key mover of the Americans With Disabilities Act of 1990, without whose leadership we could not have gotten it done, and who enabled this Senator to be the chairman of the Disability Policy Subcommittee and to get this bill moved through both subcommittee and committee. He was there from the very beginning to the end and has never let up in all his years on his interest in and support of legislation that would fully incorporate people with disabilities in all aspects of American life. Of course I speak of Senator Ted Kennedy, the chairman of the HELP Committee, who can't be here with us today. He is at home in Massachusetts recuperating and getting better so he can be here with us next year when we take up

health care reform. But if Senator KENNEDY is watching, I wish to say: Ted, this one is for you. We finally got here. We finally got the bill up.

I thank Senator KENNEDY for all of his help in the last 2 to 3 years in pulling everything together, and I am going to have more to say about that at the end when I thank all those wonderful staff members who helped. But Senator KENNEDY has been there from the beginning, in the 1980s, when we were doing this, and all through the 1990s, to now, and I am sorry he can't be here with us today. I know he is here with us in spirit, and that spirit has been strong to get us to this point today.

I also thank Senator ENZI. Prior to a couple of years ago, he was chairman of the HELP Committee and was also very interested in helping to move this legislation along. Since he has been ranking member, he has also been involved, and his staff involved, in making sure we could get this bill here today.

The fact is that Americans from all walks of life take enormous pride in what we have done in the last 18 years since the passage of ADA. No one wants to go backwards. The ADA was one of the landmark civil rights statutes of the 20th century, a long overdue emancipation proclamation for Americans with disabilities. Thanks to that law, we have removed most physical barriers to movement and access for Americans with disabilities. We required employers to provide reasonable accommodations so people with disabilities could have equal opportunity in the workplace. We have greatly advanced the four goals of the ADA: equality of opportunity, full participation, independent living, and economic self-sufficiency.

I think the triumph of the ADA revolution is all around us. I remember a couple of years ago attending a Washington convention of several hundred disability rights advocates, many with significant disabilities. They arrived in Washington on trains and airplanes and buses built to accommodate people with mobility impairments. They came to the hotel on Metro and on regular buses, all seamlessly accessible by wheelchair. They navigated the city streets equipped with curb cuts and ramps. The hotel where the convention took place was equipped in countless ways to accommodate all manner of people with all kinds of disabilities. There were sign language interpreters on the dais so the people with hearing disabilities could be full participants. And the list goes on and on. In other words, a kind of seamless approach to making sure that anyone could participate regardless of their disability.

For many Americans, these many changes are kind of invisible. We kind of take them for granted. We take curb cuts for granted and ramps, and widened doorways for granted. The fact is, every building—think about this—every building being built in America today is fully accessible, with a universal design. A universal design. Now, these changes may be invisible to most people, but for people with disabilities, they are transforming and liberating. The provisions in the ADA outlawed discrimination against qualified individuals with disabilities in the workplace, requiring employers to provide reasonable accommodations. Again, these are liberating and transforming for people with disabilities.

But despite all this progress over the last 18 years, we have a problem. We have a big problem. And the problem arises because of a series of Supreme Court decisions that have greatly narrowed the scope of who is protected by the ADA. As a consequence, people with conditions that common sense would tell us are disabilities are being told by the courts that they are not in fact disabled and, therefore, not eligible for the protections of the law. For example, in a ruling last year, the 11th Circuit Court concluded that a person with an intellectual disability was not ''disabled'' under the ADA.

When I try to explain to people what the Supreme Court has done, they are shocked. Impairments that the Court says are not to be considered disabilities under the law—at least in some cases—include amputation, intellectual disabilities, epilepsy, multiple sclerosis, diabetes, muscular dystrophy, cancer, and others.

In three decisions on the same day in June of 1999—what we now know as the Sutton trilogy—the Supreme Court held that corrective and mitigating measures must be considered in determining whether an individual has a disability under the ADA. This is in complete contradiction to congressional intent as we expressed in our committee reports.

When we pass laws around here, we don't put every single little thing in the law; we would have huge bills. What we do is we have committee reports and findings to instruct the courts as to what our intent is. We expect the courts to follow them.

In the Senate committee report, here is what we said:

> Whether a person has a disability should be assessed without regard to the availability of mitigating measures, such as reasonable accommodations or auxiliary aids.

You cannot get much clearer than that. The House report said basically the same thing. It said:

> For example, a person who is hard of hearing is substantially limited in the major life activity of hearing, even though the loss may be corrected through the use of a hearing aid. Likewise, persons with impairments, such as epilepsy or diabetes, which substantially limit a major life activity are covered under . . . the definition of disability, even if the effects of the impairment are controlled by medication.

That was in our report 18 years ago. The Supreme Court ignored that. They ignored it.

In the Sutton case, Sutton v. United Airlines, the Supreme Court held that for persons taking corrective measures to mitigate a physical or mental impairment, the effect of those measures must be taken into account when judging whether a person is ''disabled''—and therefore covered under the law.

That could include anything from visual aids to prostheses.

In Murphy v. the United Parcel Service, the Court applied the same analysis to medication used to treat hypertension, and concluded an employee who was fired because he had high blood pressure and hypertension was not covered because he took medication to alleviate the symptoms. But, again, in our report, as we said before, that should not be taken into account.

In the case of Albertsons v. Kirkingburg—we call it the Kirkingburg case—the Supreme Court went further and declared mitigating measures to be considered in the determination of whether someone is disabled included not only artificial aids such as devices and medications but also subconscious measures that an individual may use to compensate for his or her impairment. What were they talking about? Kirkingburg was an individual who was blind in one eye. Through experience and coping with it, he had been able to compensate for the fact he was blind in one eye. The Court said subconsciously he was able to compensate for that, therefore he must not be disabled. People hear this and they say how could the Supreme Court have decided that?

Last, in another case, the Toyota case, the Court held there must be a ''demanding standing for qualifying as disabled.'' Again, restricted; a demanding standard. We have never said that in the ADA bill. We didn't say that at all.

What has happened is that countless individuals have been excluded from ADA, even though the general rule of all civil rights laws is they should be broadly construed to achieve their remedial purposes, and the ADA is a civil rights statute.

Again, what does all this mean? What this means is the Supreme Court decisions have led to a supreme absurdity, a Catch-22 situation that so many people with disabilities find themselves in today. For example, the more successful a person is at coping with a disability, the more likely it is the Court will find that they are no longer disabled and therefore no longer covered under the ADA. If they are not covered under ADA, then any request that they might make for a reasonable accommodation can be denied. If they do not get the reasonable accommodation, they cannot do their job; and they can get fired and they will not be covered by the ADA and they will not have any recourse.

Let's look at it this way. If you are disabled and you take medication or use an assistive device, then you will be able to do your job, right? If you take the medication, use the assistive device, now you can do your job, but you will not be covered by the ADA.

Therefore, if you ask for a reasonable accommodation, the employer will say: No, you can't do your job, you are fired and, guess what, you go to court and the court will say: You are not disabled, you use an assistive device, you take medication. On the other hand, if you do not take the medication or you do not use an assistive device, you will not be qualified to do the job.

So what is a person with a disability supposed to do? If I use medication or use an assistive device, it enables me to become economically self-sufficient, become independent, become fully integrated in society. If I take medication or use my assistive device I can do that, I can get a job. But then I am no longer covered by ADA, and I can be fired or terminated. I will not get a reasonable accommodation.

You can see what this has done to so many millions of people with disabilities. What am I to do? I want to get a job. But I want the coverage of ADA. But I have to give that up if I use medication or use an assistive device—an absolute absurdity. This is not what I intended. It is not what anyone intended when we passed the ADA 18 years ago.

It boggles the mind that any court would say that multiple sclerosis, muscular dystrophy or epilepsy is not a disability covered by the ADA, but that is where we are today. Think about the troops coming home from Iraq, losing limbs, getting prostheses. The Court might find they are not disabled. If they might need some reasonable accommodations to get a decent job, the Court would find they are not covered by the Americans with Disabilities Act.

As a result, we have to have this bill, and that is what this bill is all about. This bill is about restoring the Americans with Disabilities Act back to where we intended it to be 18 years ago and to give clear directions to the courts about how they should decide these cases. This bill will overturn the so-called Sutton trilogy and Toyota v. Williams and will give clear direction to the courts on exactly what we mean. It will restore the proper balance, it will clarify and broaden the definition of disability, it will increase eligibility for the protections of the ADA.

People who are denied coverage under ADA will now be covered, and we will get rid of that Catch-22 situation that confronts so many people right now with disabilities.

I tell you, this is extremely important in the employment context. According to most recent data, more than 60 percent of individuals with disabilities are not employed. That is shameful, in our society, that we have an unemployment rate among people with disabilities of 60 percent. These are people who want to work, who are capable of work. They want to go out and become fully functioning members of society and contribute to society. All they need is the opportunity.

I can tell you employers find people with disabilities are sometimes the most exemplary of workers. All they need is the opportunity, a reasonable accommodation, and they can do their job. This bill before us today renews our promise to all Americans with disabilities. We basically say we keep the basic language of the original bill, but we also make sure the bill overturns the basis for the reasoning in the Supreme Court decisions—as I said, the Sutton trilogy and Toyota case that has been so problematic.

We clearly state mitigating measures—such as the medication or assistive devices I talked about earlier—are not to be considered in determining whether someone is entitled to the protections of the ADA. No longer is it report language. We put this in bill language so the Supreme Court can't skirt around it again.

The bill will make it easier for people with disabilities to be covered. It expands the definition of disability to include many more life activities, including a new category of major body functions. The latter point is important for people with immune disorders or cancer or kidney disease or liver disease because they no longer need to show what specific activity they are limited in, in order to meet the statutory definition of disability. The bill rejects the current EEOC regulation which says that ''substantially limits'' means ''significantly restricted'' as too high a standard. We indicate Congress's expectation that the regulation be rewritten in a less stringent way and we provide the authority in this bill to do so.

The bill also revives the ''regarded as'' prong of the definition of disability. It makes it easier for those who suffer from discrimination because of a perceived disability to be able to seek relief if they have been fired or subjected to another adverse action. We also say the definition of disability is to be interpreted broadly, to the maximum extent permitted by the ADA.

Again, this bill will give clear direction, of course, as to exactly what we intend: A broad definition, more people covered, and getting rid of that problem of having that Catch-22 situation.

Eighteen years ago, the Americans with Disabilities Act passed with overwhelming bipartisan support, and I am proud to say we have that same level of support today in passing this unanimously. I am grateful for the bipartisan spirit with which we have considered this bill. We have an opportunity to come together to make an important difference for millions of Americans with disabilities.

I might say the bill enjoys strong support in the country. I have a letter I will submit for the RECORD from over 250 business, faith, disability, labor, and military organizations that support this bill and urge its passage.

Madam President, I ask unanimous consent that letter be printed in the RECORD at the conclusion of the statements of both mine and Senator HATCH.

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

(See Exhibit 1.)

Mr. HARKIN. The bill is supported by all the national disability organizations as well the U.S. Chamber of Commerce, the National Association of Manufacturers, the Society for Human Resource Management, and the Human Resources Policy Association.

The genesis of the legislation is a result of direct conversations between the disability and business communities that should serve as a model for other legislative efforts.

I wish to say, there were a lot of negotiations that went on between disability groups, the Chamber of Commerce, the Human Resource Policy Association, National Association of Manufacturers, other business groups. They were long. They were involved. They were tough negotiations. There was a lot of give and take. I think that is the way we have to do things.

To those who say we cannot get anything done around here, I point to this bill. We can get things done around here as long as people of good will are willing to work together. It may take a little time. Sometimes good things take a little time. It takes a lot of negotiations, reaching across the aisle, reaching across to one another, and we can reach these kind of agreements. We can move this country forward, and we can make American society more fair and just and accommodating for all.

I have two last things. I wish to take a moment to recognize our veterans with disabilities. This bill we have before us renews our commitment to ensure that all Americans with disabilities, including a new generation of disabled veterans who are just beginning to grapple with the challenges of living to their full potential, despite any limitations imposed by the disabilities, are able to participate to the fullest possible extent in all facets of society, including the workplace. They deserve equality, access, and opportunity.

I would like to submit for the RECORD a letter from 23 veterans groups supporting this legislation. I ask unanimous consent it be printed in the RECORD.

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

VETERANS FOR ADA RESTORATION,
Silver Spring, MD, September 9, 2008.

Re Support for new ADA Amendments Act of 2008. S. 3604

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.
Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATORS HARKIN AND HATCH: When a disabled veteran recovers enough to return to the workforce, it's a slap in the face to run into employment discrimination. That is why we salute you for your leadership in sponsoring S. 3406 to restore the protections of the Americans with Disabilities Act (ADA) that have been eroded by the courts.

As leaders of organizations that represent men and women who have served honorably

in our nation's military, we are proud to support the Senate version of the ADA Amendments Act of 2008 (S. 3406).

This revised ADA bill has broad bipartisan support and the support of an unusual coalition of business, disabilities, civil rights and veterans/military groups who are working together to reverse narrow court interpretations of the ADA that had deprived people with many kinds of disabilities from ADA protection.

It confirms that veterans and other people with disabilities should not lose their civil rights because their conditions can be managed with mitigating measures such as medication, prosthetics and therapy, and assistive technology.

The honorable men and women who have become disabled in the service of our country deserve our support in every way. Often the best healing agent for both mind and body is to return to the workforce with a decent job at a living wage. This bill will help make sure they are protected from unlawful discrimination.

Disabled veterans have already sacrificed so much. The very least we owe our disabled veterans is to make sure they have a remedy when they face discrimination in the workplace because of their disability. It is the patriotic duty of all Americans to protect these patriots against this indignity.

Again, thank you for your leadership in sponsoring the ADA Amendments Act, S. 3406.

Sincerely,

Paul J. Tobin, President and CEO, United Spinal Association; John Rowan, National President, Vietnam Veterans of America; Joseph Violante, National Legislative Director, Disabled American Veterans; Randy L. Pleva, Sr., President, Paralyzed Veterans of America; Lawrence Schulman, National Commander, Jewish War Veterans of the USA; John ''JP'' Brown III, National Commander, AMVETS.

Hershel W. Gober, Legislative Director, Military Order of the Purple Heart; Julie Mock, President, Veterans of Modern Warfare, Inc.; Michael M. Dunn, President & CEO, Air Force Association; VADM Norbert R. Ryan, Jr., USN (Ret.), President, Military Officers Association of America; Thomas Zampieri, Ph.D., Director of Government Relations, Blinded Veterans Association; Joseph A. Wynn, II, Legislative Director, National Association for Black Veterans.

Beth Moten, Legislative and Political Director, American Federation of Government Employees; Rick Jones, Legislative Director, National Association for Uniformed Services; Todd Bowers, Director of Government Affairs, Iraq and Afghanistan Veterans of America; Lupe G. Saldana, National Commander Emeritus, American GI Forum of the U.S; MSG Michael P. Cline, USA (Ret), Executive Director, Enlisted Association of the National Guard of the United States; Patricia M. Murphy, Executive Director, Air Force Women Officers Associated.

Richard M. Dean, CMSgt (Ret), Chief Executive Officer, Air Force Sergeants Association; Daniel I. Puzon, Legislative Director, Naval Reserve Association; Richard C. Schneider, Executive Director of Government Affairs, Non-Commissioned Officers Association; Dennis M. Cullinan, Director, National Legislative Service, Veterans of Foreign Wars; Lani Burnett, CMSgt. USAF (Ret.), Executive Director, Reserve Enlisted Association.

Mr. HARKIN. I last would like to thank those who helped us get to this day, including those who are no longer with us. My friend, Justin Dart, who was so instrumental in helping us get the ADA passed. We are fortunate that his wife Yoshiko continues to carry on his legacy, day after day, week after week, year after year. Ed Roberts, the father of the Independent Living movement, whose work and vision live on.

And all the disability advocates and people with disabilities who have been so dedicated to the goals of the ADA, without whose hard work and dedicated efforts today would not have been possible—people such as Jim Ward and his family, who dedicated almost 2 years of their lives traveling on a bus around the country to every State, showing people about the importance of restoring the protections of ADA. Bob Kafka of ADAPT, who was so instrumental in passage of the ADA, and who has dedicated his life to fulfilling the goals of the ADA.

I wish to say a special thank-you to Jennifer Mathis of the Bazelon Center for her practical and practiced advice; Sandy Finucane of the Epilepsy Foundation; of course to Andy Imparato of the American Association of People With Disabilities for always being there in that leadership position—for his level-headed leadership, for bringing different groups together, and sometimes that is like herding cats to get all of us together. Andy did a great job in making sure we were always there and making sure we had our conferences and negotiations and keeping us all headed in the same direction. So to Andy Imparato I give my highest thanks and my deepest thanks for all of his helpfulness.

Thanks to Nanzy Zirkin of the Leadership Conference on Civil Rights; and to Professor Chai Feldblum of the Georgetown Law Center for creative and innovative thinking, for always being willing to testify before our committee.

Thanks to Randy Johnson and Mike Eastman of the U.S. Chamber of Commerce; to Mike Peterson of the H.R. Policy Association; to Jeri Gillespie of the National Association of Manufacturers; and to Mike Aitken of the Society of Human Resource Management.

Thanks to our key staff members: Tom Jipping and Chris Campbell of Senator HATCH's staff—great to work with—and Lee Perselay, Beth Stein, and Pam Smith of my own staff. Again, they have worked tirelessly on this day after day.

I wish to thank the House committee staff, Sharon Lewis and Heather Sawyer, and Leader HOYER's staff, Keith Abouchar and Michelle Stockwell, as well as a wish for them to make quick work of passing this bill when it gets over to the House.

Of course, I also thank the staff of the HELP Committee, the chairman's staff, Michael Myers, Connie Garner, and Charlotte Burrows, and Brian Hayes with Ranking Member ENZI.

I thank my colleagues on both sides of the aisle who have supported this bill in overwhelming numbers and made it possible to pass the bill and hopefully get it signed into law and advance the original intent of the original Americans with Disabilities Act.

You know, there may not be a lot of people here on the floor of the Senate today, but I can tell you, though, throughout the country there are millions of Americans with disabilities who know what we are doing here. They have been told. They know what we have done over the last couple or 3 years to overturn those Supreme Court decisions. They are waiting anxiously for this bill to be passed, for the House to pass it, and for President Bush to sign it into law so that once again they can go out with full knowledge that they are covered by this civil rights bill, that they can go out and seek employment, that they can travel, that they can seek the accommodations that will make them fully functioning members of our society and knowing that they are covered by the law. So there are millions of Americans with disabilities and their families all over this country today who I know are expressing thanks to all the people who have been involved in getting this done. Again, so many are not here with us today. They know what we are doing, and they are anxiously waiting for this to pass and to get it to the President, and hopefully we will get that done—hopefully by next week.

The last thing was—I thanked a lot of people, but I would be remiss if I did not thank the one person who more than any other set my feet on this course many years ago, who taught me a lot about being disabled, and who taught me a lot about discrimination against people with disabilities. And, of course, I speak of my brother, Frank.

He was here when we passed the original ADA, but he has since passed on. But it was my brother who first said to me many years ago when he was sent to the Iowa School for the Deaf—they called it the Iowa School for the Deaf and Dumb—he said, ''I may be deaf, but I am not dumb.'' It was also my brother who one time said to me that the only thing deaf people cannot do is hear. He wanted to do a lot of things in his life, but because of prejudices, because of discrimination, he was held back and discriminated against. I saw it time after time after time. He was able to persevere and carve out a life of independence and dignity for himself, but I often thought, why did he have to do that? I mean, why did it require an extraordinary effort on his part just to be a contributing member of our society, just to enjoy a lot of things we take for granted?

So I thought so much about that. I thought, you know, if I ever got in a position to do anything about it, I was going to do something. Well, as fortune would have it, I was elected to the House and then later elected to the

Senate and found myself as chairman of the Disability Policy Subcommittee under the tutelage of Senator KENNEDY. We were able to get the first ADA act passed.

I have to tell you a story here, just talking about discrimination. I was sworn into the Senate in January of 1985. I had my brother, Frank; he along with my whole family was here sitting up there in the gallery right back here. I had provided for an interpreter to interpret for my brother as he was watching the proceedings here on the floor of the Senate. Well, then a policeman came out. Actually, one of my brothers said: The policemen are up there and asked the interpreter to leave because she could not be there. I went up to the gallery. I am about to get sworn into the Senate.

I went up to find out what was going on.

The officer said: We cannot let people up in the gallery stand up and do this interpreting.

I said: Why not?

He said: It is against the rules.

What rules?

Well, it is against the rules.

Well, I was furious. So I came down on the floor, and in 1985, you might remember the Senate majority leader was Senator Bob Dole. So I went right to Dole and I said: Senator Dole, here is my problem. I got my brother up there, and they won't let an interpreter interpret.

He said: Really? Well, I will take care of that.

And he took care of it. He took care of it. So we got an interpreter. Of course, now we have closed captioning and all kinds of things now for Senate activities. But, again, it is just that attitude people have. This was in 1985. That would not happen today. Of course, we have access for people who have mobility disabilities to come in, and we have made the Capitol accessible for people with all kinds of disabilities.

But I relate that story as a way of again thanking my brother, Frank, for setting my feet on this path so many years ago. For me, it has been a labor of love, not without its frustrations, not without saying—one day at the Supreme Court, with Bob Dole by my side, listening to the Supreme Court hand down one of these decisions, I said: What could they possibly be thinking? We went out and talked to the press after, Senator Dole and I did. So it has had its frustrations.

We are not to the promised land yet with 60 percent unemployment among people with disabilities. We have a long way to go. But this, the Americans with Disabilities Act, is the civil rights statute that says to people: You cannot discriminate. Just as we passed the civil rights bills that said: You cannot discriminate on the basis of race or sex or national origin or religion, now you cannot discriminate on the basis of disability either, plus you have to take some other steps; we have to have reasonable accommodations. So this is the civil rights statute that emancipates and frees people with disabilities so they can be fully contributing members of our society.

I close my remarks by thanking the President for her indulgence, the indulgence of other Senators for permitting me to speak for so long. As I said, this, for me, for all of my adult life, is a cause to which I have committed myself, much of my staff, much of our time and effort. I am grateful to the leadership of the Senate, both on the Republican and Democratic side, and again to my great friend and partner Senator HATCH for making it possible for us to bring up this bill today and get it passed unanimously. Unanimously. That is even better than what we did with the ADA. We only had six votes against it in 1990. This is unanimous. I think it sends a clear signal that whether you are Republican or Democratic, it does not make any difference—it does not make any difference, we are going to stand behind people with disabilities. We are going to make sure the ADA takes its rightful place once again as the umbrella civil rights statute for all Americans with disabilities.

I thank all of my colleagues. I look forward to the passage of this bill in the House. I look forward to the President hopefully signing it as early as next week.

AUGUST 21, 2008

EXHIBIT 1

Re: The ADA Amendments Act of 2008

Hon. TOM HARKIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR HARKIN: The undersigned groups, representing a broad range of interests, write in support of the ADA Amendments Act of 2008 (S. 3406). This bill introduced on July 31, 2008, had 64 cosponsors as of August 1, with 55 of those joining as original cosponsors.

S. 3406, the ADA Amendments Act, would revise the ADA, in a manner designed to work for both people with disabilities and for entities governed under the law. The bill is a result of sustained efforts between Senators from both sides of the aisle and intensive and thoughtful talks between representatives of the disability community and entities governed by the law. For that reason, we believe that S. 3406 strikes a delicate balance between the needs of individuals with disabilities and the realities experienced by entities including employers and public accommodations, which are covered under the law.

We urge your support in making enactment of S. 3406, the ADA Amendments Act, a reality as soon as Congress returns to work in September. We stand ready to work with you towards that end.

Sincerely,

ABC Business Services, Illinois; Abilities in Motion, Pennsylvania; ADA Watch/National Coalition for Disability Rights; ADA Help, Inc., Florida; Air Force Association; Air Force Sergeants Association; Air Force Women Officers; Associated Alliance of Disability Advocates Center for Independent Living, North Carolina; Alpha-1 Association; Alpha-1 Foundation; ALS Association; Alzheimer's Association; American Association for Affirmative Action; American Association for Respiratory Care; American Academy of Nursing; American Association of Diabetes Educators; American Association of People with Disabilities (AAPD); American Association of University Women; American Autoimmune Related Diseases Association; American Bakers Association; American Cancer Society Cancer Action Network; American Civil Liberties Union (ACLU); American Composites Manufacturers Association; American Council of the Blind; American Diabetes Association; American Federation of Government Employees—Veterans Council.

American Federation of Labor—Congress of Industrial Unions (AFL–CIO); I American Federation of State, County & Municipal Employees (AFSCME); American Federation of Teachers (AFT); American Foundation for the Blind; American Foundry Society; American GI Forum; American Islamic Congress; American Jewish Committee; American Kidney Fund; American Liver Foundation; American Lung Association; American Medical Rehabilitation Providers Association; American Mental Health Counselors Association; American Physical Therapy Association; American Psychological Association; American Society of Employers; AMVETS; ANCOR; Anixter Center, Illinois; Anti-Defamation League; APEERS (Alternative Peer Edu/Enrichment Recovery Society), West Virginia; APSE: The Network on Employment; Arab Anti-Discrimination Committee; The Arc of Tucson, Arizona; The Arc of the United States.

The Arc of Utah; Arthritis Foundation; ARISE, New York; Asian American Justice Center; Associated Builders and Contractors, Inc.; Association of Jewish Family & Children's Agencies; Association of Programs for Rural Independent Living (APRIL); Association of University Centers on Disabilities (AUCD); Asthma and Allergy Foundation of America; Autism Society of America; The Autistic Self-Advocacy Network; AZ Bridge to Independent Living; Bazelon Center for Mental Health Law; BH Electronics, Inc.; Bimba Manufacturing; B'nai B'rith International; Brain Injury Association of America; Breast Cancer Network of Strength; Business and Institutional Furniture; Manufacturers Association; Capital Associated Industries, Inc.; Care4Dystonia, Inc.; Central Conference of American Rabbis; Center for Women Policy Studies; Children and Adults with AttentionDeficit/Hyperactivity Disorder; Christopher and Dana Reeve Foundation.

The Christian Church (Disciples of Christ) in the United States and Canada; CIGNA Corporation; Coastal Health District, Georgia; Coleman Global Telecommunications, LLC; Community Action Partnership; Community Health Charities of America; Community Resources for Independent Living, California; Control Technology, Inc.; COPD Foundation; Council of Parent Attorneys and Advocates; Council of State Administrators of Vocational Rehabilitation (CSAVR); Crohn's and Colitis Foundation of America; Disabled American Veterans; Disability Policy Consortium, Inc.; Disability Rights Wisconsin (WI P&A); DTE Energy Company; Easter Seals; Eastman Chemical; Ellwood Group Inc.; Enlisted Association of the National Guard of the United States; Epilepsy Foundation; Evangelical Lutheran Church in America; Freedom Resource Center for Independent Living, Minnesota; Freedom Resource Center for Independent Living, North Dakota; Friends Committee on National Legislation;

Friends of the National Institute of Dental, and Craniofacial Research.

Georgia Voice That Count; Granite State Independent Living; Guide Dog Foundation for the Blind, Inc.; Hearing Loss Association of America; Hearing Loss Association of America, Manhattan Chapter; Hearing Loss Association of America, Mid Hudson Chapter; Hearing Loss Association of America, North Shore Chapter of Long Island; Hearing Loss Association of America, Queens at Lexington; Hearing Loss Association of America, Western New York Chapter; Heat Transfer Equipment Company; Higher Education Consortium for Special Education; Hindu American Foundation; HR Policy Association; Human Rights Campaign; Huntington's Disease Society of America; Hydrocephalus Association; Idaho State Independent Living Council; Illinois Manufacturers' Association; International Association of Official Human Rights Agencies; International Franchise Association; International Paper Company; Iraq & Afghanistan Veterans of America; Islamic Society of North America; Japanese American Citizens League; Jewish Council for Public Affairs.

Jewish Reconstructionist Federation; J.T. Fennell Co.; Koller-Craft Plastic Products; Lakeside Equipment Corporation; The LAM Foundation; Lambda Legal; Lawyers' Committee for Civil Rights Under Law; Leadership Conference on Civil Rights (LCCR); Learning Disabilities Association of America (LDA); The Leukemia & Lymphoma Society; Life, Inc., Georgia; Liz Thurber Slipcovers; Lupus Foundation of America; The Management Association of Illinois; Manufacturer & Business Association (Erie, PA); March of Dimes; Mental Health America; Michigan Alliance of State Employees with Disabilities (Michigan ASED); Michigan Chapter of Paralyzed Veterans; Michigan Rehabilitation Association; Military Officers Association of America; Molded Fiber Glass Companies; Monadnock Paper Mills, Inc.; Motorola; Mullinix Packages, Inc.

Muslim Public Affairs Council; Myasthenia Gravis Foundation of America; NAACP Legal Defense & Educational Fund, Inc.; National Advocacy Center of the Sisters of the Good Shepard; National Alliance on Mental Illness (NAMI); National Alopecia Areata Foundation; National Association for the Advancement of Colored People (NAACP). National Association for Black Veterans; National Association for Employment of People who are Blind (NAEPB); National Association for Uniformed Services; National Association of Councils on Developmental Disabilities; National Association of County Behavioral Health and Developmental Disability Directors; National Association of Governors' Committees on People with Disabilities (NAGC); National Association of Human Rights Workers; National Association of Manufacturers; National Association of the Physically Handicapped (Manistee County Chapter); National Association of Social Workers; National Association of State Directors of Special Education; National Association of State Head Injury Administrators; National Association of the Deaf; National Center for Learning Disabilities (NCLD); National Congress of Black Women, Inc.; National Council for Community Behavioral Healthcare; National Council of Churches in the USA.

National Council of Jewish Women; National Council of La Raza (NCLR); National Council on Independent Living (NCIL); National Disability Rights Network (NDRN); National Down Syndrome Congress; National Down Syndrome Society; National Education Association (NEA); National Employment Lawyers Association; National Fair Housing Alliance; National Family Caregivers Association; National Federation of Filipino American Associations (NaFFAA); The National Foundation for Ectodermal Dysplasias; National Health Council; National Health Law Program; National Industries for the Blind (NIB); National Kidney Foundation; National Legal Aid and Defender Association; National Marfan Foundation; National Multiple Sclerosis Society; National MS Society, Hawaii Chapter; National Organization for Women; National Organization on Fetal Alcohol Syndrome (NOFAS); National Psoriasis Foundation; National Women's Law Center; Naval Reserve Association; NCEP Brain Injury Rehabilitation Program, Nevada.

NETWORK: A National Catholic Social Justice Lobby; Nevadans for Equal Access, Inc.; New Jersey Protection and Advocacy; NISH; Non-Commissioned Officers Association; Northeast Pennsylvania Manufacturers and Employers Association; Northwestern Mutual; Ohio Disability Action Coalition; Oregon Family Support Network; Organization of Chinese Americans; Osteogenesis Imperfecta Foundation; Our Children Left Behind; The Paget Foundation; Paralyzed Veterans of America; Parent Project Muscular Dystrophy; People Escaping Poverty Project, Minnesota; People First of Nevada; Portland General Electric; PPG Industries; Precision Metalforming Association; Presbyterian Church (USA), Washington Office; Prevent Blindness America; Reserve Enlisted Association; RESOLVE: The National Infertility Association.

RTC Paratransit Evaluation Services, Nevada; Roaring Spring Blank Book Co.; Ryder System, Inc.; SEIU—Service Employees International Union; Self-Advocacy Association of New York State, Inc.; Services for Independent Living, Missouri; Sikh American Legal Defense and Education Fund (SALDEF); Sjogren's Syndrome Foundation; Society for Human Resource Management; Southeast Kansas Independent Living Resource Center, Inc. (SKIL); Southern Champion Tray LP; Spina Bifida Association; State of Nevada TBI Advisory Council; Stuller, Inc.; The Taylor-Winfield Corporation; Teacher Education Division of the Council for Exceptional Children; Texas Association of the Deaf; Textile Rental Services Association of America; Ultra Tech Machinery Inc.; United Cerebral Palsy; United Cerebral Palsy of Central Ohio; United Church of Christ, Justice and Witness Ministries; United Food and Commercial Workers International Union; United Methodist Church, General Board of Church and Society.

Union for Reform Judaism; Unitarian Universalist Association of Congregations; United Jewish Communities; United Spinal Association; Uniweld Products Inc.; U.S. Chamber of Commerce; U.S. Conference of Catholic Bishops; U.S. Psychiatric Association; U.S. Psychiatric Rehabilitation Association; US TOO International; Vanamatic Company; Veterans of Foreign Wars of the United States; Veterans of Modern Warfare; Vietnam Veterans of America; West Suburban Access News Association; Wisconsin Manufacturers & Commerce; Women of Reform Judaism; The Workmen's Circle/Arbeter Ring; World Institute on Disability.

Mr. HATCH. Madam President, this is an important day in our ongoing effort to expand opportunities for individuals with disabilities to participate in the American dream.

Passage of the ADA Amendments Act establishes that the Americans with Disabilities Act will continue to help change lives. Nearly two decades ago, Senator HARKIN and I stood on this same Senate floor as partners in this cause. Of course, my good friend from Iowa, TOM HARKIN, has been a great leader in this area, and others as well.

In 1990, we worked together to produce a compromise that passed the Congress overwhelmingly. We stand here again today to do the same thing.

Why did we need to do this? The Americans with Disabilities Act defines a disability as an impairment that substantially limits a major life activity. It prohibits discrimination on the basis of a present, past, or perceived disability.

As the ADA was put into practice and used in actual cases, the courts had to construe and apply its meaning. In Sutton v. United Airlines, the Supreme Court said that impairments must be examined in their mitigated state to determine whether they constitute a disability.

In Toyota v. Williams, the Court said the definition of ''disability'' must be interpreted strictly to create a demanding standard for qualifying as disabled.

These decisions had the effect of narrowing the ADA's coverage and the protection it affords. Some explain these decisions by saying that the Court ignored what Congress intended in the Americans with Disabilities Act. Others explained them by saying the Court had to reconcile everything Congress said in the ADA.

Either way, when it comes to legislation, when Congress does not like something, Congress can change it, and that is what we are doing today.

The authority over Federal disability policy remains right here with the Congress, and it is our responsibility to establish, change, expand, redirect, or amend it whenever and however we see fit. That is what we are doing today with this bill.

The bill we pass today is the third and final round of a long process that started more than a year ago.

First came the introduction of the ADA Restoration Act, then passage of the House ADA Amendments Act—wonderful work done by our colleagues in the House—and now passage of the Senate ADA Amendments Act.

Stakeholders, including disability, business, and education groups contributed to this process. House and Senate

committees held hearings, and staff participated in what no doubt seemed at times as endless rounds of negotiation.

The result is a true compromise that establishes more generous coverage and protection under the ADA in a way that maximizes consensus and minimizes unintended consequences.

First, the bill removes what the Supreme Court said led it to narrowly construe the ADA in the first place. Congress stated in the ADA that there are 43 million Americans with disabilities. The Supreme Court treated this as a cap and answered the questions regarding mitigating measures and the standard for applying the disability definition to fit under that cap.

Removing that finding removes the cap and allows the Court to construe and apply the definition more generously.

Secondly, the bill lowers the threshold for determining when an impairment constitutes a disability without using new undefined terms.

Removing the finding that served to raise that threshold and using more appropriate findings and purpose language to explain its meaning made departing from the ADA's existing definitional language unnecessary.

Third, the bill directs that the definition of disability be construed in favor of broad coverage. This reflects what courts have held about civil rights statutes in general and what courts held about the ADA in particular before the Toyota decision; namely, that they should be broadly construed to effect their remedial purpose.

I was not comfortable with the open-ended rule of broad construction in the House bill. The rule in our bill parallels a similar provision in the Religious Land Use and Institutionalized Persons Act, a bill I introduced and the Senate unanimously passed in 2002.

Fourth, the bill does what the ADA did not by prohibiting consideration of mitigating measures. The committee reports on the ADA say mitigating measures should be ignored, but the ADA itself does not.

Courts consult committee reports to clarify ambiguous statutory language but cannot use those reports as a substitute for nonexistent statutory language. So we make it clear that with the exception of eyeglasses and contacts impairments are to be considered in their unmitigated state when determining whether they are disabilities.

Fifth, the bill makes the current prohibition of discrimination on the basis of being regarded as having a disability apply to the broader category of impairments. I have to say this is a significant step because individuals will no longer have to prove they have a disability or that their impairment limits them in any way.

The bill balances this by limiting the remedies available under this provision. This is a good example of how we work to balance the impact of the bill and to accommodate the interests of the parties affected by it.

Finally, we tried to minimize the impact this bill would have in the educational arena. While the issues that made this legislation necessary arose in the employment context, any change we make could impact educators. So we affirmed in this bill what the courts have already ruled, that institutions of higher education are not required to fundamentally alter educational standards when providing reasonable accommodations to students with disabilities.

This bill is supported by hundreds of groups on both the disability and business side and by dozens of veterans organizations.

We introduced this bill on July 31 with 55 original cosponsors, and as of today that number tops 70, more than the original ADA. More than two-thirds of the Democratic and Republican caucuses have cosponsored this legislation, and I believe everyone else is for it as well.

This is a great achievement that continues the tradition of the Rehabilitation Act of 1973 and the ADA in 1990 in removing barriers and increasing opportunities for our fellow citizens with disabilities.

The work was long and hard. Many pieces had to be put in the right place for this puzzle to become clear. But the picture that resulted is beautiful indeed.

Our commitment, our obligation, our promise did not end with the ADA, and it will not end with today's passage of the ADA Amendments Act.

I want to particularly thank my friend and colleague, Senator HARKIN, for his continuing leadership, as well as Chairman KENNEDY. He cannot be here today mainly because he is mending up there in Massachusetts. I just chatted with him again yesterday. But he deserves a lot of credit on this bill. Of course, also deserving great credit is the ranking member of the Health, Education, Labor, and Pensions Committee, Senator ENZI, for his support of this bill and for the facilitation of this development, and others as well. All the cosponsors deserve a great deal of credit on this bill.

I want to particularly thank staff members who labored long and hard, including Tom Jipping on my staff, Chris Campbell on my staff, and Michael Madsen on my staff, and Lee Perselay, Pam Smith, and Beth Stein on Senator HARKIN's staff. This bill would not have come along as well as it has without these wonderful staff people who worked so long and prodigiously to help make this work.

There were times when people thought that divergent interests and diverse viewpoints simply could not be reconciled, especially in this area. They thought the same thing back in 1990. Since we came together then to produce the ADA, I knew we would ultimately come together now to produce the ADA Amendments Act, and we did.

I know this will make a real difference in the lives of real people, and for that I am humbled and grateful.

When we argued the original Americans With Disabilities Act on this floor, I mentioned how I carried my brother-in-law, Raymon Hansen, in my arms through the Los Angeles temple of the Church of Jesus Christ of Latter-Day Saints. He weighed very little. He had to go home to an iron lung every night. This young man, who was an athlete in both high school and college, and a great athlete at that, got both types of polio, yet he finished his undergraduate degree in education and went on and got a master's degree in engineering. He worked at Edgerton, Germeshausen & Greer, one of the great engineering firms, and he worked every day, right up until the day he died.

I have to admit I have been in the presence of so many people who have disabilities, major disabilities, who suffer long and hard, but who have more courage, more ability, and more verve than a lot of us who are not suffering from disabilities.

I know Senator HARKIN mentioned his brother and others, and I am sure he will do that again today. I have a great deal of affection for Senator HARKIN, and I had it before this bill back in 1990, but I have certainly had it even more greatly since. He is a good man, and he has a great desire to do what is right in this area, and so do I.

There are millions and millions of people with disabilities who can be very good, functioning members of our society and who will benefit from this bill, and I personally express my gratitude to all of the cosponsors, but especially to Senator HARKIN, Senator KENNEDY, and Senator ENZI. These are great people who are trying to do great things here, and for a very bad election year, this is one of the greatest things we will have done in this whole year. For that, I am truly grateful.

I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Madam President, I strongly support the Americans with Disabilities Act Amendments Act of 2008, and I commend Senator HARKIN and Senator HATCH for their leadership on this important measure to restore the vitality of the Americans with Disabilities Act. As chairman of the Senate Committee on Health, Education, Labor and Pensions, which has jurisdiction over this legislation, I know too well how urgently this legislation is needed to protect the civil rights of persons with disabilities.

America's strength and success as a nation have been fueled by its founding promise of equal justice for all. Yet for much of the Nation's history, persons with disabilities were treated as people who needed charity, not opportunity. Out of ignorance, the Nation accepted discrimination for decades, and yielded to fear and prejudice.

In the 35 years since passage of the Rehabilitation Act of 1973, which outlawed discrimination against persons

with disabilities in programs and activities receiving Federal funds, our Nation has made great progress toward making the promise of equal justice a reality for such persons. The Fair Housing Amendments Act of 1988 continued this progress by extending housing protections to persons with disabilities, but it was the Americans with Disabilities Act of 1990 which opened wide the doors of opportunity by providing long-overdue protections against job discrimination and greater access to public accommodations. The 1990 act was a giant step toward guaranteeing that persons with disabilities would be full participants in the American dream.

Unfortunately, however, in many job discrimination cases, the courts have interpreted the act so narrowly that many of us who were original sponsors of the act barely recognize it today. Courts have ruled that many of the very persons the act was designed to protect are not covered by its provisions. These decisions have improperly shifted the emphasis in ADA cases away from the central question of whether discrimination occurred.

The bill we are considering today reaffirms Congress's intent that the courts should interpret the ADA broadly to fulfill its important purpose. In deciding whether to grant relief under the act, courts should respect the act's goal of expanding opportunities for persons with disabilities.

In particular, courts have narrowed the first prong of the ADA's definition of disability, which defines a disability as a physical or mental impairment that ''substantially limits'' one or more life activities. As explained in the statement of managers, the bill seeks to remedy this problem by clearly rejecting the reasoning of cases like Toyota Motor Manufacturing, Kentucky, Inc. v. Williams in 2002, in which the Supreme Court held that this prong of the definition must be ''be interpreted strictly to create a demanding standard for qualifying as disabled,'' and that ''substantially limits'' means ''prevents or severely restricts.''

The bill also rejects the Supreme Court's earlier holding in Sutton v. United Air Lines, which also imposed too heavy a burden on plaintiffs seeking relief under the act.

Although the House of Representatives' consideration of the pending legislation was of significant assistance to the Senate on this issue, in one important respect the Senate diverged from the reasoning expressed in the reports of the committees of jurisdiction in the House. The House version of the bill defined ''substantially limits'' as ''materially restricts,'' and the House Committee reports explained this term with reference to a spectrum or range of severity. The term ''materially restricts'' in the House bill and these portions of the House reports set an inappropriately high standard for the determination of whether an individual is substantially limited in a major life activity and pose the risk of confusing the threshold determination of who is covered by the act. Fortunately, our Senate bill avoids this problem and provides the broader coverage needed to correct the excessively restrictive and unintended interpretation in the litigation.

In addition, the bill's findings and purposes section states that ''the question of whether an individual's impairment is a disability under the ADA should not demand extensive analysis.'' This statement makes clear that courts normally should not require an extensive examination of an individual's disability in cases under the ADA. In such cases the main focus should be on whether discrimination has occurred, not on the threshold issue of whether an individual's impairment qualifies as a disability. As the Senate Statement of Managers explains, courts should not interpret this statement to constrain plaintiffs from offering evidence needed to establish that their impairment is substantially limiting. Of course, this statement in the bill does not impose any limitation on what evidence the party with the burden of proof on the issue of disability may offer. Indeed, such a position would be inconsistent with clearly established evidentiary and procedural rules, and constitutional requirements as well. The party with the burden of proving disability is free to introduce all the evidence of disability that he or she believes is appropriate, consistent with evidentiary and procedural rules. As the Equal Employment Opportunity Commission has stated in a related context, the plaintiff's evidentiary burden is minimal.

Our goal in this bill is to greatly enhance the protections against discrimination for persons with disabilities, and I hope these clarifications will avoid further confusion in future litigation. I am proud to join with Senators HARKIN and HATCH and the other sponsors in support of the act, and I strongly urge the Senate to approve it.●

Mr. BARRASSO. Madam President, this act has opened the door to hundreds of thousands of individuals to actively participate and contribute to our great Nation. It has raised the conscience of our Nation regarding disabilities and the impact they have on their lives. The fair treatment of the citizens of the United States is paramount. Every citizen, regardless of the obstacles in their lives, should have the opportunity to work, live and fully participate in our society.

There are many individuals with disabilities who are exceptional physicians and professionals. It is clear that situations will arise in which an individual desiring to become a licensed physician has a legitimate disability and a reasonable accommodation can be made during standardized testing.

Licensing boards have the responsibility to accurately measure an applicant's skills and abilities to practice in a professional field. The purpose of standardized examinations is to create a set environment in which to carefully determine and ensure that applicants have the knowledge, skill, and ability to perform in the real world. Certain performance measurements can only be evaluated under set parameters. It is vital that standardized testing organizations not be required to fundamentally alter key performance measurements when providing reasonable accommodations to students with disabilities.

As a doctor, I understand the need to ensure that future physicians have the ability to safely and skillfully provide medical care. Patients should not have to worry about whether their treating physician is qualified.

Public health and safety is based on the ability of these physicians to work under pressure, respond quickly, and do so in a manner that protects the well-being of the patient. The real world requires a physician to concentrate and think clearly, often within a very small timeframe.

Licensed physicians throughout the country are required to take a standardized test to meet the requirements expected of the profession. Determining whether an accommodation is reasonable should be left to the licensing board. When a testing organization or a licensing board has made a decision in good faith about an appropriate accommodation, the decision should be given great deference. This is particularly true in light of the important role these examinations play in the licensing process and the safety of the general public.

It is important that the integrity of standardized tests for the licensing of professionals in the field of medicine is maintained. The legislation does not require accommodations which would alter key performance measurements. There is no record that this legislation would require standardized testing organizations, such as the State Boards of Medicine, to fundamentally alter their examinations with accommodations that will undermine the essential purpose of their exam.

Mr. DURBIN. Madam President, in passing the ADA Amendments Act of 2008 on this day—September 11—the Senate has managed to recapture, at least for a time, the sense of unity and purpose that sustained our nation on this day 7 years ago. This is not a Democratic or Republican victory. This is a major victory for all Americans.

The Americans with Disabilities Act is one of the major civil rights laws in our nation's history, but recent court decisions have narrowed its scope and mistakenly excluded many people who should be protected.

The Supreme Court has created a cruel catch-22: If you can manage your disability you might not be protected by the ADA. People end up with terrible choices. Should I take the medication I need to stay healthy and be denied the protections of the ADA? Or do

I stop taking my medication so that I can be protected from discrimination? That is not what Congress intended when it passed the ADA.

By passing the ADA Amendments Act, the Senate is undoing the damage caused by the Supreme Court and reaffirming the principle that America will not tolerate discrimination based on real or perceived disability, fears and stereotypes.

America has made real progress since President George H.W. Bush signed the ADA in 1990. Many of the physical changes the ADA has brought about—like curb cuts—benefit all Americans, not just those with disabilities. Because of the ADA and other disability rights laws millions of Americans with disabilities have gained access to public accommodations, quality educations, and equal housing opportunities.

But too many people remained locked out of the workplace. Employment rates for men and women with disabilities have actually declined steadily since the ADA became law. Today, more than 60 percent of working-age Americans with disabilities are unemployed, and Americans with disabilities who do work are almost three times more likely to live in poverty than workers without disabilities. That is wrong, and it must end.

The march of progress in America can be marked by the expansion of freedom. Slaves who were denied full citizenship under our Constitution were given their rights with amendments after our Civil War and civil rights legislation almost a century later. Women denied the right to vote in America for generations finally won that right a century ago.

It is time indeed, it is past time—to expand our concept of freedom and acknowledge the rights of another group of Americans who have suffered discrimination through history: people with disabilities. It is my hope and expectation that the House and Senate can work together to resolve minor differences between our two bills and send the President a bill that he can sign that will protect all Americans with disabilities.

Mr. DODD. Madam President, I rise to support wholeheartedly the ADA Amendments Act of 2008. Nearly 20 years ago Congress passed the groundbreaking Americans with Disabilities Act. Because of its enactment and implementation, our country has made progress in eliminating the historical stigma previously associated with disability and guaranteeing basic civil rights and liberties to people with disabilities. I was a proud supporter of the ADA then, and I am a strong supporter of the ADA Amendments Act of 2008 now. In the years since the ADA became law, the courts have inappropriately limited its scope, and many Americans with disabilities have been denied the rights the law was intended to give them. This legislation will serve to ensure that those rights are protected and that people with disabilities are fully protected. It is my hope that this legislation will also help America become more accepting of diversity.

I would like to take a moment to applaud Senator HARKIN for his leadership on the ADA. Without his leadership neither the ADA, nor this legislation, would have been possible. I also would like to praise my good friends Senator KENNEDY and Senator HATCH, whose commitment to the issue made the passage of this legislation possible.

For decades, we have fought for the civil rights of people with disabilities, combating the antiquated mindsets of segregation, discrimination, and ignorance. Our Nation has come from a time when the exclusion of people with disabilities was the norm. We have come from a time when doctors told parents that their children with disabilities were better left isolated in institutions. We have come from a time when individuals with disabilities were not considered contributing members of society. Those times have thankfully changed. The passage of the ADA in 1990 provided the first step toward that change our country so desperately needed.

Although we have come along way in the past 18 years, the Americans with Disabilities Act has not afforded the full protections that this antidiscrimination statute originally intended to provide. The law has been repeatedly misinterpreted by the courts that have used an extremely narrow definition of disability. This definition is so narrow that many defendants with clear disabilities cannot even get their case heard in a courtroom because they do not qualify as having a disability. People with disabilities excluded from protections under the ADA include those with amputations, muscular dystrophy, epilepsy, diabetes, multiple sclerosis, cancer, and intellectual disabilities.

Ultimately, a series of Supreme Court rulings established precedents that leave many of our fellow citizens with disabilities little or no protections under current law. These decisions created a platform for future courts to say that a person does not have a disability when they benefit from mitigating measures such as medications, therapies, or other corrective devices. Ironically, this means that people with disabilities who use measures such as assistive technology to help them lead more self-sufficient lives are ultimately not protected from discrimination related to their disability. The Supreme Court decisions further narrowed the definition of disability by imposing a strict and demanding standard to the definition of disability—barring Americans coping with intellectual disabilities from the law's protections.

Equal protection under the law in the United States of America is not a privilege, but rather, it is a fundamental right due every citizen of our Nation, regardless of race, gender, national origin, religion, sex, age, or disability. It is unacceptable to deny any individual his or her right to those protections because of a misconstrued definition of disability. Our country has an obligation to its citizens to ensure that their fundamental rights are protected, and, if those rights are violated, that the option of recourse is available.

This antidiscrimination legislation would move us forward as one Nation in the direction that was intended 18 years ago. If this bill is signed into law, it will provide much needed clarification on the definition of disability, covering those individuals that rightly need protections under this law. The bill rejects the findings of the Supreme Court cases and specifies that mitigating measures are not to be considered in disability determining and clarifies that the definition should be more broadly interpreted.

Fortunately, we are a changing society, and we have come a long way since those times of segregation and stigma. Recognizing that our society needs to take yet another step to improve the civil rights of our fellow citizens, I urge my colleagues to join with us and pass the ADA Amendments Act of 2008.

I sincerely hope my colleagues will join me in bettering our country by passing the ADA Amendments Act. As we are a just society, I will continue to fight for the rights of my fellow Americans with disabilities so that we all have an equal chance to achieve the American dream. I urge my fellow colleagues to support this essential piece of legislation on behalf of the American people.

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

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

TAX POLICY

Mr. GRASSLEY. Madam President, today I wish to continue my discussions about one of the big choices facing voters this fall. That choice is which of our colleagues, Senator MCCAIN or Senator OBAMA, should we follow in terms of future tax policy. I speak as ranking member and former chairman of the Committee on Finance that has jurisdiction over tax policy.

In recent weeks—when I say in recent weeks, I mean in July because we weren't in session in August—I have talked about the history of party control and the likelihood of broad-based tax increases. I will use the tax increase thermometer—and that thermometer is up here—to point out history. I have discussed the specific precedent of the 1992 campaign with its promise of middle-class tax cuts and

the 1998 world record tax increase that hit taxpayers above $20,000. I have referred to a case of tax hike amnesia, and I put up my famous Rip Van Winkle chart. I have discussed the impact of the McCain and the Obama plans, and in July I also talked about how the McCain and Obama plans would affect seniors and middle-income families. Today, I wish to focus on small business and the effect on small business of the tax policies of the respective Presidential candidates.

There has been a lot of controversy over the years about the effect of marginal tax rate increases on small business. It first arose back in 1993. At that time, President Clinton and the congressional majority Democrats pushed through legislation that retroactively raised the top marginal income tax rates. The rate was 31 percent. Under the 1993 bill, two new higher rates went into effect: the 36-percent rate and the 39.6-percent rate, and that is where it was until the 2001 tax bill.

One of the criticisms of those higher marginal tax rates passed back in 1993 was that these rates would harm small business. Did they harm small business? Well, I am here to say they did, but I have to back up what I am saying.

In the year 2001, Chairman BAUCUS—now the Democratic chairman of the committee I used to chair—Chairman BAUCUS and I crafted a bipartisan package of marginal rate reductions. The first part of 2001, I was chairman of that committee, and Chairman BAUCUS was the ranking member. So in 2001, we had this bipartisan package of marginal tax rate reductions. Part of that package brought the top rate from that 39.6 setup in 1993 down to 35 where it is now.

Another part of the package lowered the 36-percent rate to 33 percent. Although the nonpartisan Joint Committee on Taxation, in its distribution analysis, concluded that the legislation improved the progressivity of the Tax Code, the top marginal rate reductions were controversial.

Many of the liberal Members of this body and in the punditry decried the marginal rate reductions as a tax cut for the wealthy. Many of the press echoed those criticisms. They focused on the top rate reductions and defined the bipartisan, broad-based tax relief as ''the Bush tax cuts for the rich.'' These critics and Members who shared their view failed to examine the data on the whole bill, and if they had, they would have come to a different conclusion.

The fact that the Democratic Presidential candidate this year is embracing most of the policy from the bipartisan deal should give these liberal critics some pause. Senator OBAMA's campaign tax plan confirms what I said many times over the last 7 years. It confirms that the bill Chairman BAUCUS and I crafted in 2001 was a bipartisan plan that would stand the test of time.

Since the top rates of 35 percent and 33 percent were the source of considerable opposition back then in 2001, there was a lot of debate about their merits. Aside from the general economic benefits of the increased incentives for work and investment, Chairman BAUCUS and I focused on the benefits to small business. On Monday, August 20, 2001, Chairman BAUCUS and I released a statement on the Treasury Department's analysis of that 2001 tax bill, and I will quote from part of that press release that Senator BAUCUS and I put out:

Owners of sole proprietorships, partnerships, S corporations, and farms will receive 80 percent of the tax relief associated with reducing the top income tax rate of 36 percent to 33 percent and 39.6 percent down to 35 percent. Senators Baucus and Grassley said most of the job growth over the last decade has come from small business. Experts agree that lower taxes increase a business's cash flow which helps with liquidity constraints during an economic slowdown and could increase the demand for investment and labor.

That is the end of the quote of Senator BAUCUS's and my press release commentary on the 2001 tax bill impact on small business.

Madam President, I ask unanimous consent at this point to have printed in the RECORD a copy of that August 20, 2001, Baucus-Grassley press release.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, Aug. 20, 2001.

BAUCUS, GRASSLEY, NEW ANALYSIS SHOWS TAX CUTS HELP SMALL BUSINESSES

WASHINGTON.—Sen. Max Baucus, chairman of the Senate Finance Committee, and Sen. Chuck Grassley, ranking member, today said a new U.S. Treasury Department analysis shows that farms, small businesses and entrepreneurs will receive most of the tax relief from cutting the top marginal tax rates.

''I'm pleased this analysis shows the tax cut we passed will provide relief for farmers and ranchers and our agriculture community, as well as small businesses and entrepreneurs throughout our country,'' Baucus said. ''My State is an agriculture and small business State, and it's heartening to know that this tax cut will put money back in the economy and help create more jobs.''

Grassley said, ''One of the goals of our bipartisan tax cut was reducing the tax burden for small businesses. ''That's important because small businesses create most of the jobs in this country. The new analysis shows that we succeeded in our desire to re-kindle the fire fueling the small business engine.''

At the Senators' request, the Treasury Department's Office of Tax Analysis calculated that when the new tax relief law is fully phased in, entrepreneurs and small businesses—owners of sole proprietorships, partnerships, S corporations, and farms—will receive 80 percent of the tax relief associated with reducing the top income tax rates of 36 percent to 33 percent and 39.6 percent to 35 percent. Such business owners make up 62 percent (about 500,000) of the 800,000 tax returns that will benefit from the new 33 percent and 35 percent rates, according to the analysis.

Baucus and Grassley said most of the job growth over the past decade has come from small businesses, noting that 80 percent of the 11.1 million new jobs created between 1994 and 1998 were from businesses with fewer than 20 employees, and 80 percent of American businesses have fewer than 20 employees. Experts agree that lower taxes increase a business' cash flow, which helps with liquidity constraints during an economic slowdown and could increase the demand for investment and labor, the senators said.

An October 2000 report by the National Bureau of Economic Research, a well-regarded non-partisan organization, entitled ''Personal Income Taxes and the Growth of Small Firms,'' says plainly that when a sole proprietor's marginal tax rate goes up, the rate of growth of his or her business enterprise goes down, the senators said.

The bipartisan tax cut bill responded to the fact that individual income tax collections were near an all-time high, even higher than some levels imposed during World War II. Baucus and Grassley said individual rate cuts are important relief for small businesses because most small business owners and farmers operate their businesses as sole proprietorships, partnerships, Limited Liability, Corporations or S corporations. The income of these types of entities is reported directly on the individual tax returns of the owners. A rate reduction for individuals reduces rates for farms and small businesses.

Baucus and Grassley were instrumental in passing the bipartisan tax cut legislation.

TABLE T08–0164.—DISTRIBUTION OF TAX UNITS WITH BUSINESS INCOME BY STATUTORY MARGINAL TAX RATE ASSUMING EXTENSION AND INDEXATION OF THE 2007 AMT PATCH, 2009 [1]

Statutory marginal income tax rate	All tax units		Tax units with business income [2]			Percent of tax units with business income [3]			Business income as percent of AGI [3]
	Number (thousands)	Percent of total	Number (thousands)	Percent of total	Greater than 0	Greater than 10% of AGI	Greater than 25% of AGI	Greater than 50% of AGI	
Non-filers	20,758	13.8	999	2.9	4.8	3.7	3.3	3.0	7.5
0%	23,434	15.6	6,960	20.0	29.7	28.6	26.0	22.8	62.7
10%	22,375	14.9	4,740	13.6	21.2	16.2	12.6	8.9	12.1
15%	49,522	33.0	11,024	31.7	22.3	12.5	7.8	4.5	6.9
25%	25,506	17.0	6,662	19.2	26.1	12.0	7.1	4.2	6.7
26% (AMT)	2,434	1.6	1,160	3.3	47.6	21.0	12.9	7.8	11.4
28% (Regular)	3,137	2.1	1,175	3.4	37.4	20.6	15.4	10.4	13.0
28% (AMT)	2,164	1.4	1,353	3.9	62.5	38.2	29.6	20.5	21.5
33%	335	0.2	206	0.6	61.7	46.3	38.0	29.9	31.6
35%	577	0.4	457	1.3	79.2	57.6	50.3	40.7	38.8
All	150,241	100.0	34,736	100.0	23.1	15.2	11.4	8.4	14.7

Source: Urban-Brookings Tax Policy Center Microsimulation Model (version 0308–5).
[1] Calendar year. Assumes extension and indexation of the 2007 AMT patch. Tax units that are dependents of other tax units are excluded from the analysis.
[2] Includes all tax units reporting a gain or loss on one or more of Schedules C, E, or F.
[3] Business income is defined as the sum of the absolute values of the gains or losses reported on Schedules C, E, and F.

Mr. GRASSLEY. I wish also to thank my friend, Chairman BAUCUS, and those on the other side for sticking with me on these marginal rate reductions over the years. With a strong impulse to raise marginal rates in the Democratic caucus, I know these votes were not easy. I know that small business folks in the State of Montana and other Members who supported it are also very grateful because it has really helped small business, besides giving parity between proprietorships and corporations which have a 35-percent rate, and there is no reason to tax businesses that are sole proprietorships more than big fat corporations.

Today, now, 7 years later, we find ourselves in the same debate. The data and implication of it are still very important in debating the merits of the stated top rates of 35 percent and 33 percent. Senator MCCAIN's position is that we should not raise those rates, especially in a time of the economy slowing down. Senator OBAMA insists that we raise those top rates. This is a sharp tax policy difference between the two potential Presidents.

As ranking member on the tax-writing Finance Committee, it is my duty to clarify this important debate. Our constituents have a right to be informed in an intellectually honest manner on this very important question. So, Madam President, let's take a look at this small business issue.

The first question we need to consider is what is small business. The second question would be what role do these small businesses play in our overall national economy. After that, we need to get a handle on which small businesses are affected by the higher rates that Senator OBAMA has proposed. Finally, we need to get a sense of how the small businesses are affected on the short term and long term. I am going to deal with each one of these questions right now.

So the first question: What is a small business? It is not a precise answer. In one way, some on the other side have said small businesses that matter are only those with owners who earn less than $200,000 to $250,000. To those folks at the local hardware store, if one of the owners or the sole owner owns over $250,000, no matter how many folks it employs, it is the same as a Home Depot or a Lowe's. Those of us from the heartland know the definition of small business is not limited to those whose owners make $250,000 or under. For us, it depends on whether the business is locally based. It depends on whether the business finances its growth from its own earnings. Conversely, to folks from small towns such as myself, big business is generally the companies that finance themselves through the stock market.

The reason the distinction is important for public policy issues such as the level of taxation is that we value local or regionally based businesses. The folks who own those businesses are drawn from the community. They attend the local Rotary clubs. They support the local little leagues.

Small business, as I see it, is a stabilizing yet very dynamic social force and just not an economic being. So when we talk about small business, we should not use any artificially low levels of income. We should use a commonsense definition of small business. There is too much at stake to demagog the definition.

It seems a good place to go for a definition of small business would be the Small Business Administration, the SBA. For most Federal policies, as a rule of thumb, the SBA would tell you it would be a privately held business with 500 or fewer employees. When we are considering tax policy—specifically the tax rate applicable to business—we have two categories. The first one is regular corporations. Virtually all big businesses—that is, publicly traded companies—are taxed under the regular corporate rate schedule.

There are several Tax Code rules dealing with small business. In general, the Tax Code treats those businesses that go to the capital market differently from those businesses that are financed by their owners. There are special rules for depreciation and there are special pension rules. Most important, however, are the rules that allow small business to avoid the double taxation that applies to corporate earnings. Owners of certain kinds of small business corporations, known as S corporations, can elect to be taxed as proprietorships or partnerships. That is, these corporate shareholders include the business income on their personal income tax returns. In general, an S corporation can have no more than 100 shareholders. In the case of families or pension plan owners, the number of shareholders can, in fact, be larger.

So with respect to the first question, I think we are on pretty solid ground in identifying any small business as a privately held business with 500 or fewer employees and, of course, the vast majority of them probably only a handful of employees, and maybe all within the family. You won't find much controversy, I believe, over that definition because it is one that we use here a lot on a lot of tax policy when it comes to SBA-type legislation.

Let's go to the second question, which is what is the economic impact of small business. No one disputes the fact that small business creates most of the jobs in America. According to the Small Business Administration's Office of Advocacy, small businesses generated 60 to 80 percent of the net new jobs annually over the last decade. I think that is important to think of. Again, over the last decade, small business has generated 60 percent to 80 percent of the new jobs.

Where are tomorrow's jobs going to come from? The answer is the largest share of future jobs is going to come from small business employers. I recommend that my colleagues consult the Small Business Administration's Office of Advocacy's ''frequently asked questions,'' which is available on the Internet at www.sba.gov/advo.

We should not be surprised that small businesses create the lion's share of the new jobs. A lot of American economic might, a lot of know-how and dynamism, resides in small business. According to the latest Treasury data, flow-through small business accounts for 93 percent of all businesses, 36 percent of business receipts, 34 percent of the wages paid, and 50 percent of all business income. I have a chart here that shows the growth of these flow-through small businesses since the year 1980. You can see it. The solid line, the number of businesses—the large dashes are total receipts and the small dashes are net income less deficit.

While I have focused on the flow-through, keep in mind that many of the other small businesses would be affected by the top marginal rates. Let's focus on the small business data. We have another chart here. The non-flow-through small businesses are what we call C corporations. These entities are taxed like conventional corporations but are not big publicly traded businesses. So the owners are paid through salary and dividends. These small businesses account, as you can see, for about 10 percent of the total receipts.

In terms of business receipts, then, the combination of flow-through and regular corporations accounts for about 46 percent, or almost half, of the Nation's private sector income. These regular small business entities account for 13 percent of the wages paid, and when combined with flow-throughs, the small business sector accounts for 47 percent of wages paid. That is almost half of the wages paid in the private sector jobs. In terms of net income, these regular small business entities account for 2 percent of the net business income. But when combined with the flow-throughs, the small business sector accounts for 52 percent of net business income. So that is over half of the net business income in our Nation. In other words, small businesses are a very vital, important, and productive part of our economy.

We may use the adjective ''small'' to describe this part of the business sector of our Nation, but the economic impact of these businesses, then, as you follow this chart, is not small. Like the answer to the definition of small business, I don't think many on the other side would quarrel with the notion that small business is a key part of our economy.

We have answered the first two questions, the definition of small business

and its economic impact. Now, we need to ask that very vital third question that is being dealt with or being affected in this campaign for the Presidency. How are small businesses taxed? How should they be taxed? And what is the impact of that tax?

First off, small business owners pay the tax. The individual tax rate, at the owner's level, is the rate paid by small business. These businesses are described as flow-throughs because the business income and the tax burden flows through to the business owner. I have a chart here that shows how the small business owner is taxed. It may look a little complicated, but it is not as complicated as it looks. It shows the business entity. It could be a partnership or an S corporation or a proprietorship. The business gets its cash from four sources. The first is sales. The second is debt. As a practical matter, a business may be able to access credit only if its owners are willing to guarantee the debt. The third source is the owner's investment. The fourth is retained aftertax profit. That aftertax profit is a very important part of the economic viability of small business. I emphasize ''aftertax.'' These are sources of cash for the business.

The business uses its cash to pay workers. It uses this cash to pay other expenses, such as utilities, rent, and supplies. A business either makes a profit or a business suffers a loss. If it makes a profit, the profit is taxed at the owner's level; it flows through to the owner. At that point, the Federal Government takes or gets its share. The aftertax profit then, of course, is available to the owners. That aftertax profit, I will say once again, is a very important factor. That is where tax policy in this Presidential debate is very important.

Currently, the top two Federal tax rates are, since 2001, 33 percent and 35 percent. Senator MCCAIN wants to keep the rates right there. Senator OBAMA wants to raise statutory rates to 36 percent and 39.6 percent, where they were set between 1993, under President Clinton, until 2001. In addition, Senator OBAMA also wants to restore kind of a hidden marginal rate increase; that was referred to until recently in part of the Tax Code, known as PEP and Pease. With these additional add-ons of a hidden marginal tax rate, their real marginal tax rates actually go up above 39.6, to 40 percent and 41 percent respectively.

Senator OBAMA has also proposed to raise the Social Security tax on the same group of small business owners by 2 percent to 4 percent. Recently, however, Senator OBAMA modified his tax plan to defer the Social Security tax increase. If we set aside this future Social Security tax increase, the taxes owed by small business owners would rise by as much as 21 percent and 17 percent respectively. I have a chart that shows the difference between the current top rates, which Senator MCCAIN would keep, and the increase in the rates proposed by Senator OBAMA. So the blue line is Senator OBAMA, and the red line is Senator MCCAIN.

For that same group of taxpayers, Senator OBAMA proposes, in addition, to tax dividend income at 20 percent instead of 15 percent. That is a 33-percent increase.

So for these regular non-flow-through small business owners, the amount of tax owed on their business income would rise at a range of somewhere between 17 percent to 33 percent.

As with the answers to the questions of definition and economic impact of small business, I don't think folks on the other side would dispute what I have said about how small businesses are taxed.

Now we come to the fourth question. That question is: What is the relationship between the top marginal tax rates and small business activity? Put another way, how much small business activity will be affected by the increased rates Senator OBAMA proposes? Unlike the first three questions, the answers to this question have been very controversial.

Over the years, folks who are hostile to marginal rate reduction have pointed to one statistic. They have referred to the percentage of small business tax filers who fall in the top two rates. For instance, they cite a statistic from the Tax Policy Center that concludes that only 1.9 percent of the filers with business income pay the top two marginal rates.

According to the Tax Policy Center analysis, that percentage is roughly three times the percentage of tax filers in the general population. They will state that the proportion of small business owners in the top two brackets is roughly similar to that of the general taxpaying population. The opponents of marginal rate relief will use this data to conclude the small business owners' tax profile is similar to the nonbusiness taxpayer profile. Since the tax profile is similar, the general redistribution argument applies. The bottom line is that opponents will argue that raising marginal tax rates on small business owners makes the tax system more progressive.

For the opponents of marginal rate relief, that is where the discussion ends. It comes down to the view of tax fairness from their perspective. Although the statistics show small business owners are three times more likely to be in the top two brackets, that matters not one whit to the opponents. The rates must go up and the revenue must be spent on expanding Government. For an example of this perspective, I recommend that my colleagues consult the article ''Big Misconceptions About Small Businesses and Taxes'' from the Center on Budget Policy and Priorities, dated August 29, 2008, available on the Internet at www.cbpp.org.

The political point of the opponents boils down pretty simply. This small group of filers is very well off. So other than them, who cares if the rates go up? That is good politics. When you are talking about 1 percent or 2 percent of the population versus the rest, your theory is redistribution. You are going to be making an easier political case. That is where they leave it.

There is a huge assumption that makes this argument so very dangerous and has economic impacts in the end. The assumption is that since the number of filers is limited to roughly 2 percent, the business activity is likewise limited.

The assumption is extremely dangerous economic policy. Why? I will give two reasons. One, the 2 percent understates the number of small businesses affected. Second, the assumption assumes any negative effect of removing resources from small business. You don't have a lot of room, as the chart shows, to play with small business. They don't go to Wall Street and sell their stuff. They have to accumulate their own capital.

Let's go to that first dangerous assumption that I just proposed of understating the number of small businesses affected by that 2-percent figure. Distribution tables are like any other estimate. Inside this beltway, distribution tables are a fetish. Many on the left side of the political spectrum worship at the altar of distribution statistics. They treat it as the only measure—the only measure—of whether a tax policy proposal is good tax policy or bad tax policy. Economic consequences, what do they matter? But distribution tables are an analytical tool meant to inform a tax policy debate. Distribution tables are a snapshot. Like any other snapshot, the analysis is limited.

Let's take a look at the oft-cited Tax Policy Center distribution tables. The table references a total of roughly 35 million business tax units. That is a proxy for tax returns and households. About 30 percent of that total, roughly 8 million tax units, represent folks who pay no income tax for that year. The footnote to the table states that all business income is defined as the sum of ''gains or losses reported on Schedules C, E, and F.'' Those are where the flow-through income is reported on the owner's tax return.

When you look at small business gains and losses, it is quite revealing. Small businesses are at the cutting edge of our capital system. With capitalism comes the viability of the business cycle. Small businesses are more susceptible to the good and bad years that come with business cycles. One year a small business may do very well; the next year might be a year of loss.

As evidence of this volatility, I would like to refer to the SBA data on small business survival rates. You will find this on the frequently asked questions document I referred to, and you have a citation. According to SBA, two-thirds of small businesses survive at least 2 years; 44 percent of small businesses survive at least 4 years. What this means is that over time many small businesses rise and some fall.

By the way, mobility within income tax brackets is something that occurs to a great degree in the United States because of the dynamics of our society and our economy. So think about it. How many people in their midtwenties stay in the same bracket all the way through retirement? The mobility of income of small business is a subset of the overall income mobility in the U.S. population.

Treasury data clarifies the TPC snapshot, the Tax Policy Center snapshot. I have another chart. This chart shows that when gain and loss is considered, the snapshot changes very dramatically. So pay attention to this chart as I go through it.

For all flow-through taxpayers, 8 percent fall in the top two brackets. For taxpayers with active, positive flow-through income, the percentage is roughly the same, about 7 percent. For taxpayers with flow-through income that is greater than half their wage income, the percentage is the highest, at 9 percent.

So keep in mind we are dealing with a moving target when we talk about the 2-percent figure. Some businesses will produce losses for their owners one year and income in another year. So the business owners caught in the snapshot may not be the same business owners in another snapshot.

The second assumption about the 2-percent filer argument is even more dangerous. That assumption is, since a small percentage of tax filers are affected, the impact on small business activity is somehow trivial.

How will the higher marginal rates remove resources from small business you might ask? It is a simple answer. Let's go back to the chart that shows how small business works. If the amount paid in taxes increases somewhere, as I have said, between 17 percent to 33 percent, the tax take of the business rises as well. It comes out here. Let's go through an example.

I am going to use another chart. This taxpayer filer jointly owns a small business and earns $500,000 of business income. For purposes of this example, we will assume all of that taxpayer's income comes from the small business. As an aside, this assumption favors the opponents of marginal rate relief. Why? Because most small business owners have income from other members of the household and income from other sources. In that more likely scenario, the marginal rate hikes would bite even harder because more business income is pushed into the higher brackets.

Under this example, the small business owner pays $146,700 under current law. Senator MCCAIN's plan leaves this level of taxation in effect. Under Senator OBAMA's proposal, the small business owner's taxes would go up by $20,000. That is a tax increase on this small business owner of roughly 13 percent.

The tax increase would present the small business owner with a $20,000 current problem. The small business owner's current problem is how does he or she alter his or her business to make up the $20,000 he or she has lost to Senator OBAMA's higher tax rates? Can he or she grow enough sales to pay the extra tax? Maybe, but maybe not. Can he or she replace a $20,000 machine? Maybe maybe not. Can he or she cut back on the payroll? Maybe but maybe not.

How about the future? Any good business person has to project how their business is working. Any investment's value is predicated on how much income the investment is likely to produce in the future. If income is projected to go down, then the value of the investment declines.

Higher taxes negatively affect the net income from an investment. Small business owners have choice about where to put their capital. If taxes press down on the projected net income, then the value of the small business investment declines. Everything else being equal, a small business owner is less likely to leave the after-tax profit in the business. Likewise, the small business owner is less likely to make future investment in the business.

My point is, the tax increase Senator OBAMA is proposing has a very real cost to small business owners. And my entire remarks have been directed toward the tax policies on small business because they are the engine of employment and economic growth.

What are the businesses Senator OBAMA is proposing to hit with this tax increase; that is, which businesses are owned by taxpayers making over $250,000? How many employees do they have?

I have another chart. It is based on data from the National Federation of Independent Businesses, and we refer to that as the NFIB. It is a national small business organization. The NFIB has 350,000 dues-paying members. They take surveys of their members and other small business folks. I have the latest survey that deals with the finance questions from the year 2007. This chart contains the results of question No. 12. The question identifies, as we can see from the chart, groups of small business owners by household income with the size of their firm by the number of employees. Household income includes income from other adult members of the household. If you take a look at the responses, you can compare firm size with income level of the owners.

Here we have $250,000 and above. Those are the folks who are targeted for the tax increase, and that would raise the amount owed to the Government between 17 percent under one scenario and 33 percent under another. The survey indicates that 6.4 percent of the business owners of firms with one to nine employees—so small business—one to nine employees would be hit by Senator OBAMA's tax increase.

Now move a step over and you are going to find that about 21 percent of the owners of firms with 10 to 19 employees would be hit by the tax increase. That is the 20.6-percent figure you see. Move one step to the right and we find 40 percent of the owners of firms with 20 to 249 employees would be hit by the tax increase; 20 to 249 employees, 40 percent hit. Forty percent of the owners of the small business firms then would have increases of 17 percent to 33 percent.

There seems to be armies of hard-working tax analysts in this town who work for think tanks of the liberal variety. If you look at the analyses of the tax data, the armies of the left clearly are far more numerous than the armies of the right and the middle. And I give them credit for their hard work and dedication. I am sure they are poring over all this data.

Since the redistribution dogma is what floats their boats, they will probably take a hostile attitude toward the data I have just cited. Anticipating the attacks of green-eye-shaded armies of the left, I think we can trust the survey statistics.

NFIB has been conducting these surveys for years. I cannot think of any reason why respondents to the NFIB survey would inflate or deflate their income statistics. So I think this 40-percent snapshot is a very solid figure.

The data above relates to taxpayers of $250,000 and above. Since Senator OBAMA's advisers have said his current proposal would raise taxes on single taxpayers above $200,000 on a rough basis, it is fair to look at those small business owners as well. If you do that calculation, then on a combined basis, Senator OBAMA's proposed tax increase would hit even more small business owners.

So let's go back to NFIB question No. 12. For small businesses that employ one to nine workers, 12 percent would be hit by Senator OBAMA's higher taxes. For small businesses with 10 to 19 workers about 27 percent would be hit by the higher taxes. For small business owners with 20 to 249 workers, 50 percent—half of the small businesses—would be hit by Senator OBAMA's tax plan.

I want to get to the scariest part. As the chart shows, the percentage of small business owners hit by Senator OBAMA's higher taxes goes up as the number of employees goes up. So it is fair to say these figures probably understate the impact of the higher marginal tax rates on the remaining small businesses, meaning those between 250 and 500 employees. Moreover, like the distribution tables, the survey obviously is a snapshot. With small businesses alternately running gains and losses over time, then the higher rates will hit a larger number of small business owners.

With the conservative nature of this data in mind, let's take another look at the economic profile of the small business owner Senator OBAMA has targeted for a tax increase. Every year, the SBA prepares a report to the President on small business economy.

The last report we have was submitted to President Bush in December of last year. It covers data for the previous year—2006. For 2006, the entire private sector workforce growth occurred in small businesses with 500 or fewer employees. For 2006, over half of America's private sector employees worked in these firms—over half. For 2006, these small businesses accounted for over half of the Nation's private sector gross domestic product.

Drill down deeper into the data, and you will be worried even more. Two-thirds of that small business payroll came from firms that employ between 20 and 500 workers. If we go back to the NFIB question, we will find that the owners of these small businesses are the ones most targeted by Senator OBAMA's tax increase proposal.

Finally, Mr. President, I don't want you to take my word for it. Listen to what small business folks have said about the importance of lower marginal tax rates. Take a look at the chart I am now putting up. The chart is a copy of a letter dated March 14, 2003, from three principal small business grassroots organizations: the National Federation of Independent Businesses, the Small Business Legislative Council, and the Small Business Survival Committee. I would like to read the second paragraph of that letter. It may be too small for you to see on the screen, but it sums up the reality of the effects of the marginal tax rates on small business.

Approximately 85 percent of small businesses file their tax returns as individuals. An increase in tax refunds means small firms will have more resources and more capital to put back into growing their businesses. A series of studies by four top economists examined the effect of the tax rate cuts on sole proprietors. Their results indicate that a 5 percent point cut in rates would increase capital investment by 10 percent. And they found that dropping the top tax rate from 39.6 to 33.2 percent would increase hiring by 12.1 percent.

That kind of tells you what a business force small business can be and how tax increases are negative or tax decreases are positive for small businesses to hire and to grow. What these small business groups said was that their tax policy priorities included a reduction in top marginal rates. You see it there in the letter from small business advocates.

Now, let's think about this. As the small business folks say in their letter, there is a link between tax relief, economic growth, and jobs. We have seen the evidence of that linkage in the year past. Tax relief kicked in, the economy started growing, and jobs started coming back. Why would we want to go in reverse gear?

Senator MCCAIN and Senator OBAMA agree on the policy objectives of growing jobs. Why would you aim a 17-percent or 33-percent marginal tax rate increase at the businesses that grew all the jobs in the most recently studied year? Senator MCCAIN's plan recognizes this job-loss risk. Senator OBAMA's plan goes in the opposite direction.

Let me conclude with a challenge to the proponents of raising marginal rates on small business. When I say critics, I am referring to political leaders, pundits, and even some in the media. I think the data I presented speaks for itself. If you disagree with the analysis but hold the position that higher marginal tax rates won't affect small businesses, would you agree to exclude small businesses from the 17- to 33-percent marginal rate increases that are being offered? I await your answer.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009—Continued

Mr. LEVIN. Mr. President, I think Senator WARNER is just about to enter the Chamber. I would ask the indulgence of my friend from Vermont for one more moment.

Even though there is not too much evidence, the fact is, we have made some significant progress today in some significant areas on the Defense authorization bill. Now that Senator WARNER is here, I always welcome his good wisdom. This is where we are now, as I was saying. We made some significant progress on the bill, even though it has not been that obvious and apparent.

Today we have been able to make some important progress. We will be here tomorrow. Senator WARNER and I will be here tomorrow. We urge Senators to come over to see if we can debate their amendments, to discuss their amendments. We are going to work with them to get these amendments offered tomorrow so they would be in line when voting time comes.

We will be here, that is true, even though there are no votes tomorrow, we understand. We will be here tomorrow. The Senate is in session. Senator WARNER and I will be here. It is very important that Senators who have amendments they intend to offer come here, work with us to try to get them in line for a vote, to see if we can get them offered tomorrow. That will take unanimous consent, but we will make an effort.

But we need Senators to come Monday afternoon. We will be here Monday afternoon. We will be here Tuesday. There are no votes Monday, but we will be here for the purpose of debating and discussing amendments, trying to again have them offered.

So it is also, I am authorized to say, that there will be no further votes today. Cloture will be filed tomorrow. I thank Senators who are working with us. We have lots of amendments we can clear if we can get unanimous consent to clear a managers' package. The managers' package, we are ready to go with that at any time. We are going to continue to add amendments to that package. We will be working with Senators during these next few days so we can, hopefully, get this bill passed and voted on on Tuesday.

That is the situation we are currently in.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from Virginia.

Mr. WARNER. Mr. President, the chairman has quite accurately stated the work that has been done thus far, our willingness as the two managers to continue working with Senators. We will both be present tomorrow as well as Monday. It is hoped that other Senators can be in a position to come forward with their amendments.

I might inquire, can the Presiding Officer advise us on the number of amendments on file? An approximation is satisfactory.

The PRESIDING OFFICER. There are over 220 amendments.

Mr. WARNER. I thank the Presiding Officer.

That presents clear evidence to colleagues of the magnitude of the task before us. I guess we have said this many times, but this would be the 43rd consecutive authorization bill for the men and women of the Armed Forces passed by the Senate. It is my hope that we can add No. 43.

I commend the chairman for his efforts. I have worked with him through this day. I believe we have had some helpful discussions with staff and colleagues on the means by which to make progress. We are here. It is imperative that this bill pass.

I remind colleagues of the military construction section of our bill which is so vital for the current and future needs of the U.S. military. This bill is the sole bill that can carry that important piece of annual legislation through and get it into a conference.

Mr. DEMINT. Will the Senator yield?

Mr. WARNER. Of course.

Mr. DEMINT. I appreciate having the opportunity to discuss our amendments. I ask unanimous consent that the pending amendment be set aside and that I be permitted to call up amendment No. 5405.

Mr. LEVIN. Mr. President, I will object. We are more than willing to discuss this amendment tomorrow. We realize this is one of the amendments that will have to be addressed if we are going to get to this bill. So it is not as though we are expecting to complete action on this bill without addressing the amendment of the Senator. However, this is not something I can agree to at this time but would be happy to tomorrow or Monday.

Mr. WARNER. Will the chairman yield for a question?

Mr. LEVIN. I am happy to.

Mr. WARNER. Would it not be to the benefit of the two of us as managers, as we have had a great deal of discussion together today on it, to hear from our colleague so we have clearly in mind his goals?

Mr. LEVIN. The reason I am reluctant to agree to that is because the Senator from Vermont was dissuaded from addressing the Senate until we had a few minutes to talk about plans for the future. I held up the Senator from Vermont for, now, 10 minutes when he was here and had a right to debate.

Mr. WARNER. Is there any way we could accommodate both Senators?

Mr. DEMINT. Mr. President, I don't think I am able to tonight. But for clarification, this amendment is two words and a number: Strike section 1002. I hope we haven't come to the point in the Senate when a Senator would not be allowed one amendment on such an important bill that is to strike a section. I can talk more about it later. I know we are being encouraged to bring up our amendments. This amendment has been filed for a few days. I think at least the staff is well aware of what it is. I will certainly not hold up the other Senator. I appreciate the chairman's commitment to giving me an opportunity for a vote on this amendment before it is all over.

I yield the floor and thank the ranking member.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if the Senator from South Carolina will be here tomorrow or on Monday? We may be able to discuss his amendment. It may be three words, but they are mighty important words and have a huge impact, way beyond any description of a three-word amendment. Nonetheless, in order to let the Senator from Vermont proceed, I am wondering whether it would be possible for the Senator to be here tomorrow or Monday so we could discuss his amendment? I would be happy to discuss it.

Mr. DEMINT. I will not be here tomorrow. Since we had understood that Monday was a no-vote day, I made other plans. But I can assure my colleague I can deputize my staff to work out any agreement that would be workable for the chairman and Senator WARNER. It is not our intent to hold up this bill. There is a managers' package that we will not agree to until we have a commitment for this one vote. I want to expedite this, as Senator WARNER does, and the chairman. But if the Senator would like to work with us, I am sure we can work this out tomorrow or Monday without my being present.

Mr. WARNER. The Senator has the floor, so if I could ask him to yield for a question?

Mr. DEMINT. Yes.

Mr. WARNER. This is of such vital importance to the bill. While it is just a few words, it does have very significant ramifications. It deals with the relationship of the legislative body; that is, the Congress, the executive branch, and the fulfillment of our constitutional responsibilities versus the ability of the executive branch to exercise certain powers.

In the Armed Services Committee, this matter was brought up. I put forward an amendment in committee not unlike what the Senator from South Carolina has pending before the Senate. It was not accepted. It was a 12-to-12 vote; therefore, a tie. It did not carry.

I understand the goals the Senator is seeking. But I point out, if we could have a few minutes so colleagues have some idea of the significance of this and they can reflect on it. If the Senator is not going to be here tomorrow—he has heavy commitments, as do others—nor Monday, it would be only Tuesday morning before we could really begin to get other Members of the Senate more fully acquainted with the complexity of this issue.

Mr. DEMINT. If I may offer one clarification, this is not the same amendment that was offered in committee.

Mr. WARNER. I understand that.

Mr. DEMINT. What my amendment does is restore basically the format of the Defense authorization bill to the same format it has always had. The way it is set up now, the language that references the report language and makes it, in effect, law is an unprecedented way to deal with report language. What we would do with this amendment is make it like every other Defense authorization bill that has ever been passed.

Mr. WARNER. Mr. President, that is correct. But in the intervening period, there has been the issue of Executive order. Therefore, we cannot, as a legislative body, be unmindful of what the executive branch has enunciated through Executive order. That Executive order will carry forward after this administration concludes and be a part of the next administration. That clearly states that the President is not going to observe the means by which the Congress, specifically the Armed Services Committee in the many years' pattern of doing much of its work, both in the report language as well as bill language.

Mr. DEMINT. If the intent is to get around the Executive order, then obviously that is a matter for debate. It also gets around the many statements made on this floor about the transparency of earmarks and to disclose what we are doing.

Again, this is a very simple amendment. All I am asking for is an up-or-down vote. I am not asking for passage.

Mr. LEVIN. Mr. President, let me just quickly say again, if the Senator from Virginia is also willing, could we let the Senator from Vermont proceed? We could come back. I am happy to debate this amendment tonight, if is the only time we can debate it. It has ramifications way beyond what the Senator from South Carolina says. We made a commitment to the Senator from Vermont that he would be recognized next to speak. I was waiting for Senator WARNER to come over. The Senator from Vermont was generous enough to hold off. I thought this would only be a few minutes laying out the path ahead. It is much more than that. I could come back and will be here tonight, if the Senator from South Carolina will stay here. I would be happy to give the position which is so terrifically different, very different.

Mr. DEMINT. I thank the chairman. We will not abuse the time. I have the floor, and I would like to yield for one question to Mr. COBURN. Then I will yield the floor.

Mr. COBURN. Let me say how much I appreciate the hard work done on this bill. It is a hard bill. It is important. My question would be to both the chairman and ranking member: How are we to be afforded an opportunity to amend earmarks if none of them are in the bill, yet they carry the force of law as if being in the bill?

Mr. LEVIN. That can be done by amendment, like any other amendment. But what this amendment does is to say that not just the earmark, the entire budget, including the President's budget, which is currently in that committee report, which is incorporated by reference, that that no longer carries the force of law. So the DeMint amendment goes exactly in the opposite direction of what Senator MCCAIN and others were trying to do, which was to incorporate into law all of the earmarks and the President's budget. We want them in law. We want them to be in law. We got a letter, however, from Senate legal counsel saying it cannot be done technologically.

I am not able to argue with him. I would be perfectly happy, and I hope they can be made part of law. But the DeMint amendment goes in the opposite direction. Instead of making them part of law, it wipes out their legal status by saying they will only be part of a committee report which is not incorporated by reference, and, because of the Executive order, the agencies of the Government are directed to ignore the committee report. Previously, the executive departments would comply with committee reports. That is no longer true under the Executive order.

So what this amounts to, the DeMint amendment, is an abdication of the power of the purse totally, not just over earmarks but over the President's own budget which has been adopted by the Congress. This is the opposite of what Senator MCCAIN and others have urged, which is that earmarks and other appropriations be incorporated into law. This goes the other direction and says they have no force of law whatsoever.

We have to debate the DeMint amendment. I am more than willing to debate the DeMint amendment. I would come back tonight to do it. But I don't think, in fairness to the Senator from

Vermont, that we should not allow him to proceed for his 10 or 15 minutes, whatever he wanted. I would be happy to come back.

Mr. COBURN. If I might through the Chair ask another question?

The PRESIDING OFFICER. The time is held by the Senator from South Carolina.

Mr. COBURN. And he yielded to me.

The PRESIDING OFFICER. Senator COBURN is now recognized.

Mr. COBURN. I say to Senator SANDERS, I will finish this very quickly.

My concern is, I have talked to the MCCAIN folks. They are very unhappy with this provision. The reason they are unhappy is there is no way the Parliamentarian will allow me to amend report language on the floor because it is not part of the bill we are discussing. I would be happy to work in the background with both the chairman and ranking member to move all of this to the bill so it is not a question.

That is what I would ask that you, please, try to accommodate us on because having the debate and amending things—and I will raise that out of the $5.9 billion worth of earmarks in this bill, the vast majority are noncompetitive bid. In other words, there is no competition for value for the American taxpayers' dollar. They are direct mandates that certain money will be spent with certain companies with no estimation, no competitive bidding.

So I will not delay this any longer. I would ask that the chairman and ranking member—I think the Senators have done a great job on the bill. I do not think it is significantly different in terms of earmarks than what it has been in the past. But if, in fact, we could figure out a way to make them where we could have them at least discussed and have an opportunity to amend them, I would appreciate that deference.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. COBURN. Mr. President, I will be happy to yield.

Mr. WARNER. Can the Senator visit with the two of us off the floor such that our colleague can proceed?

Mr. COBURN. Absolutely.

Mr. WARNER. Mr. President, I ask unanimous consent that the Presidential document to which I referred, dated February 1, 2008, be printed in the RECORD as a part of the colloquy.

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

[From the Federal Register, Feb. 1, 2008]

PRESIDENTIAL DOCUMENTS

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 13457 OF JANUARY 29, 2008: PROTECTING AMERICAN TAXPAYERS FROM GOVERNMENT SPENDING ON WASTEFUL EARMARKS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Policy*. It is the policy of the Federal Government to be judicious in the expenditure of taxpayer dollars. To ensure the proper use of taxpayer funds that are appropriated for Government programs and purposes, it is necessary that the number and cost of earmarks be reduced, that their origin and purposes be transparent, and that they be included in the text of the bills voted upon by the Congress and presented to the President. For appropriations laws and other legislation enacted after the date of this order, executive agencies should not commit, obligate, or expend funds on the basis of earmarks included in any non-statutory source, including requests in reports of committees of the Congress or other congressional documents, or communications from or on behalf of Members of Congress, or any other non-statutory source, except when required by law or when an agency has itself determined a project, program, activity, grant, or other transaction to have merit under statutory criteria or other merit-based decision-making.

Sec. 2. *Duties of Agency Heads*. (a) With respect to all appropriations laws and other legislation enacted after the date of this order, the head of each agency shall take all necessary steps to ensure that:

(i) agency decisions to commit, obligate, or expend funds for any earmark are based on the text of laws, and in particular, are not based on language in any report of a committee of Congress, joint explanatory statement of a committee of conference of the Congress, statement of managers concerning a bill in the Congress, or any other non-statutory statement or indication of views of the Congress, or a House, committee, Member, officer, or staff thereof;

(ii) agency decisions to commit, obligate, or expend funds for any earmark are based on authorized, transparent, statutory criteria and merit-based decision making, in the manner set forth in section II of OMB Memorandum M–07–10, dated February 15, 2007, to the extent consistent with applicable law; and

(iii) no oral or written communications concerning earmarks shall supersede statutory criteria, competitive awards, or merit-based decisionmaking.

(b) An agency shall not consider the views of a House, committee, Member, officer, or staff of the Congress with respect to commitments, obligations, or expenditures to carry out any earmark unless such views are in writing, to facilitate consideration in accordance with section 2(a)(ii) above. All written communications from the Congress, or a House, committee, Member, officer, or staff thereof, recommending that funds be committed, obligated, or expended on any earmark shall be made publicly available on the Internet by the receiving agency, not later than 30 days after receipt of such communication, unless otherwise specifically directed by the head of the agency, without delegation, after consultation with the Director of the Office of Management and Budget, to preserve appropriate confidentiality between the executive and legislative branches.

(c) Heads of agencies shall otherwise implement within their respective agencies the policy set forth in section 1 of this order, consistent with such instructions as the Director of the Office of Management and Budget may prescribe.

(d) The head of each agency shall upon request provide to the Director of the Office of Management and Budget information about earmarks and compliance with this order.

Sec. 3. *Definitions*. For purposes of this order:

(a) The term ''agency'' means an executive agency as defined in section 105 of title 5, United States Code, and the United States Postal Service and the Postal Regulatory Commission, but shall exclude the Government Accountability Office; and

(b) the term ''earmark'' means funds provided by the Congress for projects, programs, or grants where the purported congressional direction (whether in statutory text, report language, or other communication) circumvents otherwise applicable merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the executive branch to manage its statutory and constitutional responsibilities pertaining to the funds allocation process.

Sec. 4. *General Provisions*. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to an agency or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 29, 2008*.

Mr. COBURN. Mr. President, I appreciate the indulgence of the Senator from Vermont, and I yield back.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that also as a part of this colloquy be printed in the RECORD the letter from the U.S. Senate Office of the Legislative Counsel explaining why it is technologically impossible for him to incorporate at this time, with current software, all the items into the law. That is the problem; otherwise, I would be totally agreeable to having every single one of these items—the President's items and the add-ons by Congress—made part of the law. That is not a problem for me. However, technologically it cannot be done at this time. We ought to try to make sure it can be done promptly. I ask unanimous consent that the June 4, 2008, letter be printed in the RECORD.

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

U.S. SENATE,

OFFICE OF THE LEGISLATIVE COUNSEL,

Washington, DC, June 4, 2008.

Hon. CARL LEVIN,

Chairman, Committee on Armed Services, Washington, DC.

DEAR SENATOR LEVIN: I am writing in response to your letter of May 22, 2008, inquiring as to whether the Office of the Legislative Counsel has the ability to incorporate the funding tables currently included in the committee report of the defense authorization bill directly into the text of the bill. In short, the Office at this time has neither the technical capability nor the resources to convert the funding tables into the necessary electronic format for direct inclusion in the text of the defense authorization bill.

The Office of the Legislative Counsel uses highly specialized and customized software to prepare legislation. This software was developed by the staff of the Secretary of the Senate, in cooperation with the staff of this

Office and the Government Printing Office. The use of this software serves 2 major purposes: First, it allows the Senate Enrolling Clerk and the Government Printing Office to print legislation directly from our electronic files, eliminating the need to retype and proofread each file; and secondly, it allows the Secretary of the Senate, the Library of Congress, and the Government Printing Office to post legislation on the Internet in an easily searchable format.

The current version of the software contains a table tool that allows us to include tables in legislation if the tables fit into one of the templates provided in the table tool. I met this past week with the staffs of the Secretary of the Senate and the Government Printing Office and they have concluded that the table tool does not have templates that can be used to prepare all of the funding tables contained in the committee report. In fact, the Government Printing Office currently scans the funding tables as camera copy in order to print the committee report and does not convert the tables into the electronic format that would be necessary to include the tables in legislation. As a result, this Office is unable to prepare or print legislation which includes those tables.

In addition, even if templates are developed for the table tool, we will not be able to prepare the tables for inclusion in legislation unless the data in the tables can be electronically imported directly into the legislation we prepare. The committee report for the next fiscal year contains at least 180 pages of tables. Since the Office is currently unable to directly import the data in the tables, it would require our staff to spend hundreds of hours to input the data from these tables, proofread the tables for accuracy, and then make any necessary edits. We do not have sufficient staff to do this while continuing to meet our other responsibilities.

In my opinion, this is really more of an information technology issue than a legislative drafting issue. If the Senate decides to require the text of the funding tables to be included in legislation, the Government Printing Office would need to develop the necessary templates for the table tool and the Committee staff or others preparing the tables would have to conform to uniform standards for electronic formatting of the tables to ensure that the data could be imported directly into legislation,

Please let me know if I can provide you with any additional information or if you have any further questions regarding this matter.

Sincerely,

JAMES W. FRANSEN,
Legislative Counsel.

Mr. LEVIN. Now, Mr. President, I ask the Senator from Vermont the following question: whether the Senator would be willing to proceed in morning business.

Mr. SANDERS. Yes.

Mr. LEVIN. I thank the Senator.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein.

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

The Senator from Vermont is recognized.

ECONOMIC POLICY

Mr. SANDERS. Mr. President, a little while ago Senator GRASSLEY of Iowa was down on the floor critiquing Senator OBAMA's tax plan in some detail. Right now, I am not prepared to refute what Senator GRASSLEY said, although I strongly disagree with his conclusions. But I did wish to talk a little bit about some of the differences I perceive between Senator MCCAIN and the proposals he is bringing forth in terms of what Senator OBAMA has been talking about.

I, also, most importantly, wish to make the point—and I think Senator MCCAIN would be upfront in admitting—that if he is elected President, what we are going to be seeing is 4 more years of the policies we have seen in this country for the last 8 years, which have been a disaster for the middle class and working families of this country. I wish to spend a few moments on that.

Since President Bush has been in office, nearly 6 million middle-class Americans have slipped out of the middle class and are now in poverty. I can tell you that all over this country—in my State of Vermont but all over this country—people who used to believe they were securely in the middle class, people who looked to the future with optimism, are now lining up in front of emergency food shelves because the wages they are earning are simply not enough to sustain their families. We are seeing a run on emergency food shelves all over America from working families.

I can tell you that in Vermont and throughout the northern tier of this country, people are frightened to death about the coming winter because in many instances they simply do not have the money to pay the fuel bills which will keep their homes warm this winter.

Since George W. Bush has been in office, median household income has declined by over $2,100 for working-age Americans. That is a huge drop.

Since President Bush has been in office, over 4 million Americans have lost their pensions. People who have worked their entire lives at a company with the expectation that when they retired there would be a defined pension plan available to them—that has not happened in 4 million instances.

Since George W. Bush has been President, 7 million Americans have lost their health insurance and the cost of health care has soared and more and more people are underinsured.

Since President Bush has been in office, more than 3 million manufacturing jobs have been lost, as corporate America has thrown people out on the street, moved to China, moved to Vietnam, moved to any country where they can pay people a few pennies an hour.

Since George W. Bush has been in office, nearly half a million jobs have been lost over the last 6 months alone, and the unemployment rate today is over 6 percent.

I ask you: Do we need to continue these economic policies which have been such a disaster for the middle class and working families in our country? Do we need 4 more years of these disastrous economic policies?

Since George W. Bush has been President, total consumer debt has more than doubled. Everybody knows that. Everybody we know almost is in debt. We have a personal savings rate in this country today which is zero.

Since President Bush has been in office, home foreclosures are the highest on record. There are huge numbers of foreclosures all over this country. In 2007, the typical American family paid over $1,700 more on their mortgage payments.

Is that a record, is that a series of policies that this country wants to continue for another 4 years? I think not—not for ordinary people. If you are a millionaire or a billionaire, I could understand that but certainly not for the average American family.

Since George W. Bush has been President, Americans are now paying $2,100 more for gasoline, $200 more for food, $1,500 more on childcare expenses, $1,000 more for a college education, $350 more for health insurance, $600 more for afterschool costs, and so forth.

The bottom line is, the Bush economic policies have been a disaster for the middle class and for working families and the only people who have benefited from these policies are the people on the top. I do not believe we need a President in Mr. MCCAIN who is going to emulate these economic policies to the detriment of tens of millions of working families.

When Bill Clinton was in office—and I have to tell you, as an Independent, I had strong disagreements with President Clinton on a number of issues, including his trade policies, but when President Clinton was in office, 22.7 million new jobs were created over that 8-year period. That is a strong record of job creation. Since President Bush has been in office, we have created fewer than 6 million new jobs. Mr. President, 22.7 million, fewer than 6 million, that is a real difference.

Under President Clinton, 6 million Americans were lifted out of poverty. That is pretty good. Under President George W. Bush, over the same period of time, 6 million Americans have slipped out of the middle class and into poverty. Under President Clinton, 6 million people rise above poverty; under President Bush, 6 million more Americans slip into poverty.

Are those the economic policies we want to continue for another 4 years? We have a national debt right now which is an incredible disgrace. It is a debt we are leaving to our kids and our grandchildren. I always find it ironic that our Republican friends pose as the party of fiscal responsibility. Yes, they are staying up nights worrying about earmarks, worrying about everything.

Under President George W. Bush, the national debt has increased by $3 trillion. We are closing in on $10 trillion. Under President Clinton, we had recordbreaking surpluses as far as the eye could see.

I think there is a real difference between the economic policies we have seen under President Bush over the last 8 years and the economic policies we saw under President Clinton the previous 8 years. The difference is that under President Clinton, the middle class grew and expanded, poverty went down. Under President Bush, the middle class shrunk, poverty went up.

But I have to be honest. Under President Bush, there have been people who have done very well. While 90 percent of the American people have seen their incomes go down in the last 8 years, we do have to acknowledge that the people on top are not only doing well, they are doing fantastically well. As an economic stratum among the top 1 percent, those folks are doing better than at any time since the 1920s. In fact, the wealthiest 15,000 American families received a 57-percent increase in income under President Bush.

We now have—and we do not talk about it too much—the absurd situation that the top one-tenth of 1 percent earn more income than the bottom 50 percent. Now, I know a lot of folks get up here and they talk about family values and they talk about morality. Let me go on record as saying I believe it is immoral that the top one-tenth of 1 percent earn more income than the bottom 50 percent.

While the middle class shrinks and poverty increases, the average income of the top 400—top 400—American tax filers—and that represents 3 out of every 1 million taxpayers of this country—has more than doubled under President George W. Bush, going from a mere $104 million in 2002—how do you get by on a mere $104 million? They were scraping by. But the good news is, by 2005, that $104 million went up to $214 million a year.

Adding insult to injury, the effective tax rate of the richest 400 people, whose incomes are exploding, has nearly dropped in half, from 30 percent in 1995 to only 18 percent in 2005, because of the Bush tax cuts for the rich.

It is not just income; it is wealth, also. The wealth—that is the accumulated income of the richest 400 Americans—has also soared under President Bush, going from a mere—now, we are talking about 400 families. Mr. President, 400 families had an aggregate wealth of $290 billion. When President Bush came in, their wealth was $290 billion, and it went to $1.5 trillion by the year 2006—$1.5 trillion for 400 Americans, and in our country today, we have the highest rate of childhood poverty of any country on Earth. We have 46 million Americans without any health insurance.

I raise these issues to talk about what is going on in our society today economically, to point out that the policies of President George W. Bush have very clearly worked if you are a millionaire or a billionaire. They have been a disaster for you if you are in the middle class or a working person. I commend Senator MCCAIN for being pretty honest and straightforward in saying he wants to continue those policies: more tax breaks for millionaires and billionaires, more tax breaks for the largest corporations in our country, more efforts to privatize Social Security, more efforts to cut back on programs desperately needed by working families and low-income people.

So the thrust of what I wished to say this evening—and I was compelled to come down here because I heard Senator GRASSLEY speaking before; and Senator GRASSLEY, as I indicated earlier, was very critical of Senator OBAMA's tax policies, and I disagree with Senator GRASSLEY's conclusion. But I think if one is going to talk about Senator OBAMA's tax policies, it is important to talk about Senator MCCAIN's overall economic policies which are going to be 4 more years of Bush's policies. This country—at least the middle class of this country, in my view—cannot survive 4 more years of those policies. So that is about all I wanted to say this evening.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. DURBIN. Mr. President, earlier this evening, my colleague and friend from Iowa, Senator GRASSLEY, came to the floor and spoke about the tax proposals of both BARACK OBAMA, the Democratic candidate for President, and JOHN MCCAIN, the Republican candidate for President. I am happy he brought that debate to the floor. It is an important one. I think it will be an important part of the decision process for most Americans on November 4. But I, to no one's surprise, see it quite differently from my friend from Iowa.

As I see it, we have a clear choice in this election. We know what has happened over the last 8 years. Under President George W. Bush, we have followed the classic neoconservative Republican approach to the economy and taxes. That approach started long ago and continued by President George W. Bush, who believes that we can, in fact, generate more economic growth and prosperity in America by lowering the taxes on the wealthiest people in our country. That is chapter and verse, that is the Bible, the economic Bible according to President Bush and his loyal followers. They have implemented that plan, creating tax breaks which have been historic and unusual; historic in that they have now driven tax rates to the point where the wealthiest people have seen tax breaks that are creating the largest deficits in the history of the United States of America. Last week, there were reports in Washington of a national deficit this year of $407 billion—the largest ever.

Remember: When George W. Bush took office from the Clinton administration, he inherited a budget surplus. It was the first surplus in 30 years. It was a responsible budget process that actually paid off debt. It gave longer life to Social Security. It meant less of a burden on our children. But when President Bush took office, he changed all that. He took that surplus and squandered it. He will now leave office with the lowest approval rating in the history of the Presidency and with the biggest deficit in the history of the Presidency. He managed that because he did something no President has ever done in history. He called for cutting taxes in the midst of a war. No President has ever done it because it makes no sense. A war is an added expense to a nation such as ours. We have our ordinary expenses for highways, prisons, medical research, education, and health care, and along comes a war costing $10 billion a month, and President George W. Bush said: Don't worry. We won't pay for the war. We will add it to the deficit and, in fact, we will cut taxes. It made no sense. Because of this desperate and poor economic and tax planning, we find ourselves with the biggest deficit in the history of the United States of America.

I say that because JOHN MCCAIN, the Senator from Arizona and Republican candidate for President, has endorsed President Bush's economic and tax policies. He has said that if he is elected President, he will continue the Bush economic policies which have driven our economy into the ditch.

We know what is going on. Last weekend, the Secretary of the Treasury, Henry Paulson, called me in Illinois and said: Well, I want to let you know it has reached the point where the taxpayers have to take over Fannie Mae and Freddie Mac. Those are two government-sponsored agencies responsible for half of the mortgages in America and they were about to go bust. So Secretary Paulson moved in and said we have to take them over. I don't quarrel with his conclusion. The alternatives were bleak. If those two agencies failed, we could see our economy fall deep into a recession and a global recession following it. I really believe that. He did what he had to do. But we had to do it because the Bush economic policies have failed so miserably.

Sadly, they have taken the view that Government should not be responsible for oversight of the major elements of our economy. They have failed to keep their eye on the middle class of America, which is the strength of our economy. They have given tax breaks to the wealthiest people, and JOHN MCCAIN promises more of the same. Let me correct that. JOHN MCCAIN promises to do even more than Bush did. In fact, his proposals for tax cuts for corporations would literally mean multibillion

dollar tax cuts—additional tax cuts—for the oil companies in America. Can you think of a more deserving taxpayer than ExxonMobil? Is there any case you can think of more compelling when it comes to compassion than to give a tax break to ExxonMobil? Those poor people reporting record-breaking historic profits need a tax break.

Have you heard any suggestion from my colleagues on the Republican side or John McCain to give tax breaks to those who are struggling in America? We know who they are: middle-income taxpayers. They are the ones paying for gas and groceries. They are the ones who are worried about college education expenses. They are the ones worried about health care expenses. They are the ones who are being shunned and ignored by the McCain-Bush approach to taxes.

Senator GRASSLEY comes to the floor and says: Oh, this BARACK OBAMA, his tax plans are going to hurt small business. Well, I can stand here and tell my colleagues he is wrong—and I believe he is—but I may not be as credible as a nonpartisan group such as the Annenberg Public Policy Center. They took an analysis of the McCain tax policy, which is Bush tax policies all over again, and they took a look at Senator OBAMA's proposal, and this is what they say:

> Senator McCain has repeatedly claimed that Obama would raise taxes for 23 million small business owners.

That is from the Annenberg Policy Center. Their response:

> It's a false and preposterously inflated figure.

They say:

> We find that the overwhelming majority of those small business owners would see no increase because they earn too little to be affected. Obama's tax proposal would raise the rates only on couples making more than $250,000 or singles earning more than $200,000.

They go on to say:

> McCain argues that Obama's proposed increase is a job killer. He has a point. It's true that increasing taxes on those at the top would leave them less money for other purposes, including investment and hiring in the case of business owners. But the number of business owners who would see their rates go up would only be a small fraction of what McCain says. Many would see their taxes go down.

That false claim about a new burden on small businesses was repeated on the floor today by my friend and colleague from Iowa. It won't work.

At the same time they are calling for tax cuts for the wealthiest people and the most profitable corporations in America, JOHN MCCAIN, inspired by George W. Bush, is not providing the kind of tax relief which Senator OBAMA is talking about for those in middle-income categories across America.

That is the real difference. At a time when Americans are struggling with soaring costs, JOHN MCCAIN will provide more tax breaks to corporations that ship American jobs overseas, and JOHN MCCAIN would provide no direct tax relief at all for more than 100 million middle-class families. Those are the focus of the Obama tax relief plan—those families.

JOHN MCCAIN doesn't have a plan to insure every American, and under his plan you would pay taxes on health care for the first time ever. JOHN MCCAIN wants to change the way we get health insurance in America. It gets back to the President Bush ownership society, and do we remember the motto of the Bush ownership society? ''Just remember, we are all in this alone.'' Well, Senator MCCAIN, inspired by this concept, believes we ought to get away from group insurance through our employment and be given a little check and let's all go out in the market and do our best. Well, you know what that means. If you happen to have a family with a sick child or you happen to have a history of illness in your family, watch out. What you are going to have to pay is dramatically more. You are no longer in a pool with the risks shared; you are on your own. So JOHN MCCAIN would say if your employer then is going to provide you with health insurance, we are going to tax it. We are going to tax that as income. That is a first, and that isn't going to help. It certainly isn't going to extend health care coverage to more families—something we desperately need.

Now, what BARACK OBAMA would do as President is simplify and reform our Tax Code, and it is long overdue. In George Bush's billion-dollar giveaways to big corporations and the wealthiest in our society, the Obama plan will reform our Tax Code so that it is simple, fair, and advances opportunity, not the agenda of some lobbyist or oil company. He will shut down the loopholes in tax havens and he will use the money to help pay for middle-class tax cuts that will provide $1,000 in tax relief to 95 percent of workers and their families across America. The Obama plan will make oil companies such as Exxon pay a tax on their windfall profits and he will use the money to help families pay for skyrocketing energy costs and other bills.

He would eliminate income taxes for retirees making less than $50,000 a year because he believes that every senior deserves to live out their life in dignity and respect.

It just amazes me that JOHN MCCAIN could promise to bring us 4 more years of these awful Bush economic and tax policies, when we know what they have resulted in. Yet he is a loyal soldier. No maverick, no, sir; he is a loyalist. When it comes to the Bush economic and tax policies, JOHN MCCAIN is no maverick. He is an acolyte of the high priest of Republican tax policy, President George W. Bush. He promises more of the same—4 more years. Can America stand it? Can we take it? I don't think so.

Middle-income families and working families deserve a Tax Code that cares for them and gives them a fighting chance, not a Tax Code designed to help the wealthiest. The Halls of Congress out here are filled with lobbyists, pretty well dressed, pretty well heeled, and living a nice life. Their job is to protect that Tax Code George W. Bush wrote. JOHN MCCAIN is their best friend. He promises that when he becomes President, the George W. Bush Tax Code is going to be even more generous to the wealthiest businesses and individuals. That is completely wrong.

The strength of this country is when middle-income families have a fighting chance to succeed. Do you know what they feel. They feel, as I do, that this country has been moving in the wrong direction for too long. We need a real change and in a lot of different areas but certainly when it comes to America's Tax Code.

For my friend from Iowa to come here and give us tales of doom and gloom about what might happen if we had real change in Washington, I say to him, what do you think of the current mess? Do you agree with JOHN MCCAIN that the fundamentals of this economy are so strong today? If you believe that, then you have not spent much time talking to real Americans.

During this last break in August, I went back and toured my State from top to bottom. It is a big, wonderful State. I spent some time in small towns and sat down for a get-together after work in El Paso, IL. El Paso is a little town just north of Bloomington; it is the birthplace of Bishop Fulton J. Sheen. There is a tavern we went to after work and had a beer, and we talked to some families about what they are up against. I wish JOHN MCCAIN could hear those stories. I wish my colleagues could. I wish they could understand what this economy has done to these good, hard-working people. These are folks who are scared to death that the Mitsubishi plant in Bloomington is going to ship out more jobs. They don't want any more trade agreements that ship jobs overseas. They are scared to death that we are going to have a Tax Code like the one we have today, which rewards companies for sending jobs overseas, a provision in that code that JOHN MCCAIN agrees with and Senator OBAMA disagrees with. These people are concerned about their kids' college education. One fellow said: My son just finished 2 years at a private college in Peoria, and he decided to come back home. He is going to try his luck at the community college to get on track. He said that he has $60,000 in student loans. He is a sophomore, he hasn't even reached the point where he has a degree, but he has what amounts to a mortgage debt in student loans.

Those are the realities of life out there in real America. When I hear JOHN MCCAIN say he wants to continue these economic policies and tax policies of George W. Bush, I wonder, when is the last time he sat down with some of these families? He owes it to himself, if he wants to be a good candidate for President, to sit down with some of these struggling families.

I think we need a new approach. We need change in this town. What Senator OBAMA is proposing is a change in the Tax Code to give that family and others a fighting chance. That is all we can offer them. There is no guaranteed success, but we can offer them just an opportunity, a fighting chance at success. It is a chance most of our families have capitalized on and did a pretty good job for their kids. We owe that to the next generation as well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DOMESTIC VIOLENCE AWARENESS MONTH

Mrs. BOXER. Mr. President, today I take this opportunity to recognize October as Domestic Violence Awareness Month, DVAM, and to recognize the fine work of STAND! Against Domestic Violence.

I am proud to be an original cosponsor of the bill to designate October as ''National Domestic Violence Awareness Month.'' I strongly support the motivation behind DVAM and I have worked to end domestic violence as long as I have been a Member of Congress. I authored the Violence Against Women Act, VAWA, while in the House of Representatives, and helped get it passed and signed into law after being elected to the Senate. VAWA toughened laws against perpetrators and continues to provide funding for campus safety, battered women's shelters, and training programs for law enforcement to identify and better understand cases of domestic violence. I am also proud to have introduced the Domestic Violence Identification and Referral Act to provide funding to schools for health professionals who work to prevent domestic violence.

Domestic violence can strike anyone, regardless of race, age, sexual orientation, religion, socioeconomic status or education level. Particularly tragic is the impact domestic violence has on children—physically, emotionally, and mentally. This violence witnessed in the home is often acted out in schools and communities. This negative cycle of violence has far-reaching impacts and I believe we must work together to prevent such violence from occurring in the first place.

I commend the tireless efforts of those who work everyday to end this violence. For over 30 years, STAND! has provided domestic violence services to families and individuals throughout Contra Costa County. Through their work, STAND! strives to end domestic violence by raising awareness through education so that individuals will become advocates, and by providing support services to those survivors of domestic violence.

As we prepare to enter Domestic Violence Awareness Month, I ask my colleagues to join me and STAND! in remembering the victims of domestic violence. I am inspired by those women who have survived domestic violence. And I mourn those who have not survived. In their memory, I will fight against domestic violence and work to empower women as long as I am in the U.S. Senate.

SEA OTTER AWARENESS WEEK 2008

Mrs. BOXER. Mr. President, I take this opportunity to recognize Sea Otter Awareness Week 2008.

Established in 2003 by the national nonprofit organization Defenders of Wildlife, Sea Otter Awareness Week is an annual event that aims to teach the public about the vital role that sea otters play in our marine ecosystem. Acknowledged each year by numerous nonprofit organizations, educational institutions, and local, State, and Federal elected officials, Sea Otter Awareness Week helps to protect this sentinel species and its habitat.

Historically, sea otters once numbered in the hundreds of thousands and thrived along the 6,000 miles of Pacific coastline from northern Japan, through the Aleutian Islands of Alaska, down the coast of California, and into Baja California in Mexico. Sadly, because of their thick fur, sea otters were hunted to the point of near extinction throughout the 19th and 20th centuries. Thanks to an international ban on hunting, conservation efforts, and reintroduction programs, the sea otter population is on its way to recovery, though it has been a slow process.

The health and well-being of our sea otter population is indicative of the overall health and well-being of the Pacific Coast marine ecosystems as a whole. We must do all we can to protect our coastal ecosystem and foster the survival of sentinel species such as the sea otter. To ensure a healthy coast and ocean, I am proud to have reintroduced my National Oceans Protection Act, which provides a comprehensive approach to ocean management and protection, ensuring that Americans can enjoy the beauty and majesty of our oceans for generations to come.

I commend Defenders of Wildlife and all those involved in Sea Otter Awareness Week for their dedication to raising awareness about the tremendously important role that sea otters have in our coastal ecosystem. I am inspired by their work and I applaud them for their perseverance in protecting the health of our oceans and marine life. Their commitment means a brighter future for us all.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

I am writing this letter out of somewhat desperation with the costs of energy lately. We live about 35 miles south of Lewiston on property that my grandfather purchased in the early 1940s. I have been disabled and am on Social Security Disability after working over 25 years in the utility and communication industry. My wife has been working in the health care insurance business for over 20 years and drives back and forth every day to work. We were budgeting and spending about $200–$250 per month for gas. In the last two months, it has increased to $425 per month! I know a little about all the oil reserves in Montana, North Dakota as well as other places even offshore and the untapped areas in Alaska for drilling and several capped oil/propane wells that have already been drilled. I am familiar about the open pit mining in Centralia, Washington; Montana and Wyoming. I was working when they moth-balled the nuclear plants at WASOP. I use these areas as examples in the Northwest because this is where I live and I am more familiar with them. We have taken several conservation measures to cut our energy costs at our home, but you can only do so much! I hardly ever even leave the house anymore because I cannot afford to drive my (small) Ford Ranger F150 pickup, just only to doctor appointments.

What can you do to start helping other Americans like us here in Idaho and the Northwest? Congress should put our families first, ahead of the environmentalists! These people are driving up costs at an alarming rate! I believe in treating our resources properly and our environment respectfully, but come on, use our heads! These environmentalists are making it impossible to survive anymore. We need to decide if American people are going to survive or is it going to be a small snail, a kind of fish or a spotted owl, which, by the way ruined the lumber industry in the Northwest. After research, they found out it was a bigger owl killing the smaller ones! How much money did that cost the people and industry brought on by environmentalists? It is survival time, folks . . . let us start using our heads. We need to start using our own resources now, not later, and stop depending on other countries because you see where that has positioned us. Open up the reserves, uncap oil wells, less restrictions on open pit coal mines, put more nuclear plants on line. Stop using wheat and corn for bio-fuels because it is killing us at

the grocery stores, better yet, stop wasting money on bio-fuels because it is not cost effective. There are more actions that need to be taken, but the ''most important'' thing is that we need Congress to start acting Now to help us survive before it is too late. Please!

Sincerely and with respect,

BARNEY and PATTI, *Winchester*.

I guess I have to admit that you are probably representing the views of the majority of the people in Idaho. Sadly, that is a very short-sighted viewpoint.

My story is that I am trying to walk more and ride my bicycle when I can. Generally, I am trying to be more energy conscious. The bottom line is that we Americans are missing the point. For three reasons, we have to change our way of thinking. The first is for our own health. Frankly, we do not get enough exercise because we have become so dependent upon the automobile. Take a look at your local high school parking lot sometime. We are actually educating kids not to walk or ride bikes. Take a look at the country as a whole, and you will see a serious obesity problem. Take a look at our cities and ask the question, ''How safe is it for a family to ride a bicycle to the store or to the park? How safe is it for children to ride to school on a bike? How safe is for a mother to take her child to the grocery store on a bike? Sadly, the basic answer seems to be: ''Who cares?'' Frankly, you should!

The second reason is also related to health. When Idaho's cities grow, with the corresponding dependence upon gasoline, the wonderful clean air that people brag about deteriorates. The Rathdrum Prairie and the Spokane Valley are set up very much like the Los Angeles basin. It is only a matter of time before we restrict woodburning stoves in the winter and increase emission standards on vehicles.

The third reason is for the health of the planet. The hole in the ozone layer and the problems caused by global warming may not be entirely caused by the internal combustion engine, but they have played a significant role. Just think for a minute of what this world is going to look like if we continue down this path, and China, Africa, India and the rest of the world drive cars the way we do. Our children and grandchildren will have a difficult time breathing, and that will be just the beginning of the problems they will face. Capitalism certainly has its strengths as an economic tool. But somebody has to control it, or it will lead us to our own destruction. It is a system designed to create profit for people who answer needs.

Fifty years ago or more, our system began ''creating needs'', like a MacDonald's hamburger, a Corvette Stingray, or a piece of waterfront property all to myself. Originally, these seemed like simple enough requests, but look at what we have become. Our religions tell us wealth does not make us happy, but we do not really hear that. We flatter men and institutions who treat nature like their own possession. Sadly, I would bet that very few people in Idaho are writing you letters like this. I wish you had the wisdom and the courage to begin to turn the thinking of the people of this state around. My question to you is simply, ''If we keep going this way, what do you think Idaho and this country will look like in 50 more years. I predict your children and grandchildren will be saying, ''Wow, we did not know that would happen!'' Just as much as we are saying now that we wish the miners of the 19th and 20th centuries had said, ''Maybe we should have more concern for our lakes and rivers''. Just as I would say now, ''Why did not our forefathers have the wisdom to see that turning the shoreline of our lake over to private property owners is a serious mistake.'' The waters of Idaho just as the ocean around the islands of Hawaii should have remained public property. ''Those who refuse to learn from history are destined to repeat it.'' We are there! Good luck with your programs. I know you are a good and thoughtful man, and you cannot singlehandedly turn this state or this country around, but I hope you will begin to open your eyes and your mind to some other possibilities. We need that from you.

RICHARD.

Thank you for the email telling us of your position on the energy crunch. I heartily support tapping the petroleum resources we have here in the United States and, from all that I have heard, we have the technology to do it in an environmentally-friendly manner. I understand that Congressman Chris Cannon of Utah is making efforts to develop oil shale fields that are located under Utah, Colorado and Wyoming. I support this and hope that you will uphold these efforts if corresponding bills reach the Senate. Also, please do whatever you can to support the development of technologies that will allow us to tap these resources in more efficient and environmentally conscientious ways.

I also support expanding our use of nuclear energy. My understanding is that the popular fears of nuclear power plants are largely based on myth. And most of the ''waste'' produced is either relatively benign, or can be recycled or reused. If federal regulations were changed so that all radioactive byproducts did not have to be shipped to a nuclear waste repository, we would have plenty of space in places like Yucca Mountain for the 2 percent of nuclear ''waste'' that actually should be there. France produces 80 percent of its electricity from nuclear power. What in the world is holding the U.S. back from building more nuclear power plants?

I am all in favor of expanding our refinery capacity and in developing alternative energy sources, such as biodiesel. Please do whatever you can to bring about changes at the federal level so that the private sector can go to work developing technologies and resources and solve these growing problems. I pray that your fellow legislators will take the extreme environmentalist lobby with a grain of salt. I agree that we are ''too dependent on petroleum,'' and that we are ''far too dependent on foreign sources of that petroleum.'' We need to move forward in tapping the resources we have. We need to do so in an environmentally conscientious manner, but we need to move forward.

BLAKE, *Hamer*.

What would really help is if this information could be put into the hands (and heads!) of the other Senators, Representatives and President Bush.

I am sure you are looking for sad stories of starving babies and missed vacations due to the price of energy lately. My story is quite different. I have taken the issue of high gas prices as an opportunity to change my lifestyle. I ride my bicycle more instead of driving everywhere, I have started enjoying activities that occur in my own backyard instead of ''going somewhere'' to have a good time. I have actually enjoyed the peace and quiet this gives me. Its funny how our ''on the go'' American lifestyle in search of ''a good time'' can be solved by NOT being on the go! :†)

Now I am sure there are people (many people) who are severely hurt from change in energy prices, BUT ignoring the issue and waiting for someone to bail them out is NOT the right solution. I have learned to live within my financial budget and not spend more than I make (something my grandfather taught me). I take the same approach to energy. If I cannot afford to do it, I just find other things to do! No more whining and wanting handouts! No more subsities. Let the price of gas/oil go whereever the market will take it. Let us diversify our energy sources and get rid of this ''single point of failure''. I would even go so far as to say we should NOT ''fully utilize proven American oil and natural gas reserves'' (leave them for a real rainy day) and lets put our time and effort into diversifying.

DAX.

Something has got to give! My husband works ten hour-days and sometimes six days a week in the woods as a logger. I work as a school bus driver eleven months a year. (Neither one of us has to drive to work, thank God!) We live at least 50 miles roundtrip from the doctor's offices, bank, grocery stores, etc. Our gas bill averages around $400 a month since January '08. Our heat/energy bill averages $400 a month. We have tried to make our trips to town count as we would stock up and shop for necessities a few times a month. However, that has also changed as we cannot afford to stock up as grocery prices have skyrocketed. We now do without. Our extra money is being eaten up by fuel, energy costs and groceries and we are not living high on the hog!! We cannot afford the fresh food that does not last a week in the refrigerator and cannot afford to go 50 miles for fresh stuff weekly.

We have tried to help our only daughter who lives 80 miles away and can barely cover rent and student loans (who, by the way, did not qualify for a stimulus check when she has worked and went to college, her income was $6,000.)

To top it off, we do have credit card debt and perfect credit, which we've worked hard to achieve!! But apparently due to the credit crises(?), we received a letter that now our interest rates are going up even though we have never been late with a payment or exceeded our limit! Our retirement accounts are crashing, according to news releases; that is also due to oil prices and speculators! We have had the American Dream, and it is slipping away!! Time for some changes, sick to death of environmentalists who probably do not even work! Fed up in rural Idaho.

SCOTT and SHANNON, *Deary*.

I advised my state representatives against passing legislation for ethanol production. I hope I was not the lone voice.

I am alerting all who are willing to listen or read of the manipulation of the United States of America into the North American Union and subsequently an Emergent World Government.

You will either be unaware of this activity, a proponent of it, or opposed to the premise of the dissolution of the US of A. I know what is on the horizon for America and planet Earth. Our current path need not be a willing venture. We have the resources and the resolve to lead the world. We do not need to abdicate that role to a dozen Global families.

The link I provide below is revealing. According to Lindsey Williams, a Baptist Minister who worked with oil exploration companies in Alaska, the U.S. has all the oil it needs for the next 100 years or so.

http://video.google.com/videoplay?docid=3340274697167011147

This information needs but one Senator or Representative to bring it to the floor and into the light. It may be too late already. If you wish to discuss this at length, I will avail myself.

Respectfully,

DENNIS.

I am a typical Idahoan, born and raised here. I work as Rehabilitation Counselor for

the State of Idaho. I work with individuals who are typically low income, or reliant on Social Security Disability Awards for their living. The gas prices have hit these individuals very hard. Many have a strong desire to obtain employment and earn a gainful wage, but with gas prices at $4/gallon, they simply cannot afford to go to work. There is not a reliable bus system, no train system to be utilized, and so they decide to sit at home. The nearest areas offering the best employment options are 20 miles away in either direction. Not a bad commute as the traffic is relatively minimal, but an $8, $9, $10/hour job simply does not offset the cost of fuel. I live five minutes from my office, and I find myself wondering how I will pay for the fuel. I laugh when I see the oil representatives say they pay the same amount for gas as the rest of us. They may pay the $4/gallon I do, but it has minimal to no impact on their wallet when compared to the average American. Please work harder to find a suitable solution that is long term and equitable to all Americans.

My story is not dramatic. It probably is not unique, but I think that is why I am taking the time to email a response to your news letter.

Trenton.

I am a thirty-year-old mother of two young boys and registered nurse. My husband and I budget. We save. We avoid debt. Our home is modest, much of it built with our own hands. We each drive a ten-year-old car. We rarely eat out. We will also earn nearly $86,000 this year, far above the median Idaho household income. Yet, I am feeling the burden of increased energy costs.

How can that be? Our story really began with 9-11, or the economic downturn that immediately followed it. Downsizing, and then more downsizing meant layoffs for my husband, a new college graduate at that time. Jobs were scarce for new grads, and we depleted our savings, eventually turning to credit cards in order to feed and insure our young family.

The economy picked up and he found consistent work. Then, I graduated from college and we began attacking our credit cards with added fervor. The future began looking brighter. We set debt payoff goals and looked for ways to reduce the number of my hours away from home so that I could focus on our young boys. This December I was going to work one less day per pay period. It was going to be our Christmas present to our family.

Now that dream does not seem likely.

Increases in energy have led to price hikes around the board. Wheat costs have skyrocketed, fresh produce too, and, let us not even talk about milk and gasoline. The increases mean that, in order for us to pay off our debt and continue saving, I will have to continue working my regular schedule. If we want any extras, like a date out, an occasional vacation, or to finish projects around the house, I have to work extra shifts to cover those. I do not see how I will be able to reduce the number of hours at my job.

You ask what priorities I think Congress should set to solve this crisis? My answers may seem a little strange, but I am a believer in capitalism, fiscal responsibility and hard work. They really do work! I would like to see our leaders:

Increase domestic oil production & alternative energy production. Remember the South? Many say that they lost the war because they did not have infrastructure. We need to remember past mistakes so they do not revisit our future. Our refineries are aging. We import more than we export. Regulations make it nearly impossible to build new refineries and expensive for new drill sites. We need to find a balance with responsible environmental practices that allow new refineries to be built and natural resources to be extracted.

Do not set price caps. If oil and gas become too expensive, there will be incentive for alternative fuels & for Americans to conserve!

Look at ways to decrease our tax load. Americans work very hard for every penny we earn. Find ways to be more fiscally responsible so that our tax burden can be lightened to help offset our increasing energy expenses.

Do not forget the younger generation. My generation is paying thousands in to social security & other programs that will be bankrupt before we ever get to use them. We feel the added strain of paying now, while trying to find ways to be self sufficient because we expect to have a bankrupt country by the time we get to retirement age. We need to invest in our future. And please do not forget our little children. What legacy will we be leaving them?

Quit labeling the Oil Companies as the bad guys. Our current conundrum is nothing more than the classic supply versus demand. If demand goes up and supply cannot meet it, the cost will go up. This concept is taught in economics classes around the country. Why should we expense the oil companies to work for nothing? These companies provide many Americans with good jobs. Let us find a way to bring more of these jobs home!

Thank you for your time,

DIXIE, *Rexburg.*

RECOGNIZING SBE, INC. OF BARRE, VERMONT

Mr. LEAHY. Mr. President, I rise today to recognize the innovation and achievements of SBE, Inc. in Barre, VT.

For decades, SBE has demonstrated an exceptional ability to adapt to the demands of a changing marketplace. The company started as Sprague Electric in 1945, but today SBE is using cutting-edge technology to develop capacitors for use in green cars, alternative energies, Taser stun guns, and advanced military equipment. These innovative products have created dozens of quality Vermont jobs that reflect our state's commitment towards moving to alternative energy sources.

I commend Ed Sawyer, president and CEO of SBE, and all of the hard-working employees in Barre for their foresight and innovation. I ask unanimous consent that a September 1, 2008, Burlington Free Press article about the company be printed in the RECORD so all Senators can read about the success and commendable business practices of this sustainable Vermont company.

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

[From the Burlington Free Press, Sept. 1, 2008]

BARRE FIRM ADAPTS PRODUCTS TO SURVIVE: CAPACITOR COMPANY MOVES FOCUS FROM TV AND STEREOS TO TASERS AND HYBRIDS

(By Dan McLean)

BARRE.—SBE Inc., built on 20th century capacitor technology, has survived by continuing to adapt, taking a Vermont-made product and carving a national market.

SBE has branched off from its trademarked orange colored capacitors, known worldwide as the ''orange drop,'' and is pursuing ''power ring'' technology for hybrid vehicles, alternative energy producers and military applications.

''This is sustainable manufacturing. It's a different product mix,'' said Ed Sawyer, president and CEO of the SBE Inc.

SBE has landed two rounds of U.S. Department of Energy grants to pursue capacitor technology for the burgeoning hybrid vehicle industry. The money is helping to bankroll research and development that are creating jobs. ''We applied for the grant in a competitive process along with approximately 2,000 other firms across the U.S,'' Sawyer said.

By continuing to innovate, the manufacturer has been able to save itself from becoming obsolete.

Over a billion capacitors have been made by the Barre-based manufacturer during the past six decades, Sawyer said. A capacitor is an electronic device that can store energy.

KEYS TO SURVIVAL

Boom times continued into the late 1960s and early 1970s for the capacitor manufacturer. During that time, about 900 employees built capacitors for companies such as AC Delco, Magnavox, RCA and Zenith.

The industry has changed a lot since Sprague Electric entered into a subcontracting agreement with the Rock of Ages Corp. to manufacture capacitors on their behalf in 1945. SBE Inc. is the successor to Sprague Electric Co.

SBE has retooled. The company has translated a mid-20th century technology into a modern application for green cars, alternative energies, Taser stun guns and military equipment. As the decades passed, foreign competitors—mostly in China, Korea, Malaysia and the Philippines—began making capacitors for one-quarter to one-third the price, Sawyer said. Aside from the hefty price competition, work was lost because the manufacturing of many electronic devices that use capacitors moved from the U.S. to Asia.

When Sprague Electric sold the company to SBE in 1986, it was down to 19 employees, Sawyer said. SBE now has about 50 employees and is hiring five more engineers to work on capacitors for hybrid cars.

The company survived, Sawyer said, because of its longstanding philosophy: ''new products need to be developed to keep the company viable.''

SBE Inc.—which leases 30,000 square feet of the 110,000 square feet the manufacturer owned a few decades ago—was created from the shell that Sprague Electric was leaving behind after being decimated by foreign competition, Sawyer said. The management team banded together to buy the operation, forming SBE, he said.

''If they didn't have the motivation, it would have been just one more 'closed business' story,'' Sawyer said.

Since becoming president in 2002, Sawyer promoted the development of patents. Three patents have been issued on high-voltage, pulse technologies, and six more are pending, he said.

Unlike a semiconductor, which requires power be applied to it, a capacitor has the ability to hold a charge and can change direct current to alternating current, which is used to power an electric motor.

JOB POTENTIAL

Job growth, particularly skilled manufacturing positions, should continue at SBE.

If the capacitor technology SBE is developing for hybrid vehicles is embraced by General Motors, as Sawyer hopes, employment could grow by another 100 people. ''It would be huge job growth for the state,'' he said.

Rob Peterson, a GM spokesman, said suppliers for the Chevy Volt hybrid vehicle have

not been established yet. ''We have made some decisions on suppliers, but we are very, very early on in the process.''

The Chevy Volt is set to hit markets in November 2010, Peterson said. The car is designed to travel 40 miles on an electric charge before tapping into electricity generated by a gas-fueled engine.

The bulk of SBE's sales remain in standard capacitors used in industrial lighting, welding equipment and supplies for cell phone towers.

''This is still what's paying the bills,'' he said.

SBE added to its product lineup when it became the exclusive provider for capacitors for Taser International Inc. in 2002, Sawyer said. SBE has sold about a million capacitors for the stun guns carried by police departments across the country, he said.

SBE landed Taser as a client because of the Barre company's history as an industry leader. ''They actually approached us, basically on our reputation in the industry,'' he said.

In 2007, SBE's revenue was $3 million to $5 million. Sawyer expects those figures to be 20 to 25 percent higher this year. Despite the sales, earnings are lackluster.

SBE, a privately held company, is not turning a profit, but that's because profits are being rolled back into the research and development budget, Sawyer said.

FUNDING SOURCES

Department of Energy grants are helpful, but they don't offset the losses, he said.

SBE received $850,000 from the Energy Department to perfect hybrid vehicle capacitor technology. The technology could make lighter, smaller capacitors and slice a few hundred dollars from the price of a hybrid vehicle, Sawyer said.

Grant money isn't the only source powering new endeavors at SBE. The company's eye toward innovation, and reliable revenue stream, caught the interest of ''angel'' investors, Sawyer said. Such investors have poured in more than $2 million in the last four years, he said.

The work for Taser helped SBE get traction with the investment community and the existing capacitor business added a sense of security.

''There is less risk than two guys in a garage. We are an existing entity that is paying the bills,'' Sawyer said.

The military is interested in the power ring technology to shoot ''a high energy laser'' from a vehicle,'' Sawyer said.

The technology of the capacitors is similar. It's the sizes of the pieces that vary. Capacitors for the hybrid cars are 6 inches in diameter, substantially larger than the standard capacitors, which are ½-inch to 1–inch wide.

Capacitors being used by solar and wind energy producers to store and filter electricity are about 12 inches in diameter, he said.

York Capacitor—a similar operation in Winooski—closed in 2005 after being purchased by a South Carolina company that moved manufacturing to Mexico. York Capacitor failed to adapt, Sawyer said. ''They never changed.''

''I don't think we'd be in business today . . . if we didn't make the choices we made to target the markets we are now,'' he said.

ADDITIONAL STATEMENTS

TRIBUTE TO LARRY THORNTON

• Mr. AKAKA. Mr. President, today I want to share a story with my colleagues about the accomplishments of one of my constituents. It begins with a feature story in Landscape Superintendent and Maintenance Professional magazine and ends with selection as the Air Force Association's 2008 Department of Veterans Affairs Employee of the Year Award. The link between the two is a fine veteran and fellow Hawaii resident, Mr. Larry L. Thornton.

In June of last year, Landscape Superintendent and Maintenance Professional magazine featured an article entitled ''Maintaining Honor,'' on the quality of the grounds-keeping at the National Memorial Cemetery of the Pacific. The national cemetery, located on the island of Oahu and known to Hawaii locals as ''Punchbowl,'' is a crown jewel of America's memorials, and the last resting place of thousands who so valiantly served their Nation. Millions visit Punchbowl annually, to walk the grounds, to stand silently in its beauty, and to pay tribute to those laid to rest there.

The article featured pictures of the groundskeepers, each identified by first and last name. Unbeknownst to the readers, these hard working stewards are injured veterans, some with disabilities for which others may have written them off as unable to contribute a day's labor. But thanks in large part to one man, one of their fellow veterans, they succeed beyond such expectations, one day at a time. That man, their supervisor for VA's Compensated Work Therapy Program for disabled veterans, managed to escape the feature photos. That man is Punchbowl's Cemetery caretaker foreman, Larry Thornton.

Fortunately, Mr. Thornton could not escape the limelight when he finally received just recognition for his work with disabled veterans and for his dedicated labor to maintain a national shrine. This year his work was recognized and earned him the Air Force Association's Department of Veterans Affairs Employee of the Year Award for 2008. I join the Air Force Association in commending this fine veteran, Mr. Thornton, for his service to his fellow veterans and our Nation. His service began long before this award, and I am sure that it will continue long after it. I am doubly proud of him, as a Senator from Hawaii and as the chairman of the Veterans' Affairs Committee.•

TRIBUTE TO STUART POLLAK

• Mrs. BOXER. Mr. President, I am pleased and honored to pay tribute to Stuart Pollack for his many years of service to the Hebrew Free Loan Association based in San Francisco, CA.

Stuart graduated as valedictorian from Lowell High School in San Francisco in 1955. He went on to attend Stanford University for his undergraduate degree and graduated from Harvard Law School magna cum laude in 1962. In his first year out of law school, Stuart would serve as a law clerk to Chief Justice Earl Warren and to Justices Stanley Reed and Harold Burton. Following his work as a law clerk, Stuart moved on to the U.S. Department of Justice, Criminal Division; Special Assistant to Assistant Attorney General.

After finishing his position with the Department of Justice, Stuart went into private practice at Howard Rice Nemerovski Canady & Pollak where he served as partner for 14 years before becoming a judge on the San Francisco Superior Court, a position he held through 2002. Continuing with a long list of legal accomplishments, Stuart currently serves as an associate justice on the California Court of Appeals, Division Three. Even with his demanding schedule as an associate justice, Stuart has consistently made time for Hebrew Free Loan Association and other organizations in which he has a leadership role: Jewish Community Relations Council, the Jewish Community Federation, New Israel Fund, America-Israel Friendship League and Congregation Sherith Israel.

I commend the mission of Hebrew Free Loan Association and am thrilled by the positive impact it has on the lives of those who receive its assistance. Over the last 110 years, Hebrew Free Loan Association has provided interest-free loans to people in need; assistance in the form of a loan rather than a hand out. Stuart's many years of dedicated involvement with Hebrew Free Loan Association, including his 2 years as president, has allowed many from the San Francisco Bay Area Jewish community to realize their dreams.

After nearly 30 years of continuing service to Hebrew Free Loan Association, I remain in admiration of Stuart's strong sense of civic duty. Along with hundreds of his friends and admirers throughout the San Francisco Bay area, I wish him many more years of continued community involvement and leadership.•

TRIBUTE TO SERGEANT PAUL STARZYK

• Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the memory of a dedicated law enforcement officer, Sergeant Paul Starzyk of the city of Martinez Police Department. For the past 12 years, Sergeant Starzyk worked tirelessly to provide the citizens of Martinez with safety and service. On September 6, 2008, Sergeant Starzyk was tragically killed in the line of duty.

Sergeant Starzyk, an Antioch resident, worked as a banker and at a local soup kitchen before he became active in law enforcement. He was hired by the city of Martinez Police Department as a reserve officer in 1992 and became a police office in December 1994. After a brief period with the Pleasant Hill Police Department, Sergeant Starzyk came back to the Martinez Police Department in April 1997 and was promoted to sergeant in December 2007.

A member of the Central Contra Costa Narcotics Enforcement Team

and a former SWAT team leader, Sergeant Starzyk was renowned for his leadership skills among fellow officers. Throughout his career, Sergeant Starzyk demonstrated a passion for law enforcement and commitment to helping others, qualities that enabled him to become a respected and model member of the Martinez Police Department. Sergeant Starzyk's colleagues will always remember him for his professionalism and devotion to serving the public.

Sergeant Starzyk was a loving husband, proud father, and devoted friend. He is survived by his wife Shannon, a Contra Costa County sheriff's deputy, and three young children. Sergeant Starzyk served the city of Martinez with honor and dignity, and his contributions to his community and the many lives that he touched will serve as a shining example of his legacy.

We will always be grateful for Sergeant Starzyk's service and the valor that he displayed while serving and protecting the people of Martinez.●

RECOGNIZING THE 938TH ENGINEER DETACHMENT

● Mr. CRAPO. Mr. President, it is an honor for me to recognize the remarkable achievement of a group of Idaho citizen soldiers, the 938th Engineer Detachment from Driggs. The 938th was recently awarded the Meritorious Unit Commendation, one of the U.S. Army's highest honors. According to BG Alan Gayhart, an Idaho unit has not won this award since the days of World War II, over 60 years ago. The 938th Engineer Battalion participated in Operation Iraqi Freedom from February 2003 to March 2004. The unit operated in the capacity of fire prevention and combat aircraft protection for the 101st Airborne Division in northern Iraq. This was a difficult mission, and one that they executed with professionalism, skill, and excellence. The firefighters worked tirelessly in their protection and prevention efforts in defense of freedom, and I am happy for their safe return to family and friends. I also keep the families and friends of those who made the ultimate sacrifice in prayer as they continue on without their loved ones.

Idaho has a proud history of military service. Her sons and daughters have been serving our Nation in uniform far from home since the days of the Spanish American War in the early 20th century. The Meritorious Unit Commendation which the 938th Engineer Battalion received is awarded to military commands that display exceptionally meritorious conduct in the performance of outstanding service, heroic deed or valorous actions. The unit was recommended for the award by the U.S. Army's higher headquarters and was selected by the Pentagon for the commendations.●

SONY HAWAII AND SONY ELECTRONICS

● Mr. INOUYE. Mr. President, I wish to recognize Sony Hawaii and Sony Electronics (collectively ''Sony'') for their Electronics Take Back and Recycle Program. Sony Hawaii, part of the larger Sony Electronics Inc., is based in Honolulu and just celebrated its 40th anniversary as a Hawaii-based company. Seventy-five percent of Sony Hawaii's business comes from selling discounted Sony products directly to U.S. military personnel around the world.

Sony has long been an industry leader in the environmentally friendly design of its consumer electronics and information technology products. Last year, Sony announced its Take Back and Recycle Program to encourage consumers to recycle and dispose of electronic devices in an environmentally sound manner. The program provides customers free recycling of their unwanted Sony products, everything from a game console to a mobile phone to a DVD. Under its program, Sony takes full manufacturer responsibility for all products that bear its brand and will recycle those products at no cost to the consumer. Its recycling locations will also accept and recycle non-Sony consumer electronics and information technology products for a small fee.

Sony has partnered with Waste Management Recycle America to utilize 138 drop-off centers throughout the country, with the goal of having 150 permanent locations and at least one recycling location in every State by September 2008. Sony's longer term goal is to have a collection location within 20 miles of 95 percent of the U.S. population at which consumers, retailers, and municipalities can have any product from any consumer electronic manufacturer recycled.

All products which are collected through the program must be recycled using the strictest environmental standards. Waste Management will store, track inventory and dismantle the products into the form of common raw materials that can be bought and sold on the global market. In some cases, it is likely that recycled plastics will be purchased for reforming into a new current model electronics product. Sony seeks at least 95 percent recycling rates, with less than 5 percent of materials going to landfills. In addition, Sony provides full public accountability of how and where the material goes and prohibits the exportation of hazardous waste to developing countries.

In addition to setting up permanent collection centers, Sony is holding numerous, highly publicized electronics recycling events, throughout the United States, including some in the State of Hawaii. Sony also offers consumers credit toward the future purchase of a similar product if they send in their old product for recycling.

Sony has stated that its goal in implementing the Take Back and Recycle Program is to make recycling as easy for consumers as it is for them to purchase a Sony product. I commend Sony for its electronics recycling efforts.●

100TH ANNIVERSARY OF OUR LADY OF SORROWS CATHOLIC CHURCH

● Mr. LEVIN. Mr. President, I would like to extend my congratulations to Our Lady of Sorrows Catholic Church in Grand Rapids, MI, as they celebrate their 100th anniversary. Since its inaugural mass on September 20, 1908, Our Lady of Sorrows Catholic Church has been devoted to serving the many diverse needs within the Grand Rapids community, and I am pleased to join in celebrating this important milestone.

In the late 1800s, as the Italian-American population in Grand Rapids continued to grow, there began an earnest search within this immigrant community for a place to worship that would respond to their specific needs. Led by Father Salvatore Cianci and without a formal structure in which to conduct mass, the congregation was established and gathered in the basement of St. Andrew's Cathedral in Grand Rapids in 1908 to celebrate its first mass. With this mass, the congregation of Our Lady of Sorrows began their spiritual journey by seeking to minister to the roughly 75 families that lived in the area at the time.

During the early part of the 20th century, Our Lady of Sorrows Catholic Church continued to grow and to establish a presence in the community. Throughout both the Great Depression and World War II, they worked diligently to create a permanent residence for their church community. The church initiated fundraising efforts to help support the purchase of a permanent location, as well as to support their many community outreach efforts. After nearly 40 years in temporary locations, their determination and persistence was rewarded with the dedication of the new church structure on April 14, 1957.

Through the many challenges and changes the church and the larger community endured, Our Lady of Sorrows has remained committed to its church family. The Grand Rapids parish is presently home to more than 250 families of diverse backgrounds, including a growing Hispanic population. During their distinguished 100-year history, they established an elementary school; constructed a new convent, rectory, and church; and established a local scholarship for anyone living within the boundaries of the parish. Today, the church serves as an example of an inclusive community and has reached out to people of diverse backgrounds, facilitating an appreciation for different cultures.

Our Lady of Sorrows Catholic Church is truly an important part of the rich history of Grand Rapids. Their influence and service to the community is apparent to the many that have benefitted from the church's spiritual and

outreach efforts. I know my colleagues join me in congratulating Our Lady of Sorrows Catholic Church on 100 years of dedicated service to the Grand Rapids community, and I wish them much success as they embark on another 100-year journey.●

RECOGNIZING FIREFLY RESTORATIONS

● Ms. SNOWE. Mr. President, today I recognize Firefly Restorations of Hope, ME, a company whose tribute to the fallen firefighters of September 11 stands as a symbol of our Nation's resolve and exemplifies the selfless spirit of Maine's small businesses.

Firefly Restorations is one of a small number of businesses that restore and rebuild antique fire apparatus. Firefly's owner, Andy Swift, is a Mainer with a life-long love of firefighting and fire engines. Mr. Swift, a firefighter of over fourteen years, has been restoring fire engines for two decades. In his words he has been: ''. . . immersed in this world of fire.''

On September 11, 2001, Mr. Swift watched from his television as his brethren entered the Twin Towers and sacrificed their lives so that those trapped inside might live. It was at that moment that Mr. Swift resolved to do something, anything, to assist or to commemorate the events of that tragic day. At first, Mr. Swift felt a visceral pull to Ground Zero. As he said, ''When you're a fireman, you have a firefighter's heart.'' But instead, he found a different and unique way to show his gratitude for the sacrifices of the fallen firefighters of the New York City Fire Department.

Mr. Swift made an offer to the New York City Fire Department. He said, provide me with a fire engine, any fire engine, and I will restore it for free. Shortly after the offer was made, the New York City Fire Department asked him to restore a nineteenth century hose wagon, and Mr. Swift was more than happy to oblige.

Restoring fire engines is a costly and time consuming task. Firefly Restorations typically takes 2 years to refurbish an engine, but with Maine firefighters raising $3,500 for materials and Mr. Swift and his employees donating over 2,500 hours of free labor, the hose wagon was completed within 6 months.

On October 12, 2002, 1 year, 1 month, and 1 day after September 11, the fire hose Firefly Restorations refurbished made its debut at the fallen firefighter's memorial service in Madison Square Garden. Amidst the tributes and memorial services the antique hose wagon stood as a silent reminder of the links between generations of brave men and women who rush into buildings when others rush out. In his own way, Mr. Swift put the ceremony into perspective when he said, ''It was probably one of the most moving things that I've been involved with. I think it was a healing process, and I think it was important for me to go through . . . I was brokenhearted like many, many other people were, and I just thought it was part of the stage of healing.''

Seven years after September 11 Mr. Swift and his business are still in Maine and continue to restore fire engines. After the October 2002 memorial service, the hose wagon returned to Maine, and, today, it can be found at the Owls Head Transportation Museum in Owls Head, Maine. On the seventh anniversary of September 11, we take this day to grieve and commemorate the extraordinary acts preformed by ordinary Americans like Andy Swift and his employees at Firefly Restorations.

I thank Andy Swift and Firefly Restorations for this gift to our country, our Nation's firefighters, and to those brave heroes who gave their lives on September 11.●

PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY, RECEIVED DURING ADJOURNMENT OF THE SENATE ON SEPTEMBER 10, 2008—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to section 123 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153) (AEA), the text of a proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy. I am also pleased to transmit my written determination concerning the Agreement, including my approval of the Agreement and my authorization to execute the Agreement, and an unclassified Nuclear Proliferation Assessment Statement (NPAS) concerning the Agreement. (In accordance with section 123 of the AEA, as amended by title XII of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277), a classified annex to the NPAS, prepared by the Secretary of State in consultation with the Director of National Intelligence, summarizing relevant classified information, will be submitted to the Congress separately.) The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy and a letter from the Chairman of the Nuclear Regulatory Commission stating the views of the Commission are also enclosed.

The proposed Agreement has been negotiated in accordance with the AEA and other applicable law. In my judgment, it meets all applicable statutory requirements except for section 123a.(2) of the AEA, from which I have exempted it as described below.

The proposed Agreement provides a comprehensive framework for U.S. peaceful nuclear cooperation with India. It permits the transfer of information, non-nuclear material, nuclear material, equipment (including reactors) and components for nuclear research and nuclear power production. It does not permit transfers of any restricted data. Sensitive nuclear technology, heavy-water production technology and production facilities, sensitive nuclear facilities, and major critical components of such facilities may not be transferred under the Agreement unless the Agreement is amended. The Agreement permits the enrichment of uranium subject to it up to 20 percent in the isotope 235. It permits reprocessing and other alterations in form or content of nuclear material subject to it; however, in the case of such activities in India, these rights will not come into effect until India establishes a new national reprocessing facility dedicated to reprocessing under IAEA safeguards and both parties agree on arrangements and procedures under which the reprocessing or other alteration in form or content will take place.

In Article 5(6) the Agreement records certain political commitments concerning reliable supply of nuclear fuel given to India by the United States in March 2006. The text of the Agreement does not, however, transform these political commitments into legally binding commitments because the Agreement, like other U.S. agreements of its type, is intended as a framework agreement.

The Agreement will remain in force for a period of 40 years and will continue in force thereafter for additional periods of 10 years each unless either party gives notice to terminate it 6 months before the end of a period. Moreover, either party has the right to terminate the Agreement prior to its expiration on 1 year's written notice to the other party. A party seeking early termination of the Agreement has the right immediately to cease cooperation under the Agreement, prior to termination, if it determines that a mutually acceptable resolution of outstanding issues cannot be achieved through consultations. In any case the Agreement, as noted, is a framework or enabling agreement that does not compel any specific nuclear cooperative activity. In the event of termination of the Agreement, key nonproliferation conditions and controls would continue with respect to material and equipment subject to the Agreement.

An extensive discussion of India's civil nuclear program, military nuclear program, and nuclear nonproliferation policies and practices is provided in the Nuclear Proliferation Assessment Statement (NPAS) and in a classified annex to the NPAS submitted to the Congress separately.

The AEA establishes the requirements for agreements for nuclear cooperation, some of which apply only to non-nuclear-weapon states (see AEA, section 123a.). The AEA incorporates the definition of ''nuclear-weapon state'' from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which defines it to mean a state that has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967. Therefore India is a non-nuclear-weapon state for NPT and AEA purposes, even though it possesses nuclear weapons. The Agreement satisfies all requirements set forth in section 123a. of the AEA except the requirement of section 123a.(2) that, as a condition of continued U.S. nuclear supply under the Agreement, IAEA safeguards be maintained in India with respect to all nuclear materials in all peaceful nuclear activities within its territory, under its jurisdiction, or carried out under its control anywhere (i.e., ''full-scope'' or ''comprehensive'' safeguards).

The Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (the ''Hyde Act'') established authority to exempt the Agreement from the full-scope safeguards requirement of section 123a.(2) of the AEA, as well as certain other provisions of the AEA relating to supply under such an agreement, provided that the President makes certain determinations and transmits them to the Congress together with a report detailing the basis for the determinations. I have made those determinations, and I am submitting them together with the required report as an enclosure to this transmittal.

Approval of the Agreement, followed by its signature and entry into force, will permit the United States and India to move forward on the U.S.-India Civil Nuclear Cooperation Initiative, which Indian Prime Minister Manmohan Singh and I announced on July 18, 2005, and reaffirmed on March 2, 2006. Civil nuclear cooperation between the United States and India pursuant to the Agreement will offer major strategic and economic benefits to both countries, including enhanced energy security, an ability to rely more extensively on an environmentally friendly energy source, greater economic opportunities, and more robust nonproliferation efforts.

The Agreement will reinforce the growing bilateral relationship between two vibrant democracies. The United States is committed to a strategic partnership with India, the Agreement promises to be a major milestone in achieving and sustaining that goal.

In reviewing the proposed Agreement I have considered the views and recommendations of interested agencies. I have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved it and I urge that the Congress also approve it this year.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 10, 2008*.

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:24 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 5683. An act to make certain reforms with respect to the Government Accountability Office, and for other purposes.

H.R. 6456. An act to provide for extensions of certain authorities of the Department of State, and for other purposes.

S. 2450. An act to amend the Federal Rules of Evidence to address the waiver of the attorney-client privilege and the work product doctrine.

S. 2837. An act to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the ''Theodore Roosevelt United States Courthouse''.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 3:58 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1527. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to conduct a pilot program to permit certain highly rural veterans enrolled in the health system of the Department of Veterans Affairs to receive covered health services through providers other than those of the Department.

H.R. 3667. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Missisquoi and Trout Rivers in the State of Vermont for study for potential addition to the National Wild and Scenic Rivers System.

H.R. 4081. An act to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 2617. An act to amend title 38, United States Code, to codify increases in the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans that were effective as of December 1, 2007, to provide for an increase in the rates of such compensation effective December 1, 2008, and for other purposes.

At 4:44 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 344. Concurrent resolution recognizing the disproportionate impact of the global food crisis on children in the developing world.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 6532) to amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 6532. An act to amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1527. An act to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to conduct a pilot program to permit certain highly rural veterans enrolled in the health system of the Department of Veterans Affairs to receive covered health services through providers other than those of the Department; to the Committee on Veterans' Affairs.

H.R. 3667. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Missisquoi and Trout Rivers in the State of Vermont for study for potential addition to the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 344. Recognizing the disproportionate impact of the global food crisis on children in the developing world; to the Committee on Foreign Relations.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 11, 2008, she had presented to the President of the United States the following enrolled bills:

S. 2450. An act to amend the Federal Rules of Evidence to address the waiver of the attorney-client privilege and the work product doctrine.

S. 2837. An act to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the ''Theodore Roosevelt United States Courthouse''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7522. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Coverage Enhancement Option'' (RIN0563–AC15) received on August 26, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7523. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department

of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Brucellosis in Cattle; State and Area Classifications; Texas'' (Docket No. APHIS–2008–0003) received on August 27, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7524. A communication from the Under Secretary of Agriculture (Food, Nutrition, and Consumer Services), transmitting, pursuant to law, the report of a rule entitled ''Management of Donated Foods in Child Nutrition Programs, the Nutrition Services Incentive Program, and Charitable Institutions'' (RIN0584–AD45) received on August 27, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7525. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred within the Department of the Army and has been assigned case number 05–13; to the Committee on Appropriations.

EC–7526. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred within the Department of the Air Force and has been assigned case number 06–01; to the Committee on Appropriations.

EC–7527. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred within the Department of the Navy and has been assigned case number 07–04; to the Committee on Appropriations.

EC–7528. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, nine quarterly Selected Acquisition Reports (SARs) for the quarter ending June 30, 2008; to the Committee on Armed Services.

EC–7529. A communication form the Principal Deputy Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to the Department of Defense's review of programs designed to prevent recruiter misconduct; to the Committee on Armed Services.

EC–7530. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (6) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–7531. A communication from the Chief, Programs and Legislation Division, Department of the Air Force, transmitting, pursuant to law, a report relative to public-private competitions affecting the 82nd Training Wing, Sheppard Air Force Base, Texas; to the Committee on Armed Services.

EC–7532. A communication from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notification of the department's decision to convert to contract the aircraft maintenance functions currently performed by 101 military personal of the Fleet Logistics Support Squadrons at Andrews Air Force Base, Maryland; to the Committee on Armed Services.

EC–7533. A communication from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, a report relative to the results of the Department's A–76 public-private competition; to the Committee on Armed Services.

EC–7534. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to the Future Years Defense Program (FYDP); to the Committee on Armed Services.

EC–7535. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (3) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–7536. A communication from the Chairman, U.S. International Trade Commission, transmitting, pursuant to law, a report entitled, ''The Year in Trade 2007''; to the Committee on Finance.

EC–7537. A communication from the Acting Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''First Sale Declaration Requirement'' (RIN1505–AB96) received on August 20, 2008; to the Committee on Finance.

EC–7538. A communication from the Acting Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Entry Requirements for Certain Softwood Lumber Products Exported from Any Country into the United States'' (RIN1505–AB98) received on August 20, 2008; to the Committee on Finance.

EC–7539. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—September 2008'' (Rev. Rul. 2008–46) received on August 20, 2008; to the Committee on Finance.

EC–7540. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''IRC 965 Dividend Repatriation Audit Guidelines'' (LMSB–4–0808–043) received on September 2, 2008; to the Committee on Finance.

EC–7541. A communication from the Chief of Publications and Regulations, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Forestry Conservation Bonds'' (Notice 2008–70) received on September 2, 2008; to the Committee on Finance.

EC–7542. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report entitled ''Report of the Proceedings of the Judicial Conference of the United States for the March 2008 Session''; to the Committee on the Judiciary.

EC–7543. A communication from the Principal Deputy Assistant Attorney General, transmitting, pursuant to law, a report relative to the Adam Walsh Child Protection and Safety Act of 2006; to the Committee on the Judiciary.

EC–7544. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Aliens Inadmissible Under the Immigration and Nationality Act, as Amended: Unlawful Voters'' (RIN1400–AC04) received on August 26, 2008; to the Committee on the Judiciary.

EC–7545. A communication from the Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the Wisconsin Advisory Committee; to the Committee on the Judiciary.

EC–7546. A communication from the Staff Director, U.S. Commission on Civil Rights, transmitting, pursuant to law, a report relative to the Commission's recent appointment of members to the Arkansas Advisory Committee; to the Committee on the Judiciary.

EC–7547. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the addition of workers from Spencer Chemical/Jayhawk Works near Pittsburg, Kansas, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–7548. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a petition to add workers from the Y–12 Plant in Oak Ridge, Tennessee, to the Special Exposure Cohort; to the Committee on Health, Education, Labor, and Pensions.

EC–7549. A communication from the Deputy Director for Operations, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Parts 4022 and 4044) received on August 27, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7550. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Labeling; Health Claim; Soluble Fiber From Certain Foods and Risk of Coronary Heart Disease'' (Docket No. FDA–2008–P–0090) received on August 29, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7551. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, an annual report relative to the federal work force for fiscal year 2007; to the Committee on Health, Education, Labor, and Pensions.

EC–7552. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled ''The Department of Labor's 2007 Findings on the Worst Forms of Child Labor''; to the Committee on Health, Education, Labor, and Pensions.

EC–7553. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to an annual plan for the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program; to the Committee on Energy and Natural Resources.

EC–7554. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''Annual Energy Outlook 2008''; to the Committee on Energy and Natural Resources.

EC–7555. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to progress made in licensing and constructing the Alaska natural gas pipeline; to the Committee on Energy and Natural Resources.

EC–7556. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Utah Regulatory Program'' (Docket No. UT–042–FOR) received on August 25, 2008; to the Committee on Energy and Natural Resources.

EC–7557. A communication from the Acting Chief, Regulatory Affairs, Bureau of Land Management, transmitting, pursuant to law, the report of a rule entitled ''Recreation and Public Purposes Act; Solid Waste Disposal'' (RIN1004–AE03) received on August 27, 2008; to the Committee on Energy and Natural Resources.

EC–7558. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting,

pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; Electric Generating Unit Multi-Pollutant Regulation'' (FRL No. 8708–6) received on August 25, 2008; to the Committee on Environment and Public Works.

EC–7559. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Determination of Attainment of Fine Particle Standard'' (FRL No. 8707–3) received on August 25, 2008; to the Committee on Environment and Public Works.

EC–7560. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Iowa'' (FRL No. 8707–7) received on August 25, 2008; to the Committee on Environment and Public Works.

EC–7561. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyprodinil; Pesticide Tolerances'' (FRL No. 8377–8) received on August 25, 2008; to the Committee on Environment and Public Works.

EC–7562. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''2008–2009 Refuge-Specific Hunting and Sport Fishing Regulations (Additions)'' (RIN1018–AV20) received on August 27 2008; to the Committee on Environment and Public Works.

EC–7563. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, the report of the draft of a bill, ''To amend the Elwha River Ecosystem and Fisheries Restoration Act to provide certain authorities for dam removal and mitigation activities, and for other purposes''; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 381. A bill to establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes (Rept. No. 110–452).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 2382. A bill to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense (Rept. No. 110–453).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 3328. A bill to amend the Homeland Security Act of 2002 to provide for a one-year extension of other transaction authority (Rept. No. 110–454).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 3068. A bill to prohibit the award of contracts to provide guard services under the contract security guard program of the Federal Protective Service to a business concern that is owned, controlled, or operated by an individual who has been convicted of a felony (Rept. No. 110–455).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 3013. A bill to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes (Rept. No. 110–456).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2997. A bill to reauthorize the Maritime Administration, and for other purposes (Rept. No. 110–457).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 3296. A bill to extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

J. Patrick Rowan, of Maryland, to be an Assistant Attorney General.

Jeffrey Leigh Sedgwick, of Massachusetts, to be an Assistant Attorney General.

William B. Carr, Jr., of Pennsylvania, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2011.

(*Nominations without an asterisk were reported with the recommendation that they be confirmed.*)

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted on September 11, 2008:

By Mr. DODD, from the Committee on Foreign Relations:

[Treaty Doc. 109–14 Extradition Agreement with the European Union]

[Treaty Doc. 109–15 Extradition Treaty with Latvia]

[Treaty Doc. 109–16 Extradition Treaty with Estonia]

[Treaty Doc. 109–17 Extradition Treaty with Malta]

[Treaty Doc. 110–11 Extradition Treaty with Romania and Protocol to the Treaty on Mutual Legal Assistance in Criminal Matters with Romania]

[Treaty Doc. 110–12 Extradition Treaty with Bulgaria and an Agreement on Certain Aspects of Mutual Legal Assistance in Criminal Matters with Bulgaria]

[Treaty Doc. 109–13 Mutual Legal Assistance Agreement with the European Union]

[Treaty Doc. 107–12 Treaty with Sweden on Mutual Legal Assistance in Criminal Matters]

[Treaty Doc. 109–22 Treaty with Malaysia on Mutual Legal Assistance]

[Treaty Doc. 105–1B Incendiary Weapons Protocol]

[Treaty Doc. 105–1C Treaty Short Title: Protocol on Blinding Laser Weapons]

[Treaty Doc. 109–10B Amendment to Article 1 of the Convention on Prohibitions or Restrictions on Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects]

[Treaty Doc. 109–10C CCW Protocol on Explosive Remnants of War]

[Treaty Doc. 107–17 Partial Revision (1992) of Radio Regulations (Geneva 1979)]

[Treaty Doc. 108–28 1995 Revision of Radio Regulations]

[Treaty Doc. 110–1 Land-Based Sources Protocol to Cartagena Convention]

[Treaty Doc. 110–4 International Convention for Suppression of Acts of Nuclear Terrorism]

[Treaty Doc. 110–5 1996 Protocol to Convention on Prevention of Marine Pollution by Dumping of Wastes]

[Treaty Doc. 110–13 International Convention on Control of Harmful Anti-Fouling Systems on Ships, 2001]

[Treaty Doc. 110–15 Protocol Amending 1980 Tax Convention with Canada]

[Treaty Doc. 110–17 Tax Convention with Iceland]

[Treaty Doc. 110–18 Tax Convention with Bulgaria with Proposed Protocol of Amendment]

The text of the committee-recommended resolutions of advice and consent to ratification are as follows:

AGREEMENT ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration and a Condition.

The Senate advises and consents to the ratification of the Agreement on Extradition between the United States of America and the European Union, signed at Washington on June 25, 2003, with a related Explanatory Note (Treaty Doc. 109–14), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the following condition:

Report on Provisional Arrests. No later than February 1, 2010, and every February 1 for an additional four years thereafter, the Attorney General, in coordination with the Secretary of State, shall prepare and submit a report to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate that contains the following information:

(1) The number of provisional arrests made by the United States during the previous calendar year under each bilateral extradition treaty with a Member State of the European Union, and a summary description of the alleged conduct for which provisional arrest was sought;

(2) The number of individuals who were provisionally arrested by the United States under each such treaty who were still in custody at the end of the previous calendar year, and a summary description of the alleged conduct for which provisional arrest was sought;

(3) The length of time between each provisional arrest listed under paragraph (1) and the receipt by the United States of a formal request for extradition; and

(4) The length of time that each individual listed under paragraph (1) was held by the United States or an indication that they are still in custody if that is the case.

PROTOCOL TO THE EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF AUSTRIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Austria signed January 8, 1998, as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, signed at Vienna on July 20, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF BELGIUM

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between the United States of America and the Kingdom of Belgium signed April 27, 1987, signed at Brussels on December 16, 2004 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CYPRUS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Cyprus signed June 17, 1996, signed at Nicosia on January 20, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

SECOND SUPPLEMENTARY TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE CZECH REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Second Supplementary Treaty on Extradition between the United States of America and the Czech Republic, signed at Prague on May 16, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF DENMARK

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty on Extradition between the United States of America and the Kingdom of Denmark signed June 22, 1972, signed at Copenhagen on June 23, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL TO THE EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Extradition Treaty between the United States of America and Finland signed June 11, 1976, signed at Brussels on December 16, 2004 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND FRANCE

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3, paragraph 2, of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between United States of America and France signed April 23, 1996, signed at The Hague on September 30, 2004 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

SECOND SUPPLEMENTARY TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Second Supplementary Treaty to the Treaty between the United States of America and the Federal Republic of Germany Concerning Extradition, signed at Washington on April 18, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL TO THE TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE HELLENIC REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty on Extradition between the United States of America and the Hellenic Republic, signed May 6, 1931, and the Protocol thereto signed September 2, 1937, as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union, signed June 25, 2003, signed at Washington on January 18, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL TO THE TREATY ON EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HUNGARY

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the Government of the United States of America and the Government of the Republic of Hungary on Extradition signed December 1, 1994, as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union, signed June 25, 2003, signed at Budapest on November 15, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND IRELAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty on Extradition between the United States of America and Ireland signed July 13, 1983, signed at Dublin on July 14, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between the Government of the United States of America and the Government of the Italian Republic signed October 13, 1983, signed at Rome on May 3, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE SLOVAK REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument on Extradition between the United States of America and the Slovak Republic, as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, signed at Bratislava on February 6, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF SLOVENIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement between the Government of the United States of America and the Government of the Republic of Slovenia comprising the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the Application of the Treaty on Extradition between the United States and the Kingdom of Serbia, signed October 25, 1901, signed at Ljubljana on October 17, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SPAIN

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty on Extradition between the United States of America and Spain signed May 29, 1970, and the Supplementary Treaties on Extradition signed January 25, 1975, February 9, 1988 and March 12, 1996, signed at Madrid on December 17, 2004 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND KINGDOM OF SWEDEN

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Convention on Extradition between the United States of America and Sweden signed October 24, 1961 and the Supplementary Convention on Extradition between the United States of America and the Kingdom of Sweden signed March 14, 1983, signed at Brussels on December 16, 2004 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between the Government of the United States and the Government of the United Kingdom of Great Britain and Northern Ireland signed March 31, 2003, signed at London on December 16, 2004, with a related exchange of notes signed the same date (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE GRAND DUCHY OF LUXEMBOURG

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3, paragraph 2 (a) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, as to the application of the Extradition Treaty between the Government of the United states of America and the Government of the Grand Duchy of Luxembourg signed October 1, 1996, signed at Washington on February 1, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement comprising the Instrument as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed at Washington on June 25, 2003, as to the application of the Extradition Treaty between the United States of America and the Kingdom of the Netherlands signed at The Hague on June 24, 1980, signed at The Hague on September 29, 2004, with a related exchange of notes signed the same date (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF POLAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement between the United states of America and the Republic of Poland on the application of the Extradition Treaty between the United States of America and the Republic of Poland signed July 10, 1996, pursuant to Article 3(2) of the Agreement on Extradition between the United States of America and the European Union signed at Washington June 25, 2003, signed at Warsaw on June 9, 2006 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE PORTUGUESE REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument between the United States of America and the Portuguese Republic as contemplated by Article 3 (2) of the Agreement on Extradition between the United States of America and the European Union signed June 25, 2003, signed at Washington on July 14, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF LATVIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Latvia, signed at Riga on December 7, 2005 (Treaty Doc. 109–15), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL TO THE EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF LITHUANIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol on the application of the Agreement on Extradition between the United States of America and the European Union to the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Lithuania, signed at Brussels on June 15, 2005 (Treaty Doc. 109–14), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ESTONIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Estonia, signed at Tallinn on February 8, 2006 (Treaty Doc. 109–16), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND MALTA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of Malta, signed at Valletta on May 18, 2006, with a related exchange of letters signed the same date (Treaty Doc. 109–17), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND ROMANIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Extradition Treaty between the United States of America and Romania, signed at Bucharest on September 10, 2007 (Treaty Doc. 110–11), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL TO THE TREATY ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND ROMANIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the United States of America and Romania on Mutual Legal Assistance in Criminal Matters signed in Washington on May 26, 1999, signed at Bucharest on September 10, 2007 (Treaty Doc. 110–11), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

EXTRADITION TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF BULGARIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Bulgaria, signed at Sofia on September 19, 2007 (Treaty Doc. 110–12), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

AGREEMENT ON CERTAIN ASPECTS OF MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF BULGARIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement on Certain Aspects of Mutual Legal Assistance in Criminal Matters between the Government of the United States of America and the Government of the Republic of Bulgaria, signed at Sofia on September 19, 2007 (Treaty Doc. 110–12), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

AGREEMENT ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND THE EUROPEAN UNION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement on Mutual Legal Assistance between the United States of America and the European Union, signed at Washington on June 25, 2003, with a related Explanatory Note (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE PROTOCOL BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF AUSTRIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the Government of the United States of America and the Government of the Republic of Austria on Mutual Legal Assistance Matters signed February 23, 1995, as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, signed at Vienna on July 20, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF BELGIUM

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the United States of America and the Kingdom of Belgium on Mutual Legal Assistance in Criminal Matters signed January 28, 1988, signed at Brussels on December 16, 2004 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CYPRUS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the Republic of Cyprus on Mutual Legal Assistance in Criminal Matters signed December 20, 1999, signed at Nicosia on January 20, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

SUPPLEMENTARY TREATY ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN THE UNITED STATES OF AMERICA AND THE CZECH REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Supplementary Treaty on Mutual Legal Assistance in Criminal Matters between the United States of America and the Czech Republic, signed at Prague on May 16, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF DENMARK

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument between the Kingdom of Denmark and the United States of America as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, signed at Copenhagen on June 23, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF ESTONIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the Republic of Estonia on Mutual Legal Assistance in Criminal Matters signed April 2, 1998, signed at Tallinn on February 8, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Treaty on Certain Aspects of Mutual Legal Assistance in Criminal Matters between the United States of America and the Republic of Finland, signed at Brussels on December 16, 2004 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND FRANCE

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3, paragraph 2, of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty on Mutual Legal Assistance in Criminal Matters between the United States of America and France signed December 10, 1998, signed at The Hague on September 30, 2004 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

SUPPLEMENTARY TREATY ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND THE FEDERAL REPUBLIC OF GERMANY

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Supplementary Treaty to the Treaty between the United States of America and the Federal Republic of Germany on Mutual Legal Assistance in Criminal Matters, signed at Washington on April 18, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND THE HELLENIC REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the Government of the United States of America and the Government of the Hellenic Republic on Mutual Legal Assistance in Criminal Matters, signed May 26, 1999, as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union, signed June 25, 2003, signed at Washington on January 18, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

PROTOCOL ON MUTUAL LEGAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HUNGARY

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the Government of the United States of America and the Government of the Republic of Hungary on Mutual Legal Assistance in Criminal Matters signed December 1, 1994, as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, signed at Budapest on November 15, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND IRELAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of Ireland on Mutual Legal Assistance in Criminal Matters signed January 18, 2001, signed at Dublin on July 14, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE ITALIAN REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the United States of America and the Italian Republic on Mutual Assistance in Criminal Matters signed November 9, 1982, signed at Rome on May 3, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE PROTOCOL BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF LATVIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol to the Treaty between the Government of the United States of America and the Government of the Republic of Latvia on Mutual Legal Assistance in Criminal Matters, signed at Riga on December 7, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE PROTOCOL BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF LITHUANIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Protocol on the application of the Agreement on Mutual Legal Assistance between the United States of America and the European Union to the Treaty between the Government of the United States of America and the Government of the Republic of Lithuania on Mutual Legal Assistance in Criminal Matters, signed at Brussels on June 15, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE GRAND DUCHY OF LUXEMBOURG

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3, paragraph 2(a) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg on Mutual Legal Assistance in Criminal Matters signed March 13, 1997, signed at Washington on February 1, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE TREATY BETWEEN THE UNITED STATES OF AMERICA AND MALTA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Treaty on Certain Aspects of Mutual Legal Assistance in Criminal Matters between the Government of the United States of America and the Government of Malta, signed at Valletta on May 18, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement comprising the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003, as to the application of the Treaty between the United States of America and the Kingdom of the Netherlands on Mutual Assistance in Criminal Matters signed at The Hague on June 12, 1981, signed at The Hague on September 29, 2004, with a related exchange of notes signed the same date (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF POLAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement between the United States of America and the Republic of Poland on the Application of the Treaty between the United States of America and the Republic of Poland on Mutual Legal Assistance in Criminal Matters signed July 10, 1996, pursuant to Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington June 25, 2003, signed at Warsaw on June 9, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE PORTUGUESE REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice And Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument between the United States of America and the Portuguese Republic as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, signed at Washington on July 14, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE SLOVAK REPUBLIC

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument between the United States of America and the Slovak Republic, as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, signed at Bratislava on February 6, 2006 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF SLOVENIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Agreement between the Government of the United States of America and the Government of the Republic of Slovenia comprising the Instrument as contemplated by Article 3(3) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed at Washington on June 25, 2003, signed at Ljubljana on October 17, 2005 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SPAIN

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty on Mutual Legal Assistance in Criminal Matters between the United States of America and the Kingdom of Spain signed November 20, 1990, signed at Madrid on December 17, 2004 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SWEDEN

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters signed December 17, 2001, signed at Brussels on December 16, 2004 (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

MUTUAL LEGAL ASSISTANCE INSTRUMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed June 25, 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters signed January 6, 1994, signed at London on December 16, 2004, with a related exchange of notes signed the same date (Treaty Doc. 109–13), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SWEDEN ON MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Treaty between the Government of the United States of America and

the Government of the Kingdom of Sweden on Mutual Legal Assistance in Criminal Matters, signed at Stockholm on December 17, 2001 (Treaty Doc. 107–12), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Treaty between the United States of America and Malaysia on Mutual Legal Assistance in Criminal Matters, signed at Kuala Lumpur on July 28, 2006 (Treaty Doc. 109–22), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing.

CCW PROTOCOL ON INCENDIARY WEAPONS (PROTOCOL III)

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Reservation, an Understanding, and a Declaration.

The Senate advises and consents to the ratification of the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol III), adopted at Geneva on October 10, 1980 (Treaty Doc. 105–1(B)), subject to the reservation of section 2, the understanding of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

The United States of America, with reference to Article 2, paragraphs 2 and 3, reserves the right to use incendiary weapons against military objectives located in concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons, but in so doing will take all feasible precautions with a view to limiting the incendiary effects to the military objective and to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.

Section 3. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

It is the understanding of the United States of America that any decision by any military commander, military personnel, or any other person responsible for planning, authorizing or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

CCW PROTOCOL ON BLINDING LASER WEAPONS (PROTOCOL IV)

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to an Understanding and a Declaration.

The Senate advises and consents to the ratification of the Protocol on Blinding Laser Weapons to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol IV), adopted at Vienna on October 13, 1995 (Treaty Doc. 105–1(C)), subject to the understanding of section 2 and the declaration of section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

It is the understanding of the United States of America with respect to Article 2 that any decision by any military commander, military personnel, or any other person responsible for planning, authorizing or executing military action shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed. the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

CCW PROTOCOL ON EXPLOSIVE REMNANTS OF WAR (PROTOCOL V)

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to an Understanding and a Declaration.

The Senate advises and consents to the ratification of the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (Protocol V), adopted at Geneva on November 28, 2003 (Treaty Doc. 109–10(C)), subject to the understanding of section 2 and the declaration of section 3.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

It is the understanding of the United States of America that nothing in Protocol V would preclude future arrangements in connection with the settlement of armed conflicts, or assistance connected thereto, to allocate responsibilities under Article 3 in a manner that respects the essential spirit and purpose of Protocol V.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of Articles 7 and 8, this Protocol is self-executing. This Protocol does not confer private rights enforceable in United States courts.

CCW AMENDMENT TO ARTICLE 1

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Amendment to Article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, adopted at Geneva on December 21, 2001 (Treaty Doc. 109–10(B)), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is self-executing. This Treaty does not confer private rights enforceable in United States courts.

1992 PARTIAL REVISION OF THE RADIO REGULATIONS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Reservations and Declarations.

The Senate advises and consents to the ratification of the 1992 Partial Revision of the Radio Regulations (Geneva, 1979), with appendices, signed by the United States at Malaga-Torremolinos on March 3, 1992, as contained in the Final Acts of the World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (WARC 0992) (the ''1992 Final Acts'') (Treaty Doc. 107–17), subject to declarations and reservations Nos. 67, 79, and 80 of the 1992 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

1995 REVISION OF THE RADIO REGULATIONS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Reservations and Declarations.

The Senate advises and consents to the ratification of the 1995 Revision of the Radio Regulations, with appendices, signed by the United States at Geneva on November 17, 1995, as contained in the Final Acts of the World Radiocommunication Conference (WRC 0995) (the ''1995 Final Acts'') (Treaty Doc. 108–28), subject to declarations and reservations Nos. 67(3), 68, 78, and 82 of the 1995 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Declarations.

The Senate advises and consents to the ratification of the Protocol Concerning Pollution from Land-Based Sources and Activities to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, with Annexes, done at Oranjestad, Aruba, on October 6, 1999 (Treaty Doc. 110–1), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

In accordance with Article XVIII, the United States of America declares that, with respect to the United States of America, any new annexes to the Protocol shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Protocol is not self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Reservation, Understandings, and a Declaration.

The Senate advises and consents to the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted on April 13, 2005, and signed on behalf of the United States of America on September 14, 2005 (the ''Convention'') (Treaty Doc. 110–4), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Pursuant to Article 23(2) of the Convention, the United States of America declares that it does not consider itself bound by Article 23(1) of the Convention.

Section 3. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' in Article 4 of the Convention does not include situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law'' in Article 4 of the Convention has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Article 4 and Article 1 (6), the Convention does not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

(4) The United States of America understands that current United States law with respect to the rights of persons in custody and persons charged with crimes fulfills the requirement in Article 12 of the Convention and, accordingly, the United States does not intend to enact new legislation to fulfill its obligations under this Article.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, this Convention is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions in the Convention, including Articles 10 and 12, confer private rights enforceable in United States courts.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Declarations and an Understanding.

The Senate advises and consents to the ratification of the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done in London on November 7, 1996 (Treaty Doc. 110–5), subject to the declaration of section 2, the understanding of section 3, and the declaration of section 4.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

The United States of America declares that, pursuant to Article 16(5), when it is a party to a dispute about the interpretation or application of Article 3(1) or 3(2) of this Protocol, its consent shall be required before the dispute may be settled by means of the Arbitral Procedure set forth in Annex 3 of the Protocol.

Section 3. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the instrument of ratification:

The United States of America understands that, in light of Article 10(4) of the Protocol, which provides that the Protocol ''shall not apply to those vessels and aircraft entitled to sovereign immunity under international law,'' disputes regarding the interpretation or application of the Protocol in relation to such vessels and aircraft are not subject to Article 16 of the Protocol.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Protocol is not self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Two Declarations.

The Senate advises and consents to the ratification of the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, adopted on October 5, 2001 (Treaty Doc. 110–13), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

The United States of America declares that, pursuant to Article 16(2)(f)(ii)(3) of the Convention, amendments to Annex 1 of the Convention shall enter into force for the United States of America only after notification to the Secretary-General of its acceptance with respect to such amendments.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is not self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration and a Condition.

The Senate advises and consents to the ratification of the Protocol Amending the Convention between the United States of America and Canada with Respect to Taxes on Income and on Capital done at Washington on September 26, 1980, as Amended by the Protocols done on June 14, 1983, March 28, 1984, March 17, 1995, and July 29, 1997, signed on September 21, 2007, at Chelsea (the ''Protocol'') (Treaty Doc. 110–15), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is self-executing.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the following condition:

Report.

1. Not later than two years from the date on which this Protocol enters into force and prior to the first arbitration conducted pursuant to the binding arbitration mechanism provided for in this Protocol, the Secretary of Treasury shall transmit the text of the rules of procedure applicable to arbitration boards, including conflict of interest rules to be applied to members of the arbitration board, to the committees on Finance and Foreign Relations of the Senate and the Joint Committee on Taxation.

The Secretary of Treasury shall also, prior to the first arbitration conducted pursuant to the binding arbitration mechanism provided for in the 2006 Protocol Amending the Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and to Certain Other Taxes (the ''2006 German Protocol'') (Treaty Doc. 109 0920) and the Convention between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and accompanying protocol (the ''Belgium Convention'') (Treaty Doc. 110 093), transmit the text of the rules of procedure applicable to the first arbitration board agreed to under each treaty to the committees on Finance and Foreign Relations of the Senate and the Joint Committee on Taxation.

2. 60 days after a determination has been reached by an arbitration board in the tenth arbitration proceeding conducted pursuant to either this Protocol, the 2006 German Protocol, or the Belgium Convention, the Secretary of Treasury shall prepare and submit a detailed report to the Joint Committee on Taxation and the Committee on Finance of the Senate, subject to law relating to taxpayer confidentiality, regarding the operation and application of the arbitration mechanism contained in the aforementioned treaties. The report shall include the following information:

I. The aggregate number, for each treaty, of cases pending on the respective dates of entry into force of this Protocol, the 2006 German Protocol, or the Belgium Convention, along with the following additional information regarding these cases:

a. The number of such cases by treaty article(s) at issue;

b. The number of such cases that have been resolved by the competent authorities through a mutual agreement as of the date of the report; and

c. The number of such cases for which arbitration proceedings have commenced as of the date of the report.

II. A list of every case presented to the competent authorities after the entry into force of this Protocol, the 2006 German Protocol, or the Belgium Convention, with the following information regarding each and every case:

a. The commencement date of the case for purposes of determining when arbitration is available;

b. Whether the adjustment triggering the case, if any, was made by the United States or the relevant treaty partner and which competent authority initiated the case;

c. Which treaty the case relates to;

d. The treaty article(s) at issue in the case;

e. The date the case was resolved by the competent authorities through a mutual agreement, if so resolved;

f. The date on which an arbitration proceeding commenced, if an arbitration proceeding commenced; and

g. The date on which a determination was reached by the arbitration board, if a determination was reached, and an indication as to whether the board found in favor of the United States or the relevant treaty partner.

III. With respect to each dispute submitted to arbitration and for which a determination was reached by the arbitration board pursuant to this Protocol, the 2006 German Protocol, or the Belgium Convention, the following information shall be included:

a. An indication as to whether the determination of the arbitration board was accepted by each concerned person;

b. The amount of income, expense, or taxation at issue in the case as determined by reference to the filings that were sufficient to set the commencement date of the case for purposes of determining when arbitration is available; and

c. The proposed resolutions (income, expense, or taxation) submitted by each competent authority to the arbitration board.

3. The Secretary of Treasury shall, in addition, prepare and submit the detailed report described in paragraph (2) on March 1 of the year following the year in which the first report is submitted to the Joint Committee on Taxation and the Committee on Finance of the Senate, and on an annual basis thereafter for a period of five years. In each such report, disputes that were resolved, either by a mutual agreement between the relevant competent authorities or by a determination of an arbitration board, and noted as such in prior reports may be omitted.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Convention between the Government of the United States of America and the Government of Iceland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, and accompanying Protocol, signed at Washington on October 23, 2007 (Treaty Doc. 110–17), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is self-executing.

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to a Declaration.

The Senate advises and consents to the ratification of the Convention between the Government of the United States of America and the Government of the Republic of Bulgaria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, with accompanying Protocol, signed at Washington on February 23, 2007, as well as the Protocol Amending the Convention between the Government of the United States of America and the Government of the Republic of Bulgaria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Sofia on February 26, 2008 (Treaty Doc. 110–18), subject to the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Convention is self-executing.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. VOINOVICH (for himself, Mr. INHOFE, Mr. ISAKSON, Mr. BOND, and Mr. CHAMBLISS):

S. 3469. A bill to provide that the Clean Air Interstate Rule shall remain in full force and effect; to the Committee on Environment and Public Works.

By Mrs. CLINTON (for herself and Mr. ENSIGN):

S. 3470. A bill to require United States Government representatives to present to the Government of Iraq a plan to establish an oil trust; to the Committee on Foreign Relations.

By Mr. DEMINT (for himself, Mrs. DOLE, and Mr. THUNE):

S. 3471. A bill to prohibit government-sponsored enterprises from making lobbying expenditures, political contributions, or other certain contributions; to the Committee on Homeland Security and Governmental Affairs.

By Mr. FEINGOLD:

S. 3472. A bill to amend the Farm Security and Rural Investment Act of 2002 to further the adoption of technologies developed by the Department of Agriculture, to encourage small business partnerships in the development of energy through biorefineries, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KYL:

S. 3473. A bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. CARPER (for himself and Mr. LIEBERMAN):

S. 3474. A bill to amend title 44, United States Code, to enhance information security of the Federal Government, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mrs. BOXER):

S. 3475. A bill to amend the Federal Food, Drug, and Cosmetic Act to require manufacturers of bottled water to submit annual reports, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HAGEL (for himself and Mr. BINGAMAN):

S. 3476. A bill to amend the Public Health Service Act to improve the Nation's surveillance and reporting for diseases and conditions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER (for himself and Mr. WEBB):

S. 3477. A bill to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3478. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of energy, to provide transportation and domestic fuel security, and to provide incentives for energy conservation and energy efficiency, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COCHRAN, and Mr. KENNEDY):

S. 3479. A bill to amend the National and Community Service Act of 1990 to establish a Semester of Service grant program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. COCHRAN, and Mr. KENNEDY):

S. 3480. A bill to amend the National and Community Service Act of 1990 to establish Encore Service Programs, Encore Fellowship Programs, and Silver Scholarship Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 3481. A bill to amend the Internal Revenue Code of 1986 to provide a temporary increase in the new qualified hybrid motor vehicle credit for school buses; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 3482. A bill to designate a portion of the Rappahannock River in the Commonwealth of Virginia as the ''John W. Warner Rapids''; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOND (for himself, Mr. ROCKEFELLER, and Mr. WHITEHOUSE):

S. Res. 655. A resolution to improve congressional oversight of the intelligence activities of the United States; to the Committee on Rules and Administration.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 656. A resolution expressing the sense of the Senate regarding the terrorist attacks committed against the United States of America on September 11, 2001; considered and agreed to.

ADDITIONAL COSPONSORS

S. 394

At the request of Mr. AKAKA, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 394, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane

slaughter of nonambulatory livestock, and for other purposes.

S. 714

At the request of Mr. AKAKA, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 714, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 766

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 766, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies of victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 826

At the request of Mr. MENENDEZ, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 921

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 921, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

S. 1003

At the request of Ms. STABENOW, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1003, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 1070

At the request of Mrs. LINCOLN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1070, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 1181

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 1181, a bill to amend the Securities Exchange Act of 1934 to provide shareholders with an advisory vote on executive compensation.

S. 1328

At the request of Mr. LEAHY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 1328, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1430

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1556

At the request of Mr. SMITH, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1780

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1780, a bill to require the FCC, in enforcing its regulations concerning the broadcast of indecent programming, to maintain a policy that a single word or image may be considered indecent.

S. 2020

At the request of Mr. LUGAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2020, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2010, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2007'', and for other purposes.

S. 2140

At the request of Mr. DORGAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2140, a bill to award a Congressional Gold Medal to Francis Collins, in recognition of his outstanding contributions and leadership in the fields of medicine and genetics.

S. 2161

At the request of Mr. ISAKSON, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2161, a bill to ensure and foster continued patient safety and quality of care by making the antitrust laws apply to negotiations between groups of independent pharmacies and health plans and health insurance issuers (including health plans under parts C and D of the Medicare Program) in the same manner as such laws apply to protected activities under the National Labor Relations Act.

S. 2504

At the request of Mr. NELSON of Florida, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2510

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2760

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2760, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes.

S. 2998

At the request of Mr. NELSON of Florida, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2998, a bill to require accurate and reasonable disclosure of the terms and conditions of prepaid telephone calling cards and services, and for other purposes.

S. 3040

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3040, a bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances.

S. 3077

At the request of Mrs. MCCASKILL, her name was added as a cosponsor of S. 3077, a bill to strengthen transparency and accountability in Federal spending.

S. 3237

At the request of Mr. CASEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3237, a bill to assist volunteer fire companies in coping with the precipitous rise in fuel prices.

S. 3256

At the request of Mrs. BOXER, the name of the Senator from Michigan

(Ms. STABENOW) was added as a cosponsor of S. 3256, a bill to provide a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

S. 3325

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 3325, a bill to enhance remedies for violations of intellectual property laws, and for other purposes.

S. 3331

At the request of Mr. BAUCUS, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 3331, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 3334

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3334, a bill to strengthen communities through English literacy, civic education, and immigrant integration programs.

S. 3356

At the request of Mr. CHAMBLISS, the names of the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3356, a bill to require the Secretary of the Treasury to mint coins in commemoration of the legacy of the United States Army Infantry and the establishment of the National Infantry Museum and Soldier Center.

S. 3362

At the request of Mr. KERRY, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 3362, a bill to reauthorize and improve the SBIR and STTR programs, and for other purposes.

S. 3380

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 3380, a bill to promote increased public transportation use, to promote increased use of alternative fuels in providing public transportation, and for other purposes.

S. 3389

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3389, a bill to require, for the benefit of shareholders, the disclosure of payments to foreign governments for the extraction of natural resources, to allow such shareholders more appropriately to determine associated risks.

S. 3399

At the request of Mrs. LINCOLN, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 3399, a bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes.

S. 3406

At the request of Mr. HARKIN, the names of the Senator from Indiana (Mr. BAYH), the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. DORGAN), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Delaware (Mr. CARPER) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 3406, a bill to restore the intent and protections of the Americans with Disabilities Act of 1990.

S. 3429

At the request of Mr. SCHUMER, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3429, a bill to amend the Internal Revenue Code to provide for an increased mileage rate for charitable deductions.

S. 3439

At the request of Mr. SALAZAR, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 3439, a bill to provide for duty free treatment of certain recreational performance outerwear, and for other purposes.

S. 3465

At the request of Mr. WICKER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3465, a bill to reserve certain proceeds from the auction of spectrum, including the auction of the D-block of spectrum, for use to provide interoperable devices to public safety personnel.

S. 3467

At the request of Ms. KLOBUCHAR, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3467, a bill to extend through April 1, 2009, the MinnesotaCare Medicaid demonstration project.

S. CON. RES. 93

At the request of Mr. DORGAN, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. Con. Res. 93, a concurrent resolution supporting the goals and ideals of ''National Sudden Cardiac Arrest Awareness Month''.

S. RES. 598

At the request of Mr. LUGAR, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Res. 598, a resolution expressing the sense of the Senate regarding the need for the United States to lead renewed international efforts to assist developing nations in conserving natural resources and preventing the impending extinction of a large portion of the world's plant and animal species.

S. RES. 616

At the request of Mrs. LINCOLN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 616, a resolution reducing maternal mortality both at home and abroad.

AMENDMENT NO. 5063

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 5063 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5266

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 5266 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5271

At the request of Mr. VOINOVICH, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 5271 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5299

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 5299 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5300

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 5300 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5302

At the request of Mr. NELSON of Florida, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 5302 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5319

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 5319 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5327

At the request of Mr. CHAMBLISS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 5327 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5339

At the request of Mr. ALEXANDER, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of amendment No. 5339 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5347

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of amendment No. 5347 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5369

At the request of Mr. WHITEHOUSE, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 5369 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5371

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 5371 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5374

At the request of Mr. WHITEHOUSE, his name was added as a cosponsor of amendment No. 5374 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5385

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Mr. CARDIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 5385 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5406

At the request of Mr. LEAHY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of amendment No. 5406 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5409

At the request of Mr. BROWN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of amendment No. 5409 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5410

At the request of Mr. HARKIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 5410 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5412

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 5412 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5422

At the request of Mr. BAYH, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Ms. STABENOW), the Senator from Pennsylvania (Mr. CASEY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Illinois (Mr. DURBIN), the Senator from Vermont (Mr. SANDERS) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 5422 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5439

At the request of Mrs. MCCASKILL, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of amendment No. 5439 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5441

At the request of Mr. KERRY, his name was added as a cosponsor of amendment No. 5441 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 3472. A bill to amend the Farm Security and Rural Investment Act of

2002 to further the adoption of technologies developed by the Department of Agriculture, to encourage small business partnerships in the development of energy through biorefineries, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, today I am introducing the Energy and Technology Advancement, ETA, Act of 2008. At its heart, this bill will increase partnerships between the Federal Government and businesses to help spur the commercialization of energy, forestry, and other technologies—in other words, to increase the ETA, or estimated time of arrival, for bringing new technologies to market.

This bill is among the bills I have introduced this week as part of my E4 Initiative, dubbed E4 because of its focus on Economy, Employment, Education, and Energy.

Particularly in the area of energy, we must do more to make new energy solutions, like next generation biofuels, a reality. My bill will help make the Federal Government a better business partner for the many businesses that are researching and developing innovative technology solutions our country needs. We are squandering the Federal investment of billions into research and development by not doing enough to prevent new technologies from sitting on the shelf or being shipped to another country. Helping these new energy technologies get off the ground is not only a promising way to develop the next generation of energy technology that will help break our addiction to oil, it will also help to spur job creation and enhance rural development.

One obstacle identified by the Forest Service's Wisconsin-based Forest Products Lab which conducts forestry and energy technology research with businesses and others, is lack of Federal support for moving technologies from the research and development phase to commercialization. My bill will bridge this gap by authorizing the U.S. Department of Agriculture, USDA, which includes the Forest Service, to work with businesses and provide access to resources to assist with getting technologies to market.

By encouraging the USDA to act as a ''business incubator,'' we can increase the rate of success and reduce the length of time for bringing technologies to the market. By providing a bridge to move new technologies beyond the research and development phase to commercialization, the Federal Government will accelerate the development of new technologies and create increased opportunities for small businesses, local and State government, and others.

All energy, forestry, and other technologies will benefit from my ETA Act because it will help new technologies come to the market. It does so by promoting the Federal Government as a better business incubator, encouraging the USDA to provide business support services, and authorizing USDA employees and private-sector employees to work together in Federal or private experimental or product facilities. My bill will also increase cooperation between the Federal Government and innovative businesses by encouraging the USDA to allow rental of Federal equipment and property for the development-of new technology. The cost of the legislation is fully offset so as to not increase the Federal deficit.

Lastly, a specific partnership encouraged by my Energy and Technology Advancement Act will spur the commercialization of biofuels. My bill requires the USDA to pursue a biorefinery pilot plant that will allow businesses to partner with the Federal Government to test various biofuels technologies derived from a variety of feedstocks, including woody and agriculture waste.

Certainly one of today's greatest challenges—energy—is also one of tomorrow's greatest opportunities. Today, the transportation sector accounts for 70 percent of our oil consumption. However, there are promising efforts to significantly lessen our dependence on oil by reducing fuel consumption through increased efficiency and by aggressively pursuing renewable fuels, or biofuels. The commercialization of biofuels will also create job opportunities, support rural development and industries such as forestry, and develop the next generation of fuels that are sustainable and from diverse sources.

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. 3472

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 ''Energy and Technology Advancement Act of 2008''.

SEC. 2. FEDERAL ENERGY AND FORESTRY BUSINESS ASSISTANCE.

Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

''SEC. 9014. FEDERAL ENERGY AND FORESTRY BUSINESS ASSISTANCE.

''(a) SUPPORT FOR BUSINESS INCUBATORS.—

''(1) DEFINITIONS.—In this subsection:

''(A) BUSINESS INCUBATOR.—The term 'business incubator' means the programs and assistance designed to accelerate the successful development of new or existing small businesses through an array of support resources and services, developed and managed by the Secretary.

''(B) DEPARTMENT.—The term 'Department' means the Department of Agriculture.

''(2) DUTY OF SECRETARY.—To further the adoption of technologies developed by the Department, the Secretary shall establish criteria and procedures to facilitate and encourage businesses and other organizations—

''(A) to rent equipment and property owned by the Federal Government for the development of new and improved products and processes (including the production of reasonable quantities of product for sale);

''(B) to authorize employees of the Department and employees of the private sector to work together in experimental or production facilities owned by—

''(i) the Federal Government; or

''(ii) a private entity;

''(C) to provide business support services to start-up and small businesses; and

''(D) to enter into cooperative agreements with Indian tribes, States, counties, institutions of higher education, and other educational and governmental units to support business incubators for businesses that use technologies and products of interest to the Secretary.

''(b) ESTABLISHMENT OF BIOREFINERY PILOT PLANT.—

''(1) DUTY OF SECRETARY.—Not later than 90 days after the date of enactment of this section, in accordance with paragraph (2), the Secretary shall submit to the appropriate committees of Congress a plan for the development and construction of a biorefinery pilot plant.

''(2) COST ESTIMATES.—The Secretary shall include in the plan described in paragraph (1) a comprehensive estimate of each cost relating to the development and construction of the biorefinery pilot plant that is the subject of the plan.

''(3) DESIGN REQUIREMENTS.—The biorefinery pilot plant that is the subject of the plan described in paragraph (1) shall be designed to enable the plant—

''(A) to produce liquid fuels from woody, agricultural, and other biomass—

''(i) in a flexible, multi-bioproduct manner;

''(ii) in a sustainable manner that addresses life-cycle inputs and outputs; and

''(iii) in quantities sufficient—

''(I) to provide proof of process; and

''(II) to allow for business incubator and support services described in subsection (a); and

''(B) to employ, at a minimum, thermochemical and biochemical conversion processes in the production of liquid fuels.

''(c) FUNDING.—Of the amounts made available to the Secretary for programmatic and administrative expenditures, the Secretary shall use such sums as are necessary to carry out this section.''.

By Mr. KYL:

S. 3473. A bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, today I am pleased to introduce the White Mountain Apache Tribe Water Rights Quantification Act of 2008. This legislation would authorize, confirm, and ratify the White Mountain Apache Tribe Water Rights Quantification Agreement and authorize funding for a key drinking water project on the tribe's reservation. The White Mountain Apache Tribe and the water users and providers of Arizona have waited a long time for this day. In fact, the legislation I am introducing today is the product of nearly 3 years of negotiation and the tremendous work of the settlement parties.

On behalf of the tribe, the U.S. filed substantial claims to water in the Gila River and Little Colorado River General Stream adjudications in Arizona. Absent a settlement, resolution of these claims would take many years,

entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all of the parties to the settlement. Specifically, without a settlement, the tribe's claims could impact water users in the Salt River system, a major water source within the State of Arizona.

Within the last few days, the representatives of the non-federal water settlement parties have indicated that a settlement is nearly finalized. The parties' representatives have expressed their written support for the settlement and have indicated that they will be submitting the settlement to their respective governing bodies for review and action.

Under the settlement agreement, the tribe would have a right to a total annual diversion water right of 99,000 acre-feet per year through a combination of surface water and Central Arizona Project water sources. The legislation would confirm, authorize, and ratify the parties' settlement and provide federal funding for a desperately needed drinking water project on the tribe's reservation—the Miner Flat Project.

Currently, a relatively small well field serves the drinking water needs of the majority of the residents on the reservation, but production from the wells has declined significantly over the last few years. As a result, the tribe has experienced summer drinking water shortages. The tribe is planning to construct a small Rural Development funded diversion project on the North Fork of the White River on its reservation this year. It indicates that when the project is completed it will replace most of the lost production from the existing well field, but will not produce enough water to meet the demand of the tribe's growing population. The Miner Flat Project would provide a longterm solution for the tribe's drinking water shortages.

Consequently, not only would the legislation I have introduced today provide certainty to water users in the State of Arizona regarding their future water supplies, it would provide the tribe with a long-term reliable source of drinking water. Therefore, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

CENTRAL ARIZONA PROJECT,
Phoenix, AZ, September 4, 2008.

Hon. JON KYL,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR KYL: I am writing as counsel for the Central Arizona Water Conservation District regarding legislation to authorize a settlement of the water rights claims of the White Mountain Apache Tribe. As you know, my staff and I have been personally involved in the negotiations to settle the water rights claims of the Tribe. My staff and I have had the opportunity to review the most recent drafts of the authorizing legislation and the settlement agreement and we intend to recommend approval of the settlement to our governing Board. In our judgment, the proposed settlement is consistent with the Arizona Water Settlements Act and represents an important step forward in Arizona's efforts to resolve outstanding Indian water rights claims. We look forward to continuing to work with you and the other members of the Arizona congressional delegation in bringing this important settlement to fruition.

Sincerely,

DOUGLAS K. MILLER,
General Counsel, CAWCD.

AUGUST 29, 2008.

Senator JON KYL,
East Camelback Road,
Phoenix, AZ.

DEAR SENATOR KYL: We the undersigned representatives of parties to the White Mountain Apache Tribe Quantification Agreement have reviewed the attached Quantification Agreement, Exhibits, and accompanying draft legislation (''Settlement Documents''). Based upon our participation in the negotiations and/or our review of the attached Settlement Documents, we, at this time, intend to express our support for the Settlement Documents and plan to submit them for our governing bodies' review and action. As of the date of this letter, we are not aware of any reason why our governing bodies would not support the Settlement Documents. The governing bodies, however, must conduct a final review of the Settlement Documents and make a decision.

The Settlement Documents may be revised as agreed upon by the parties. We understand that authorizations for appropriations included within the draft legislation are still subject to agreement between you and the White Mountain Apache Tribe.

Signed by 17 representatives of parties to the White Mountain Apache Tribe Quantification Agreement.

By Mr. CARPER (for himself and Mr. LIEBERMAN):

S. 3474. A bill to amend title 44, United States Code, to enhance information security of the Federal Government, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. CARPER. Mr. President, I rise today with my colleague Senator LIEBERMAN to introduce the Federal Information Security Management Act of 2008.

Although the name of the bill may not sound very exciting, let me assure you that this piece of legislation could be one of the most important pieces of legislation Congress passes this session.

Every day, massive amounts of information is transmitted across the global information infrastructure. Some of this information is routine e-mail between co-workers making lunch plans or a couple making plans for who will pick up the kids at school. Much of it, however consists of highly sensitive military and commercial secrets. As everyone can attest to, increasing global interconnectivity has greatly increased our productivity and ability to communicate. However, it has also increased our responsibility to make sure this information is protected.

The Federal Government stores within its databases some of our Nation's most critical military, economic, and commercial secrets. Great harm could be caused if it were to fall into the wrong hands. Knowing this, nation-states and criminal groups are spending a good deal of money and time trying to access it.

According to a report released back in March by the Department of Defense, the U.S. Government and our allies around the world have come under attack in the past year on a number of occasions by hackers from addresses that appear to originate from within the Chinese government. These hackers were able to compromise information systems at government agencies, defense-related think tanks, contractors, and financial institutions. Germany's domestic intelligence agency, the German Office for the Protection of the Constitution, has accused China of sponsoring these attacks ''almost daily'' in an attempt to ''intensively gather political, military, corporate-strategic and scientific information in order to bridge their technological gaps as quickly as possible.''

The threat of a nation-state cyber attack is very real. Last year in Estonia, an attack by Russian hackers was coordinated through online chat rooms and Web sites. This ''Cyber War,'' as the media called it, shut down Web sites of a number of Estonian organizations, including the Estonian parliament, banks, ministries, newspapers, and broadcasters.

But we don't have to look overseas to find threats to our information security. Sometimes, we only have to look in our own backyards. Just last year, the Veterans Affairs Department had an external hard drive stolen, exposing sensitive personal information on nearly 2 million individuals. But this isn't the only example. Not by a long shot. The Departments of Defense, Transportation, Commerce, Health and Human Services, Homeland Security, Education, Agriculture, and State have all had sensitive information compromised by current or former employees. These incidents are simply unacceptable.

The original Federal Information Security Management Act, or FISMA, came out of a recognition a few years ago of the critical importance of protecting our information systems. Since then, agencies have made extraordinary progress in implementing crucial information security measures. They should be acknowledged and congratulated for their efforts. However, I am concerned that, 5 years after the passage of FISMA, agencies may have fallen into the trap of complacency and are just checking boxes to show compliance with requirements written into a bill.

The bill Senator LIEBERMAN and I have put forward today will help address this issue. Our bill empowers Chief Information Security Officers to deny access to the agency network if proper security policies are not being

followed. If we are going to hold these hardworking individuals accountable in Congress for information security, then we should give them the authority to do so.

Our bill requires that individuals hired to be Chief Information Security Officers be qualified to monitor, detect, and respond to cyber intrusions rather than someone who spends much of their time checking boxes and filling out paperwork.

Our bill will increase collaboration and teamwork and ensure that Chief Information Security Officers continue to keep up to date on the latest technologies and security threats by establishing a Chief Information Security Officers Council. The council will be an open forum where senior officials can be open and honest about security breaches and work together to solve them. This council will be chaired by the National Cyber Security Center Director and will break down the artificial boundaries that have previously existed in cyberspace.

Our bill will also require the Department of Homeland Security to conduct an annual operational evaluation of agency networks. This evaluation will test whether those who want to cause mischief or do us harm can access our sensitive information, much like we test whether terrorists can enter our nuclear facilities or military bases. This evaluation will provide agency leadership and Congress with a better picture of where our weaknesses are and where we need to focus our attention and resources.

Most importantly, our bill will strengthen information security requirements in contracts when agencies purchase services or products from private vendors. No longer should agencies and Congress have to clean up a security mess after an incident has already happened. Instead, we need to start focusing on purchasing more secure services and products that will help prevent these intrusions from happening in the first place.

I look forward to working with my colleagues to get these important and necessary reforms enacted before it is too late. I think everyone can agree that computers, the Internet, and cutting-edge technology have greatly benefited our government and our society. But we also need to recognize that it has greatly increased the threats we face on a daily basis.

In times like these we need to accept our responsibility to protect sensitive information and be held accountable when we fail.

Mr. President, I ask unanimous consent that the text of 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. 3474

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 ''Federal Information Security Management Act of 2008'' or the ''FISMA Act of 2008''.

SEC. 2. DEFINITIONS.

Section 3542(b) of title 44, United States Code, is amended by adding at the end the following:

''(4) The term 'adequate security' means security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.

''(5) The term 'incident' means an occurrence that actually or potentially jeopardizes the confidentiality, integrity, or availability of an information system or the information the system processes, stores, or transmits or that constitutes a violation or imminent threat of violation of security policies, security procedures, or acceptable use policies.

''(6) The term 'information infrastructure' means the underlying framework that information systems and assets rely on in processing, transmitting, receiving, or storing information electronically.''.

SEC. 3. ANNUAL INDEPENDENT AUDIT.

(a) REQUIREMENT FOR AUDIT INSTEAD OF EVALUATION.—Section 3545 of title 44, United States Code, is amended—

(1) in the section heading, by striking ''**evaluation**'' and inserting ''**audit**'' ; and

(2) in paragraphs (1) and (2) of subsection (a), by striking ''evaluation'' and inserting ''audit'' both places that term appears.

(b) ADDITIONAL SPECIFIC REQUIREMENTS FOR AUDITS.—Section 3545(a) of such title is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''subset of the agency's information systems;'' and inserting the following: ''subset of—

''(i) the information systems used or operated by the agency; and

''(ii) the information systems used, operated, or supported on behalf of the agency by a contractor of the agency, any subcontractor (at any tier) of such a contractor, or any other entity;'';

(B) in subparagraph (B), by striking ''and'' at the end;

(C) in subparagraph (C), by striking the period and inserting ''; and''; and

(D) by adding at the end the following new subparagraph:

''(D) a conclusion as to whether the agency's information security controls are effective, including an identification of any significant deficiencies identified in such controls.''; and

(2) by adding at the end the following:

''(3) Each audit under this section shall conform to generally accepted government auditing standards.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Each of the following provisions of section 3545 of title 44, United States Code, is amended by striking ''evaluation'' and inserting ''audit'' each place it appears:

(A) Subsection (b)(1).

(B) Subsection (b)(2).

(C) Subsection (c).

(D) Subsection (e)(1).

(E) Subsection (e)(2).

(2) Section 3545(d) of such title is amended to read as follows:

''(d) EXISTING INFORMATION.—The audit required by this section may include consideration of relevant audits, evaluations, reports, or other information relating to programs or practices of the applicable agency.''.

(3) Section 3545(f) of such title is amended by striking ''evaluators'' and inserting ''auditors''.

(4) Section 3545(g)(1) of such title is amended by striking ''evaluations'' and inserting ''audits''.

(5) Section 3545(g)(3) of such title is amended by striking ''Evaluations'' and inserting ''Audits''.

(6) Section 3543(a)(8)(A) of such title is amended by striking ''evaluations'' and inserting ''audits''.

(7) Section 3544(b)(5)(B) of such title is amended by striking ''a evaluation'' and inserting ''an audit, evaluation, report, or other information relating to programs or practices of the applicable agency''.

SEC. 4. CHIEF INFORMATION SECURITY OFFICER AND CHIEF INFORMATION SECURITY OFFICER COUNCIL.

(a) DELEGATIONS TO CHIEF INFORMATION SECURITY OFFICER.—Section 3544(a) of title 44, United States Code, is amended—

(1) in paragraph (3)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''Chief Information Officer established under section 3506'' and inserting ''Chief Information Security Officer designated under section 3548''; and

(ii) by striking ''ensure compliance'' and inserting ''enforce compliance'';

(B) by striking subparagraph (A); and

(C) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively;

(2) in paragraph (4), by inserting ''and cleared'' after ''trained''; and

(3) in paragraph (5), by striking ''Chief Information Officer'' and inserting ''Chief Information Security Officer''.

(b) CHIEF INFORMATION SECURITY OFFICER AND CHIEF INFORMATION SECURITY OFFICER COUNCIL.—Chapter 35 of title 44, United States Code, is amended—

(1) by redesignating sections 3548 and 3549 as sections 3553 and 3554, respectively; and

(2) by inserting after section 3547 the following:

''§ 3548. Chief Information Security Officers

''(a) DESIGNATIONS.—(1) Except as provided under paragraph (2), the head of each agency shall designate a Chief Information Security Officer who with such agency head shall carry out the responsibilities of the agency under this subchapter. An individual may not serve as the Chief Information Officer and the Chief Information Security Officer for an agency at the same time. The Chief Information Security Officer shall report directly to the Chief Information Officer to carry out such responsibilities.

''(2) The Secretary of Defense and the Secretary of each military department may each designate Chief Information Security Officers who with the Secretary making the designation shall carry out the responsibilities of the applicable department under this subchapter. An individual may not serve as the Chief Information Officer and the Chief Information Security Officer for a department at the same time. The Secretary shall provide for the Chief Information Security Officer to report to the applicable Chief Information Officer to carry out such responsibilities. If more than 1 Chief Information Security Officer is designated, the respective duties of the Chief Information Security Officers shall be clearly delineated.

''(b) QUALIFICATIONS AND GENERAL DUTIES.—A Chief Information Security Officer shall—

''(1) possess necessary qualifications, including education, professional certifications, training, experience, and the security clearance required to administer the functions described under this subchapter; and

''(2) have information security duties as the primary duty of that official.

''(c) RESPONSIBILITIES.—A Chief Information Security Officer for an agency shall have the mission, budget, resources, and authority necessary to—

''(1) oversee the establishment and maintenance of an incident response capability that on a continuous basis can—

''(A) detect, report, respond to, contain, investigate, attribute, and mitigate any network, computer, or data security incident that impairs adequate security, in accordance with policy provided by the Office of Management and Budget, in consultation with the Chief Information Security Officer Council, and guidance from the National Institute of Standards and Technology;

''(B) collaborate with other public and private sector incident response resources to address incidents that extend beyond the agency; and

''(C) not later than 24 hours after discovery of any incident described under subparagraph (A) unless otherwise directed by policy of the Office of Management and Budget, provide notice to the appropriate supporting information security operating center, inspector general, and the United States Computer Emergency Readiness Team;

''(2) collaborate with the Chief Information Officer to establish, maintain, and update an enterprise network, system, storage, and security architecture framework documentation to be submitted quarterly to the United States Computer Emergency Readiness Team, that includes—

''(A) documentation of how technical, managerial, and operational security controls are implemented throughout the agency's information infrastructure; and

''(B) documentation of how the controls described under subparagraph (A) maintain the appropriate level of confidentiality, integrity, and availability of electronic information and information systems based on National Institute of Standards and Technology guidance and Chief Information Security Officers Council recommended approaches;

''(3) ensure that—

''(A) risk assessments are conducted on a periodic basis;

''(B) penetration tests are conducted commensurate with risk (as defined by the National Institute of Standards and Technology) for an agency's information infrastructure; and

''(C) information security vulnerabilities are mitigated in a timely fashion;

''(4) ensure that annual information technology security awareness and role-based training for agency employees and contractors is conducted;

''(5) create, maintain, and manage an information security performance measurement system that aligns with agency goals and budget process; and

''(6) direct and manage information technology security programs and functions within all subordinate agency organizations (including components, bureaus, offices, and other organizations within the agency).

''(d) CONTINUOUS TECHNICAL MONITORING FOR MALICIOUS ACTIVITY OF AGENCY NETWORK AND INFORMATION SYSTEM.—(1) Each agency shall establish a mechanism that allows the Chief Information Security Officer of the agency to detect, monitor, correlate, and analyze, the security of any information system that is connected to the agency's information infrastructure on a continuous basis through automated monitoring.

''(2) The Chief Information Security Officer of an agency shall be responsible for and have the authority to assure that any information system connected to the network (directly or indirectly) that does not comply with security policies and standards, or has been compromised, is denied access and use of the agency network until the information system meets or exceeds accepted security policies and standards established by—

''(A) the National Institute of Standards and Technology;

''(B) the Office of Management and Budget; and

''(C) the applicable agency.

''(3) After notification to the applicable agency's Chief Information Officer, the Chief Information Security Officer of an agency may prevent access to any information system or individual that is using or attempts to use the agency information infrastructure if information security policies and procedures have not been followed or implemented.

''(4) If the Chief Information Security Officer recognizes a network, computer, or data security incident that impairs adequate security of an interagency information system, the Chief Information Security Officer shall notify the managing agency, agency inspector general, and the United States Computer Emergency Readiness Team within 24 hours after discovery of an incident as defined by policy of the Office of Management and Budget.

''(e) OPERATIONAL EVALUATION.—(1) The Chief Information Security Officer of an agency in consultation with the agency Chief Information Officer, with recommendations from the Chief Information Security Officers Council and in consultation with the Secretary of Homeland Security and the heads of other appropriate Federal agencies, shall—

''(A) establish security control testing protocols that ensure that the information infrastructure of the agency, including contractor information systems operating on behalf of the agency are effectively protected against known vulnerabilities, attacks, and exploitations;

''(B) oversee the deployment of such protocols throughout the information infrastructure of the agency; and

''(C) update and test such protocols on a recurring basis.

''(2) After consideration of best practices and recommendations for operational evaluations established by the Chief Information Security Officer Council and in consultation with the heads of appropriate agencies, the Department of Homeland Security shall no less than annually—

''(A) conduct an operational evaluation of the information infrastructure of each agency for known vulnerabilities, attacks, and exploitations of Federal networks on a frequent and recurring basis;

''(B) evaluate the ability of each agency to monitor, detect, correlate, analyze, report, and respond to breaches in information security policies and practices;

''(C) report to the agency head, the Chief Information Officer, and the Chief Information Security Officer of the applicable agency the findings of the operational evaluation; and

''(D) in consultation with the Chief Information Officer and the Chief Information Security Officer of the applicable agency, assist with mitigating exploited vulnerabilities, attacks, and exploitations.

''(3) Not later than 30 days after receiving an operational evaluation under paragraph (2), the Chief Information Security Officer of an agency shall provide the Chief Information Officer and the agency head a plan for addressing recommendations and mitigating vulnerabilities contained in the security reports identified under paragraph (2), including a timeline and budget for implementing such plan.

''(f) NATIONAL SECURITY SYSTEMS.—Subsections (c), (d), and (e) shall not apply to any national security system as defined under section 3542(b)(2) so long as that system is evaluated in a manner consistent with processes described under subsection (e)(2)(A) through (D) of this section.

''§ 3549. Chief Information Security Officer Council

''(a) ESTABLISHMENT.—There is established in the executive branch a Chief Information Security Officers Council (in this section referred to as the 'Council').

''(b) MEMBERSHIP.—The members of the Council shall be full-time senior government employees. The members shall be as follows:

''(1) The Administrator of the Office of Electronic Government of the Office of Management and Budget.

''(2) The Chief Information Security Officer of each agency described under section 901(b) of title 31.

''(3) The Chief Information Security Officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

''(4) A representative from the Office of the Director of National Intelligence.

''(5) A representative from the United States Strategic Command.

''(6) A representative from the United States Computer Emergency Readiness Team.

''(7) A representative from the Intelligence Community Incident Response Center.

''(8) A representative from the Committee on National Security Systems.

''(9) Any other officer or employee of the United States designated by the chairperson.

''(c) CO-CHAIRPERSONS AND VICE CHAIRPERSONS.—(1) The Director of the National Cyber Security Center shall act as chairperson of the Council. The Administrator of the Office of Electronic Government of the Office of Management and Budget shall act as co-chairperson of the Council.

''(2) The vice chairperson of the Council shall be selected by the Council from among its members. The vice chairperson shall serve a 1-year term and may serve multiple terms. The vice chairperson shall serve as a liaison to the Chief Information Officer, Council Committee on National Security Systems, and other councils or committees as appointed by the chairperson.

''(d) FUNCTIONS.—(1) The Council shall be the principal interagency forum for establishing best practices and recommendations for operational evaluations that use attack-based testing protocols established under section 3548(e).

''(2) The Council shall—

''(A) share experiences and innovative approaches relating to information sharing and information security best practices, penetration testing regimes, and incident response mitigation;

''(B) promote the development and use of standard performance measures for agency information security that—

''(i) are outcome-based;

''(ii) focus on risk management;

''(iii) align with the business and program goals of the agency;

''(iv) measure improvements in the agency security posture over time; and

''(v) reduce burdensome compliance measures;

''(C) develop and recommend to the Office of Management and Budget the necessary qualifications to be established for Chief Information Security Officers to be capable of administering the functions described under this subchapter including education, training, and experience;

''(D) enhance information system certification and accreditation processes by establishing a prioritized baseline of information security measures and controls that can be

continuously monitored through automated mechanisms; and

''(E) submit proposed enhancements to the Office of Management and Budget.

''§ 3550. Requirements for contracts relating to agency information and information systems

''(a) IN GENERAL.—(1) Not later than 180 days after the date of enactment of the Federal Information Security Management Act of 2008, the Director of the Office of Management and Budget, in consultation with the Director of the National Institutes of Standards and Technology, shall promulgate information security regulations governing contracts (including task or delivery orders issued pursuant to contracts) between the Federal Government and any individual, corporation, partnership, organization, or other entity that interfaces with an information system of an agency or collects, stores, operates, or maintains information on behalf of the agency.

''(2) Regulations promulgated under this subsection shall specify requirements concerning—

''(A) adequacy and effectiveness of the security of information systems;

''(B) the collection and transmission of information, including personally identifiable information; and

''(C) procedures in the event of a security incident.

''(b) COMPLIANCE.—Notwithstanding any other provision of law, effective 180 days after the issuance of regulations under subsection (a), no agency may enter into a contract (or issue a task or delivery orders under a contract), or otherwise enter into an agreement, with an individual, corporation, partnership, organization, or other entity that interfaces with an information system of an agency or collects, stores, operates, or maintains information on behalf of the agency, unless the requirements of the contract or agreement are in compliance with such regulations.

''(c) SECURITY REQUIREMENTS.—Notwithstanding any other provision of law, effective 3 years after the issuance of regulations under subsection (a), no agency may enter into a contract (or issue a task or delivery order under contract), or otherwise enter into an agreement, with an individual, corporation, partnership, organization, or other entity for commercial off the shelf items, including hardware and software that does not conform to the security requirements in such regulations.

''§ 3551. Reports to Congress

''(a) ANNUAL REPORTS.—(1) On March 1 of each year, the Department of Homeland Security shall submit a report on operational evaluations and testing protocols to—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Oversight and Government Reform and the Committee on Homeland Security of the House of Representatives;

''(C) the Select Committee on Intelligence of the Senate;

''(D) the Permanent Select Committee on Intelligence of the House of Representatives;

''(E) the Government Accountability Office; and

''(F) the President's Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

''(2) Each report submitted under this subsection shall—

''(A) provide detailed information on the operational evaluations of each agency performed during the preceding fiscal year, the results of such evaluations, and any actions that remain to be taken under plans included in corrective action reports under section 3548(e)(3);

''(B) describe the effectiveness of the testing protocols developed under section 3548(e)(1) in mitigating the risks associated with known vulnerabilities, attacks, and exploitations of the information infrastructure of each agency;

''(C) describe the information security posture of the Federal Government, including—

''(i) the risks to the confidentiality, integrity, and availability of information governmentwide; and

''(ii) a plan of action and milestones to mitigate the risks governmentwide;

''(D) include any recommendations for relevant executive branch action and congressional oversight; and

''(E) include an unclassified and classified report of the operational evaluation.

''(b) SECURITY REPORTS AND CORRECTIVE ACTION REPORTS.—The agency head and inspector general of each agency shall make all information security reports and information security corrective action reports available upon request to—

''(1) the Secretary of Homeland Security for purposes of completing the requirements under subsection (a); and

''(2) the Comptroller General of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the items relating to sections 3548 and 3549 and inserting the following:

''Sec.
''3548. Chief Information Security Officers.
''3549. Chief Information Security Officer Council.
''3550. Requirements for contracts relating to agency information and information systems.
''3551. Reports to Congress.
''3552. Authorization of appropriations.
''3553. Effect on existing law.''.

By Mr. WARNER (for himself and Mr. WEBB):

S. 3477. A bill to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence; to the Committee on Homeland Security and Governmental Affairs.

Mr. WARNER. Mr. President, I rise today to introduce legislation with Senator WEBB to help encourage the preservation of, and public access to, historical documents and records of former United States Presidents. Congressman GOODLATTE is joining us in this effort and has introduced similar legislation in the House of Representatives.

The preservation of historical documents is critical to the future of any nation. Current and future generations can look upon the examples of those that came before and learn from their accomplishments, as well as their mistakes. Our Founding Fathers understood the need to preserve important documents for future generations. Thomas Jefferson once said that ''a morsel of genuine history is a thing so rare as to be always valuable.'' In addition, he considered it ''the duty of every good citizen to use all the opportunities, which occur to him, for preserving documents relating to the history of our country.''

Today, we have federally supported presidential libraries from President Hoover onward, but, generally, we do not have federally supported libraries for Presidents prior to President Hoover. The documents and records of these Presidents are scattered throughout America. In our view, the Federal Government should be taking an active role in encouraging the preservation of these documents.

In Virginia, we have an organization that has been leading the way in preserving the records of President Woodrow Wilson. To date, the Woodrow Wilson Presidential Library has preserved several thousand documents. Last year alone, the library received more than one million Wilson-related documents, and it is in the process of preserving these documents and will make them freely available on the Internet. Thousands of people visit the library each year to see documents that have never been seen before in public. In my view, libraries like the Woodrow Wilson Presidential Library are critical to our Nation's history, and we should be encouraging more organizations to engage in this important endeavor.

The legislation I introduce today will help encourage these and other efforts to preserve, and provide public access to, these historical documents by authorizing the National Archives and Records Administration to provide grants to certain organizations to support their efforts in preserving the historical records of past Presidents.

I want to thank the National Archives for their assistance in drafting this important legislation. I look forward to working with my colleagues in the Senate to see this legislation signed into law.

Mr. WEBB. Mr. President, I rise today to introduce bipartisan legislation with my colleague, Senator WARNER, which will authorize the National Archives and Records Administration to make grants for the preservation of records and other historical documents of American Presidents. Grants will be available to entities seeking to preserve the records and other historical documents of Presidents who do not have a presidential library managed and maintained by the Federal Government. This legislation represents the hard work and dedication of numerous stakeholders who are working to preserve these historical documents for present and future generations to enjoy.

The Presidential Historical Records Preservation Act builds upon existing efforts by the National Historical Publications and Records Commission to promote the preservation and use of America's documentary heritage by making grants available to non-profit entities, states and local communities that are seeking to preserve the records and historical documents of American Presidents. This legislation compliments the mission of the National Historical Publications and Records Commission by helping the American public understand our democracy, history, and culture. Our country will be better off for having an

improved, more complete understanding of American Presidents and their legacies.

I would like to especially thank the Woodrow Wilson Presidential Library Foundation for its efforts to bring this issue to Congress' attention. For the last seventy years, the Woodrow Wilson Presidential Library Foundation in Staunton, Virginia has admirably served as caretaker of President Woodrow Wilson's papers and artifacts, dedicating itself to the preservation of Wilson's legacy. But it has done so without the resources afforded to other presidential libraries in the Federal system.

This legislation, if enacted, will help the Woodrow Wilson Presidential Library Foundation, and other non-profit entities like it, preserve and make available to the public the historical records and documents of American Presidents. The Woodrow Wilson Presidential Library serves as the center for education and study of Woodrow Wilson's life and legacies, and the passage of this legislation will enable people from this country and abroad to learn more about the life and work of our nation's 28th President.

I would also like to thank the Archivist of the United States, Dr. Allen Weinstein, and his staff for their dedication and service to our nation. Their efforts in assisting Senator WARNER and me as we crafted this legislation represent the very best in good government and commitment to serving the American public.

I am hopeful that the Committee on Homeland Security and Governmental Affairs will consider this legislation expeditiously and that we can enact it during the remainder of this congressional session.

I ask that my full statement be printed in the RECORD where the bill appears. I yield the floor.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 3478. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the production of energy, to provide transportation and domestic fuel security, and to provide incentives for energy conservation and energy efficiency, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, today, I join with my colleague CHUCK GRASSLEY, the Finance Committee's ranking Republican member, to introduce the Energy Independence and Innovation Act of 2008.

This bill will create jobs. It will help consumers with high energy costs. It will contribute to energy security. It will help secure America's place as a world leader in clean energy technology. It will help to prepare this country to address global warming.

For more than a year, we have been trying to pass meaningful energy tax legislation.

In June of last year, the Finance Committee passed a roughly $30 billion energy-tax package. It received a resounding bipartisan committee vote. The bill proposed the largest-ever series of clean energy tax incentives. It was largely offset with reductions in tax breaks for oil and gas companies.

That package's clean energy incentives included a long-term extension of tax credits for wind and solar power, long-term extensions of credits for building efficiency, and extensions and modifications of credits for clean coal technology.

The June 2007 bill also included innovative new items. It included a credit for consumers for plug-in hybrids. It included a new credit to promote capture and storage of carbon dioxide. And it included incentives to transform our electricity grid, so that far-flung sources of renewable power—like wind and solar—can be brought to market.

But many on the other side objected to the bill, because it included reductions in oil and gas tax breaks. We needed 60 votes to pass the Senate. But our bill got 57, and died on the floor.

We tried again in December of last year. We scaled back our oil and gas offsets. And we wrote a smaller, roughly $20 billion package of clean-energy incentives.

But Senators—again, generally from the other side of the aisle—continued to object to provisions cutting tax breaks for oil and gas companies. That bill failed as well, by just one vote.

In response to those concerns, this year, I wrote an energy tax package without oil and gas offsets. That bill, S. 3335, was paid for by closing tax loopholes and by delaying a tax benefit for multinational corporations that has yet to take effect.

That bill included about $18 billion in energy-tax provisions, including scaled-down versions of the original Finance Committee bill. This ''extenders'' bill also included billions in non-energy extenders. These tax incentives are vital to supporting a range of activities, from research and development to higher education.

Unfortunately, S. 3335 has been objected to, as well. It has not cleared the Senate.

But now energy prices are sky-high. And we have learned that many Senators from the other side of the aisle have come to agree that it makes sense to scale back oil and gas tax breaks.

Accordingly, Senator GRASSLEY and I have worked together to rewrite our original Finance Committee product. And that is largely what is represented in the bill that we are introducing today.

Our bill invests about $26 billion in renewable energy. It pays for it largely by repealing tax breaks for oil and gas firms. These are largely the same tax offsets that we included in our original bill. For example, the bill would deny a tax benefit that was enacted in 2004, when oil traded at about $50 per barrel.

Oil trades at more than $100 per barrel now. Recently it reached nearly $150 per barrel. I am pleased that my colleagues have come to agree that with energy prices this high, these oil and gas tax incentives are not needed.

What do we get for repealing those oil and gas tax breaks? We get long-term extensions of vital clean energy incentives, like the credit for wind and solar electricity. With passage of tax credits for wind power in 2005 and 2006, the American wind energy industry has installed capacity in the last 2 years that equals the capacity it installed in the last 2½ decades.

The solar industry is also booming. It accounts for a growing number of high-paying jobs in America's clean tech sector. This bill includes an 8-year extension of the credit for solar power. And that extension will fuel this already impressive job growth.

Let's consider what happens if we do not extend these credits. According to a February 2008 study, failure to extend the wind and solar credits would result in the loss of 114,000 jobs. Renewable energy is simply not yet cost-competitive with fossil-based power. It needs the incentives in this bill.

Absent broader mandates on renewable power, we need to continue tax support for renewable electricity production. With those tax incentives, the private sector will continue to invest in this worthy cause.

This bill also contains many other important provisions. It contains extensions of efficiency incentives for buildings, which account for about 40 percent of American energy use. It contains the new plug-in hybrid credit for consumers, at a higher level than last year's bill—up to $7,500. As did last year's package, the bill we introduce today includes a provision to promote what folks call ''smart meters,'' which provide real-time feedback on electricity usage. These smart meters have been shown to cut consumer energy costs and carbon emissions, as well.

Finally, the bill includes a new production credit for carbon dioxide, providing an incentive for capturing and storing harmful carbon dioxide. This provision was also part of last year's Finance Committee bill. I am pleased that it is part of this bill as well.

This bill does not do everything that I want. If I had my druthers, we would extend and possibly modify—many of these credits for a longer period. And the bill includes some items that I am not overly thrilled about. But those compromises are part of the legislative process. That process will continue after today's introduction.

Meanwhile, I am again pleased that consensus may well be building to redirect tax incentives and invest in the clean technology this country desperately needs.

For the sake of American jobs, for the sake of our Nation's security, and for the sake of our planet's environment, I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Independence and Investment Act of 2008''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

Sec. 101. Renewable energy credit.
Sec. 102. Production credit for electricity produced from marine renewables.
Sec. 103. Energy credit.
Sec. 104. Credit for residential energy efficient property.
Sec. 105. New clean renewable energy bonds.
Sec. 106. Energy credit for small wind property.
Sec. 107. Energy credit for geothermal heat pump systems.

Subtitle B—Carbon Mitigation and Coal Provisions

Sec. 111. Expansion and modification of advanced coal project investment credit.
Sec. 112. Expansion and modification of coal gasification investment credit.
Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.
Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
Sec. 115. Tax credit for carbon dioxide sequestration.
Sec. 116. Carbon audit of the tax code.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
Sec. 202. Credits for biodiesel and renewable diesel.
Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.
Sec. 204. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 205. Extension and modification of alternative motor vehicle credit.
Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
Sec. 207. Extension and modification of alternative fuel credit.
Sec. 208. Alternative fuel vehicle refueling property credit.
Sec. 209. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.
Sec. 210. Extension of ethanol production credit.
Sec. 211. Credit for producers of fossil free alcohol.
Sec. 212. Extension and modification of election to expense certain refineries.
Sec. 213. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

Sec. 301. Qualified energy conservation bonds.
Sec. 302. Credit for nonbusiness energy property.
Sec. 303. Energy efficient commercial buildings deduction.
Sec. 304. New energy efficient home credit.
Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.
Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.
Sec. 307. Qualified green building and sustainable design projects.
Sec. 308. Special depreciation allowance for certain reuse and recycling property.

TITLE IV—MISCELLANEOUS ENERGY PROVISIONS

Sec. 401. Special rule to implement FERC and State electric restructuring policy.
Sec. 402. Modification of credit for production from advanced nuclear power facilities.
Sec. 403. Income averaging for amounts received in connection with the Exxon Valdez litigation.

TITLE V—REVENUE PROVISIONS

Sec. 501. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 502. Tax on crude oil and natural gas produced from the outer Continental Shelf in the Gulf of Mexico.
Sec. 503. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
Sec. 504. Broker reporting of customer's basis in securities transactions.
Sec. 505. Increase and extension of Oil Spill Liability Trust Fund tax.

TITLE VI—OTHER PROVISIONS

Sec. 601. Secure rural schools and community self-determination program.
Sec. 602. Clarification of uniform definition of child.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

SEC. 101. RENEWABLE ENERGY CREDIT.

(a) 3-YEAR EXTENSION.—Each of the following provisions of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF REFINED COAL AS A QUALIFIED ENERGY RESOURCE.—

(1) ELIMINATION OF INCREASED MARKET VALUE TEST.—Section 45(c)(7)(A) (defining refined coal) is amended—

(A) by striking clause (iv),

(B) by adding ''and'' at the end of clause (ii), and

(C) by striking '', and'' at the end of clause (iii) and inserting a period.

(2) INCREASE IN REQUIRED EMISSION REDUCTION.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting ''at least 40 percent of the emissions of'' after ''nitrogen oxide and''.

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(e) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:

''(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REFINED COAL.—The amendments made by subsection (b) shall apply to coal produced and sold after December 31, 2008.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act.

(4) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 103. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48,''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (c) of section 48 is amended—

(A) by striking ''QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY'' in the heading and inserting ''DEFINITIONS'', and

(B) by adding at the end the following new paragraph:

''(3) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iii) the energy efficiency percentage of which exceeds 60 percent, and

''(iv) which is placed in service before January 1, 2017.

''(B) LIMITATION.—

''(i) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(ii) APPLICABLE CAPACITY.—For purposes of clause (i), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(iii) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this paragraph, the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the fuel sources for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(ii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(D) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(i) subparagraph (A)(iii) shall not apply, but

''(ii) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this subparagraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 105. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond, or

''(B) a new clean renewable energy bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified clean renewable energy bonds.''.

(c) EXTENSION FOR CLEAN RENEWABLE ENERGY BONDS.—Subsection (m) of section 54 is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 106. ENERGY CREDIT FOR SMALL WIND PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A), as amended by subsection (c), is amended by striking ''or'' at the end of clause (iv), by adding ''or'' at the end of clause (v), and by inserting after clause (v) the following new clause:

''(vi) qualified small wind energy property,''.

(b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking ''and'' at the end of subclause (II) and by inserting after subclause (III) the following new subclause:

''(IV) qualified small wind energy property, and''.

(c) QUALIFIED SMALL WIND ENERGY PROPERTY.—Section 48(c) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified small wind energy property' means property which uses a qualifying small wind turbine to generate electricity.

''(B) LIMITATION.—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to such property shall not exceed $4,000 with respect to any taxpayer.

''(C) QUALIFYING SMALL WIND TURBINE.—The term 'qualifying small wind turbine' means a wind turbine which—

''(i) has a nameplate capacity of not more than 100 kilowatts, and

''(ii) meets the performance standards of the American Wind Energy Association.

''(D) TERMINATION.—The term 'qualified small wind energy property' shall not include any property for any period after December 31, 2016.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B)'' and inserting ''paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 107. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, is amended by striking ''or'' at the end of clause (v), by inserting ''or'' at the end of clause (vi), and by adding at the end the following new clause:

''(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to periods ending before January 1, 2017,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle B—Carbon Mitigation and Coal Provisions

SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking ''$1,300,000,000'' and inserting ''$3,300,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

''(iii) $2,000,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

''(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section

48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $500,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX; FUNDING OF BLACK LUNG DISABILITY TRUST FUND.

(a) EXTENSION OF TEMPORARY INCREASE.—Paragraph (2) of section 4121(e) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (A) and inserting ''December 31, 2018'', and

(2) by striking ''January 1 after 1981'' in subparagraph (B) and inserting ''December 31 after 2007''.

(b) RESTRUCTURING OF TRUST FUND DEBT.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term ''market value of the outstanding repayable advances, plus accrued interest'' means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

(B) REFINANCING DATE.—The term ''refinancing date'' means the date occurring 2 days after the enactment of this Act.

(C) REPAYABLE ADVANCE.—The term ''repayable advance'' means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

(D) TREASURY RATE.—The term ''Treasury rate'' means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) TREASURY 1-YEAR RATE.—The term ''Treasury 1-year rate'' means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and conditions, including maturity, as the Secretary of the Treasury shall prescribe.

(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

(C) AUTHORITY TO ISSUE OBLIGATIONS.—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

(3) ONE-TIME APPROPRIATION.—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

(A) the market value of the outstanding repayable advances, plus accrued interest; and

(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.

SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

(d) DEFINITIONS.—For purposes of this section—

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

''(a) GENERAL RULE.—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

''(1) $20 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility, and

''(B) disposed of by the taxpayer in secure geological storage, and

''(2) $10 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility, and

''(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

''(b) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

''(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

''(B) is measured at the source of capture and verified at the point of disposal or injection.

''(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

''(c) QUALIFIED FACILITY.—For purposes of this section, the term 'qualified facility' means any industrial facility—

''(1) which is owned by the taxpayer,

''(2) at which carbon capture equipment is placed in service, and

''(3) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year.

''(d) SPECIAL RULES AND OTHER DEFINITIONS.—For purposes of this section—

''(1) ONLY CARBON DIOXIDE CAPTURED AND DISPOSED OF OR USED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture and disposal or use of which is within—

''(A) the United States (within the meaning of section 638(1)), or

''(B) a possession of the United States (within the meaning of section 638(2)).

''(2) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

''(3) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

''(4) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term 'qualified enhanced oil or natural gas recovery project' has the meaning given the term 'qualified enhanced oil recovery project' by section 43(c)(2), by substituting 'crude oil or natural gas' for 'crude oil' in subparagraph (A)(i) thereof.

''(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

''(6) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

''(7) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

''(A) such dollar amount, multiplied by

''(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2008' for '1990'.

''(e) APPLICATION OF SECTION.—The credit under this section shall apply with respect to qualified carbon dioxide before the end of the calendar year in which the Secretary, in consultation with the Administrator of the Environmental Protection Agency, certifies that 75,000,000 metric tons of qualified carbon dioxide have been captured and disposed of or used as a tertiary injectant.''.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', plus'', and by adding at the end of following new paragraph:

''(34) the carbon dioxide sequestration credit determined under section 45Q(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

''Sec. 45Q. Credit for carbon dioxide sequestration.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act.

SEC. 116. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2009 and 2010.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

SEC. 201. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel'',

(2) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of such subsection and inserting ''CELLULOSIC BIOFUEL'', and

(3) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of paragraph (2) thereof and inserting ''CELLULOSIC BIOFUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 202. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking ''50 cents'' and inserting ''$1.00''.

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

''(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.''.

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking ''subsection (b)(5)(C)'' and inserting ''subsection (b)(4)(C)''.

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking ''subsection (b)(5)(B)'' and inserting ''subsection (b)(4)(B)''.

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting '', D396, or other equivalent standard approved by the Secretary''.

(d) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Subsection (f) of section 40A (relating to renewable diesel) is amended by adding at the end the following new paragraph:

''(4) CERTAIN AVIATION FUEL.—

''(A) IN GENERAL.—Except as provided in the last sentence of paragraph (3), the term 'renewable diesel' shall include fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.

''(B) APPLICATION OF MIXTURE CREDITS.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.''.

(e) MODIFICATION OF CREDIT FOR RENEWABLE DIESEL.—Section 40A(f) (relating to renewable diesel), as amended by subsection (d), is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR CO-PROCESSED RENEWABLE DIESEL.—In the case of a taxpayer which produces renewable diesel through the co-processing of biomass and petroleum at any facility, this subsection shall not apply to so much of the renewable diesel produced at such facility and sold or used during the taxable year in a qualified biodiesel mixture as exceeds 60,000,000 gallons.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (e) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

''(7) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

SEC. 204. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is sum of—

''(A) $2,500, plus

''(B) $400 for each kilowatt hour of traction battery capacity in excess of 6 kilowatt hours.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2) shall not exceed—

''(A) $7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

''(B) $10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

''(C) $12,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $15,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

''(2) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—

''(A) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(B) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the

period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2007, is at least 250,000.

''(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 50 percent for the first 2 calendar quarters of the phaseout period,

''(ii) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(iii) 0 percent for each calendar quarter thereafter.

''(D) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section, the term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

''(1) which draws propulsion primarily using a traction battery with at least 6 kilowatt hours of capacity,

''(2) which uses an offboard source of energy to recharge such battery,

''(3) which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(A) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(B) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer.

''(d) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) TRACTION BATTERY CAPACITY.—Traction battery capacity shall be measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

''(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

''(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(g) TERMINATION.—This section shall not apply to property purchased after December 31, 2014.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (d) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ''plus'', and by adding at the end the following new paragraph:

''(35) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(d)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by section 104, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(e)(4).''.

(3) Section 6501(m) is amended by inserting ''30D(e)(9),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(f) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 205. EXTENSION AND MODIFICATION OF ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) EXTENSION.—

(1) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLES AND HEAVY NEW QUALIFIED HYBRID MOTOR VEHICLES.—Paragraphs (2) and (3) of section 30B(j) are amended to read as follows:

''(2) in the case of a new advanced lean burn technology motor vehicle (as described in subsection (c)), December 31, 2011,

''(3) in the case of—

''(A) a new qualified hybrid motor vehicle (as described in subsection (d)(2)(A)), December 31, 2010, and

''(B) a new qualified hybrid motor vehicle (as described in subsection (d)(2)(B)), December 31, 2011, and''.

(2) NEW QUALIFIED ALTERNATIVE FUEL VEHICLES.—Paragraph (4) of section 30B(j) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

(b) INCREASED CREDIT FOR CERTAIN NEW QUALIFIED FUEL CELL MOTOR VEHICLES.—

Subparagraph (A) of section 30B(b)(1) is amended by striking ''$4,000'' and inserting ''$7,500''.

(c) PERSONAL CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) (after the application of paragraph (1)) for any taxable year shall not exceed the excess (if any) of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, and 30D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A)(i) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 30D'' and inserting ''30B, and 30D''.

(ii) Section 25(e)(1)(C)(ii), as amended by this Act, is amended by inserting ''30B,'' after ''25D,''.

(iii) Section 25B(g)(2), as amended by this Act, is amended by striking ''and 30D'' and inserting '', 30B, and 30D''.

(iv) Section 26(a)(1), as amended by this Act, is amended by striking ''and 30D'' and inserting ''30B, and 30D''.

(v) Section 1400C(d)(2), as amended by this Act, is amended by striking ''and 30D'' and inserting ''30B, and 30D''.

(B) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(C) Section 55(c)(3) is amended by striking ''30B(g)(2),''.

(d) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(e) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (c)(2)(A)(i) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 206. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

''(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act.

SEC. 207. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL CREDIT.

(a) EXTENSION.—

(1) ALTERNATIVE FUEL CREDIT.—Paragraph (4) of section 6426(d) (relating to alternative fuel credit) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2011''.

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) (relating to alternative fuel mixture credit) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2011''.

(3) PAYMENTS.—Subparagraph (C) of section 6427(e)(5) (relating to termination) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2011''.

(b) MODIFICATIONS.—

(1) ALTERNATIVE FUEL TO INCLUDE COMPRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph (2) of section 6426(d) (relating to alternative fuel credit) is amended by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

''(F) compressed or liquefied biomass gas, and''.

(2) CREDIT ALLOWED FOR AVIATION USE OF FUEL.—Paragraph (1) of section 6426(d) is amended by inserting ''sold by the taxpayer for use as a fuel in aviation,'' after ''motorboat,''.

(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN FUELS.—

(1) IN GENERAL.—Subsection (d) of section 6426, as amended by subsection (a), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) CARBON CAPTURE REQUIREMENT.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility's total carbon dioxide emissions.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 50 percent in the case of fuel produced after the date of the enactment of this paragraph and on or before the earlier of—

''(I) the date the Secretary makes a determination under subparagraph (C), or

''(II) December 30, 2011, and

''(ii) 75 percent in the case of fuel produced after the date on which the applicable percentage under clause (i) ceases to apply.

''(C) DETERMINATION TO INCREASE APPLICABLE PERCENTAGE BEFORE DECEMBER 31, 2011.—If the Secretary, after considering the recommendations of the Carbon Sequestration Capability Panel, finds that the applicable percentage under subparagraph (B) should be 75 percent for fuel produced before December 31, 2011, the Secretary shall make a determination under this subparagraph. Any determination made under this subparagraph shall be made not later than 30 days after the Secretary receives from the Carbon Sequestration Panel the report required under section 331(c)(3)(D) of the Energy Independence and Investment Act of 2008.''.

(2) CONFORMING AMENDMENT.—Subparagraph (E) of section 6426(d)(2) is amended by inserting ''which meets the requirements of paragraph (4) and which is'' after ''any liquid fuel''.

(3) CARBON SEQUESTRATION CAPABILITY PANEL.—

(A) ESTABLISHMENT OF PANEL.—There is established a panel to be known as the ''Carbon Sequestration Capability Panel'' (hereafter in this paragraph referred to as the ''Panel'').

(B) MEMBERSHIP.—The Panel shall be composed of—

(i) 1 representative from the National Academy of Sciences,

(ii) 1 representative from the University of Kentucky Center for Applied Energy Research, and

(iii) 1 individual appointed jointly by the representatives under clauses (i) and (ii).

(C) STUDY.—The Panel shall study the appropriate percentage of carbon dioxide for separation and sequestration under section 6426(d)(4) of the Internal Revenue Code of 1986 consistent with the purposes of such section. The panel shall consider whether it is feasible to separate and sequester 75 percent of the carbon dioxide emissions of a facility, including costs and other factors associated with separating and sequestering such percentage of carbon dioxide emissions.

(D) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Panel shall report to the Secretary of Treasury, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives on the study under subparagraph (C).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. 208. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2012''.

(b) INCLUSION OF ELECTRICITY AS A CLEAN-BURNING FUEL.—Section 30C(c)(2) is amended by adding at the end the following new subparagraph:

''(C) Electricity.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 209. CERTAIN INCOME AND GAINS RELATING TO ALCOHOL FUELS AND MIXTURES, BIODIESEL FUELS AND MIXTURES, AND ALTERNATIVE FUELS AND MIXTURES TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) is amended by inserting '', or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)'' after ''timber)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

SEC. 210. EXTENSION OF ETHANOL PRODUCTION CREDIT.

(a) CREDIT FOR ALCOHOL USED AS FUEL.—Section 40 is amended—

(1) by striking ''2010'' each place it appears in subsections (e)(1)(A) and (h) and inserting ''2011'', and

(2) by striking ''January 1, 2011'' in subsection (e)(1)(B) and inserting ''January 1, 2012''.

(b) EXCISE TAX CREDITS.—Paragraph (6) of section 6426(b) is amended by striking ''2010'' and inserting ''2011''.

(c) PAYMENTS.—Subparagraph (A) of section 6427(e)(5) is amended by striking ''2010'' and inserting ''2011''.

SEC. 211. CREDIT FOR PRODUCERS OF FOSSIL FREE ALCOHOL.

(a) IN GENERAL.—Subsection (a) of section 40 (relating to alcohol used as fuel) is amended by striking ''plus'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', plus'', and by adding at the end the following new paragraph:

''(5) the small fossil free alcohol producer credit.''.

(b) SMALL FOSSIL FREE ALCOHOL PRODUCER CREDIT.—Subsection (b) of section 40 is amended by adding at the end the following new paragraph:

''(7) SMALL FOSSIL FREE ALCOHOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In addition to any other credit allowed under this section, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 cents for each gallon of not more than 60,000,000 gallons of qualified fossil free alcohol production.

''(B) QUALIFIED FOSSIL FREE ALCOHOL PRODUCTION.—For purposes of this section, the term 'qualified fossil free alcohol production' means alcohol which is produced by an eligible small fossil free alcohol producer at a fossil free alcohol production facility and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified alcohol mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such alcohol at retail to another person and places such alcohol in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

''(C) ADDITIONAL DISTILLATION EXCLUDED.—The qualified fossil free alcohol production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.''.

(c) ELIGIBLE SMALL FOSSIL FREE ALCOHOL PRODUCER.—Section 40 is amended by adding at the end the following new subsection:

''(i) DEFINITIONS AND SPECIAL RULES FOR SMALL FOSSIL FREE ALCOHOL PRODUCER.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible small fossil free alcohol producer' means a person, who at all times during the taxable year, has a productive capacity for alcohol from all fossil free alcohol production facilities of the taxpayer which is not in excess of 60,000,000 gallons.

''(2) FOSSIL FREE ALCOHOL PRODUCTION FACILITY.—The term 'fossil free alcohol production facility' means any facility at which 90 percent of the energy used in the production of alcohol is produced from biomass (as defined in section 45K(c)(3)).

''(3) AGGREGATION RULE.—For purposes of the 60,000,000 gallon limitation under paragraph (1) and subsection (b)(7)(A), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(4) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitation contained in paragraph (1) shall be applied at the entity level and at the partner or similar level.

''(5) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

''(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided for in subsection (a)(5) from directly or indirectly benefitting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of alcohol from fossil free alcohol production facilities during the taxable year.

''(7) ALLOCATION OF SMALL FOSSIL FREE ALCOHOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—Rules similar to the rules under subsection (g)(6) shall apply for purposes of this subsection.''.

(d) ALCOHOL NOT USED AS A FUEL, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 40(d) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) SMALL FOSSIL FREE ALCOHOL PRODUCER CREDIT.—If—

''(i) any credit is allowed under subsection (a)(5), and

''(ii) any person does not use such fuel for a purpose described in subsection (b)(7)(B),

then there is hereby imposed on such person a tax equal to 10 cents for each gallon of such alcohol.''.

(2) CONFORMING AMENDMENT.—Subparagraph (F) of section 40(d)(3), as redesignated by paragraph (1) and amended by this Act, is amended by striking ''or (D)'' and inserting ''(D), or (E)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced after December 31, 2008.

SEC. 212. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) EXTENSION.—Paragraph (1) of section 179C(c) (relating to qualified refinery property) is amended—

(1) by striking ''January 1, 2012'' in subparagraph (B) and inserting ''January 1, 2014'', and

(2) by striking ''January 1, 2008'' each place it appears in subparagraph (F) and inserting ''January 1, 2010''.

(b) INCLUSION OF FUEL DERIVED FROM SHALE AND TAR SANDS.—

(1) IN GENERAL.—Subsection (d) of section 179C is amended by inserting '', or directly from shale or tar sands'' after ''(as defined in section 45K(c))''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 179C(e) is amended by inserting ''shale, tar sands, or'' before ''qualified fuels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 213. EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

Subparagraph (H) of section 613A(c)(6) (relating to oil and gas produced from marginal properties) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2011''.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 106, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

''(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(e) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(g) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond,

''(B) a new clean renewable energy bond, or

''(C) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 54D. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''placed in service after December 31, 2007'' and inserting ''placed in service—

''(1) after December 31, 2007, and before January 1, 2009, or

''(2) after December 31, 2011.''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATION OF WATER HEATER REQUIREMENTS.—Section 25C(d)(3)(E) is amended by inserting ''or a thermal efficiency of at least 90 percent'' after ''0.80''.

(d) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEATPUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsections (b) and (c), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(e) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2008.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (e) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2011''.

SEC. 305. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'',

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 306. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) IN GENERAL.—Section 168(e)(3)(C) is amended by striking ''and'' at the end of clause (iv), by redesignating clause (v) as clause (vii), and by inserting after clause (iv) the following new clauses:

''(v) any qualified smart electric meter,

''(vi) any qualified smart electric grid system, and''.

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.

''(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

''(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

''(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

''(ii) providing real-time, two-way communications to monitor or manage such grid, and

''(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 307. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking ''October 1, 2009'' and inserting ''October 1, 2012''.

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking ''issuance,'' and inserting ''issuance of the last issue with respect to such project,''.

SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.

(a) IN GENERAL.—Section 168 is amended by adding at the end the following new subsection:

''(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.—

''(1) IN GENERAL.—In the case of any qualified reuse and recycling property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

''(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified reuse and recycling property' means any reuse and recycling property—

''(i) to which this section applies,

''(ii) which has a useful life of at least 5 years,

''(iii) the original use of which commences with the taxpayer after August 31, 2008, and

''(iv) which is—

''(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.

''(B) EXCEPTIONS.—

''(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—The term 'qualified reuse and recycling property' shall not include any property to which section 168(k) applies.

''(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified reuse and recycling property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

''(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

''(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) REUSE AND RECYCLING PROPERTY.—

''(i) IN GENERAL.—The term 'reuse and recycling property' means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

''(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

''(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

''(i) IN GENERAL.—The term 'qualified reuse and recyclable materials' means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

''(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term 'electronic scrap' means—

''(I) any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or

''(II) any central processing unit.

''(C) RECYCLING OR RECYCLE.—The term 'recycling' or 'recycle' means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after August 31, 2008.

TITLE IV—MISCELLANEOUS ENERGY PROVISIONS

SEC. 401. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 402. MODIFICATION OF CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Paragraph (2) of section 45J(b) (relating to national limitation) is amended by striking ''6,000 megawatts'' and inserting ''8,000 megawatts''.

(b) ALLOCATION OF CREDIT TO PRIVATE PARTNERS OF TAX-EXEMPT ENTITIES.—

(1) IN GENERAL.—Section 45J (relating to credit for production from advanced nuclear power facilities) is amended—

(A) by redesignating subsection (e) as subsection (f), and

(B) by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR PUBLIC-PRIVATE PARTNERSHIPS.—

''(1) IN GENERAL.—In the case of an advanced nuclear power facility which is owned by a public-private partnership, any qualified public entity which is a member of such partnership may transfer such entity's allocation of the credit under subsection (a) to any non-public entity which is a member of such partnership, except that the aggregate allocations of such credit claimed by such non-public entity shall be subject to the limitations under subsections (b) and (c) and section 38(c).

''(2) QUALIFIED PUBLIC ENTITY.—For purposes of this subsection, the term 'qualified public entity' means a Federal, State, or local government entity, or any political subdivision thereof, or a cooperative organization described in section 1381(a).

''(3) VERIFICATION OF TRANSFER OF ALLOCATION.—A qualified public entity that makes a transfer under paragraph (1), and a non-public entity that receives an allocation under such a transfer, shall provide verification of such transfer in such manner and at such time as the Secretary shall prescribe.''.

(2) COORDINATION WITH GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.—

''(A) IN GENERAL.—In the case of the credit for production from advanced nuclear power facilities determined under section 45J(a), paragraph (1) shall not apply with respect to any qualified public entity (as defined in section 45J(e)(2)) which transfers the entity's allocation of such credit to a non-public partner as provided in section 45J(e)(1).

''(B) VERIFICATION OF TRANSFER.—Subparagraph (A) shall not apply to any qualified public entity unless such entity provides verification of a transfer of credit allocation as required under section 45J(e)(3).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to electricity produced in taxable years beginning after the date of the enactment of this Act.

(2) ALLOCATION OF CREDIT.—The amendments made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 403. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ''eligible retirement plan'' has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ''qualified taxpayer'' means—

(1) any individual who is a plaintiff in the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ''qualified settlement income'' means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

(2) received (whether as lump sums or periodic payments) in connection with the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

TITLE V—REVENUE PROVISIONS

SEC. 501. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES AND STATE-OWNED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.—

(1) IN GENERAL.—Subparagraph (B) of section 199(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any disqualified oil company, the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof.''.

(2) DISQUALIFIED OIL COMPANY.—Section 199(c) of such Code is amended by adding at the end the following new paragraph:

''(8) DISQUALIFIED OIL COMPANY.—

''(A) IN GENERAL.—The term 'disqualified oil company' means—

''(i) any major integrated oil company (as defined in section 167(h)(5)(B)) during any taxable year described in section 167(h)(5)(B), or

''(ii) any controlled commercial entity (as defined in section 892(a)(2)(B)) the commercial activities of which during the taxable year includes the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof.

''(B) PRIMARY PRODUCT.—The term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) LIMITATION ON OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME FOR TAXPAYERS OTHER THAN MAJOR INTEGRATED OIL COMPANIES AND STATE-OWNED OIL COMPANIES.—

(1) IN GENERAL.—Section 199(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer (other than a disqualified oil company) has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—The term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.''.

(2) CONFORMING AMENDMENT.—Section 199(d)(2) of such Code (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 502. TAX ON CRUDE OIL AND NATURAL GAS PRODUCED FROM THE OUTER CONTINENTAL SHELF IN THE GULF OF MEXICO.

(a) IN GENERAL.—Subtitle E (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end the following new chapter:

''CHAPTER 56—TAX ON SEVERANCE OF CRUDE OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF IN THE GULF OF MEXICO

''Sec. 5896. Imposition of tax.
''Sec. 5897. Taxable crude oil or natural gas and removal price.
''Sec. 5898. Special rules and definitions.

''SEC. 5896. IMPOSITION OF TAX.

''(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed a tax equal to 13 percent of the removal price of any taxable crude oil or natural gas removed from the premises during any taxable period.

''(b) CREDIT FOR FEDERAL ROYALTIES PAID.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by subsection (a) with respect to the production of any taxable crude oil or natural gas an amount equal to the aggregate amount of royalties paid under Federal law with respect to such production.

''(2) LIMITATION.—The aggregate amount of credits allowed under paragraph (1) to any taxpayer for any taxable period shall not exceed the amount of tax imposed by subsection (a) for such taxable period.

''(c) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the taxable crude oil or natural gas.

''SEC. 5897. TAXABLE CRUDE OIL OR NATURAL GAS AND REMOVAL PRICE.

''(a) TAXABLE CRUDE OIL OR NATURAL GAS.—For purposes of this chapter, the term 'taxable crude oil or natural gas' means crude oil or natural gas which is produced from Federal submerged lands on the outer Continental Shelf in the Gulf of Mexico pursuant to a lease entered into with the United States which authorizes the production.

''(b) REMOVAL PRICE.—For purposes of this chapter—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means—

''(A) in the case of taxable crude oil, the amount for which a barrel of such crude oil is sold, and

''(B) in the case of taxable natural gas, the amount per 1,000 cubic feet for which such natural gas is sold.

''(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons, the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

''(3) OIL OR GAS REMOVED FROM PROPERTY BEFORE SALE.—If crude oil or natural gas is removed from the property before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

''(4) REFINING BEGUN ON PROPERTY.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the property—

''(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

''(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

''(5) PROPERTY.—The term 'property' has the meaning given such term by section 614.

''SEC. 5898. SPECIAL RULES AND DEFINITIONS.

''(a) ADMINISTRATIVE REQUIREMENTS.—

''(1) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide for the withholding and deposit of the tax imposed under section 5896 on a quarterly basis.

''(2) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil or natural gas) with respect to such oil as the Secretary may by regulations prescribe.

''(3) TAXABLE PERIODS; RETURN OF TAX.—

''(A) TAXABLE PERIOD.—Except as provided by the Secretary, each calendar year shall constitute a taxable period.

''(B) RETURNS.—The Secretary shall provide for the filing, and the time for filing, of the return of the tax imposed under section 5896.

''(b) DEFINITIONS.—For purposes of this chapter—

''(1) PRODUCER.—The term 'producer' means the holder of the economic interest with respect to the crude oil or natural gas.

''(2) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

''(3) PREMISES AND CRUDE OIL PRODUCT.—The terms 'premises' and 'crude oil product' have the same meanings as when used for purposes of determining gross income from the property under section 613.

''(c) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil or natural gas from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil or natural gas removed.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.''.

(b) DEDUCTIBILITY OF TAX.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The tax imposed by section 5896(a) (after application of section 5896(b)) on the severance of crude oil or natural gas from the outer Continental Shelf in the Gulf of Mexico.''.

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

''CHAPTER 56. Tax on severance of crude oil and natural gas from the outer Continental Shelf in the Gulf of Mexico.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to crude oil or natural gas removed after December 31, 2008.

SEC. 503. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2009 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2009, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Independence and Investment Act of 2008) for preceding taxable years beginning after December 31, 1982.

''(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Independence and Investment Act of 2008.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

(2) by adding at the end the following new paragraph:

''(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

''(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

''(i) by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and

''(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in subsection (a).

''(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Independence and Investment Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 504. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 is amended by adding at the end the following new subsection:

''(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

''(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

''(2) ADDITIONAL INFORMATION REQUIRED.—

''(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

''(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The customer's adjusted basis shall be determined—

''(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

''(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

''(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

''(3) COVERED SECURITY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'covered security' means any specified security acquired on or after the applicable date if such security—

''(i) was acquired through a transaction in the account in which such security is held, or

''(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

''(B) SPECIFIED SECURITY.—The term 'specified security' means—

''(i) any share of stock in a corporation,

''(ii) any note, bond, debenture, or other evidence of indebtedness,

''(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

''(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

''(C) APPLICABLE DATE.—The term 'applicable date' means—

''(i) January 1, 2010, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

''(ii) January 1, 2011, in the case of any stock for which an average basis method is permissible under section 1012, and

''(iii) January 1, 2012, or such later date determined by the Secretary in the case of any other specified security.

''(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

''(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.''.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(h) APPLICATION TO OPTIONS ON SECURITIES.—

''(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

''(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

''(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2012.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'covered security' and 'specified security' shall have the meanings given such terms in subsection (g)(3).''.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking ''January 31'' and inserting ''February 15''.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking ''at such time and'', and

(ii) by inserting after ''other item.'' the following new sentence: ''The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.''.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: ''In the case of a consolidated reporting statement (as defined in regulations) with respect to any account, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.''.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 is amended—

(1) by striking ''The basis of property'' and inserting the following:

''(a) IN GENERAL.—The basis of property'',

(2) by striking ''The cost of real property'' and inserting the following:

''(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property'', and

(3) by adding at the end the following new subsections:

''(c) DETERMINATIONS BY ACCOUNT.—

''(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

''(2) APPLICATION TO OPEN-END FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any stock in an open-end fund acquired before January 1, 2011, shall be treated as a separate account from any such stock acquired on or after such date.

''(B) ELECTION BY OPEN-END FUND FOR TREATMENT AS SINGLE ACCOUNT.—If an open-end fund elects to have this subparagraph apply with respect to one or more of its stockholders—

''(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

''(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding stock in an open-end fund as a nominee.

''(3) DEFINITIONS.—For purposes of this section—

''(A) OPEN-END FUND.—The term 'open-end fund' means a regulated investment company (as defined in section 851) which is offering for sale or has outstanding any redeemable security of which it is the issuer. Any stock which is traded on an established securities exchange shall not be treated as stock in an open-end fund.

''(B) SPECIFIED SECURITY; APPLICABLE DATE.—The terms 'specified security' and 'applicable date' shall have the meaning given such terms in section 6045(g).

''(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

''(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

''(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

''(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

''(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'dividend reinvestment plan' means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

''(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.''.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

''SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.

''(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

''(b) APPLICABLE PERSON.—For purposes of subsection (a), the term 'applicable person' means—

''(1) any broker (as defined in section 6045(c)(1)), and

''(2) any other person as provided by the Secretary in regulations.

''(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.''.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating subparagraphs (I) through (DD) as subparagraphs (J) through (EE), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045 the following new item:

''Sec. 6045A. Information required in connection with transfers of covered securities to brokers.''.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

''SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

''(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

''(1) a description of any organizational action which affects the basis of such specified security of such issuer,

''(2) the quantitative effect on the basis of such specified security resulting from such action, and

''(3) such other information as the Secretary may prescribe.

''(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

''(1) 45 days after the date of the action described in subsection (a), or

''(2) January 15 of the year following the calendar year during which such action occurred.

''(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such security, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

''(d) SPECIFIED SECURITY.—For purposes of this section, the term 'specified security' has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

''(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

''(1) the name, address, phone number, and email address of the information contact of such person, and

''(2) the information described in paragraphs (1), (2), and (3) of subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxiii), respectively, and by inserting after clause (iii) the following new clause:

''(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),''.

(B) Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008 and by subsection (c)(2), is amended by redesignating subparagraphs (J) through (EE) as subparagraphs (K) through (FF), respectively, and by inserting after subparagraph (I) the following new subparagraph:

''(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

''Sec. 6045B. Returns relating to actions affecting basis of specified securities.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2010.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

SEC. 505. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) INCREASE IN RATE.—

(1) IN GENERAL.—Section 4611(c)(2)(B) (relating to rates) is amended by striking ''5 cents'' and inserting ''12 cents''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

(b) EXTENSION.—

(1) IN GENERAL.—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

''(2) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2017.''.

(2) CONFORMING AMENDMENT.—Section 4611(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

TITLE VI—OTHER PROVISIONS

SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $500,000,000 for fiscal year 2008; and

''(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

''SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

''SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any amounts that are appropriated to carry out this Act;

''(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

''(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and September 30 of each fiscal year thereafter.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

''SEC. 103. TRANSITION PAYMENTS TO STATES.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 76 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

''(C) for fiscal year 2010, 65 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

''TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

''SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

''SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

''SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

''SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 35 percent.

''(ii) For fiscal year 2009, 45 percent.

''(iii) For each of fiscal years 2010 and 2011, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible

county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

"SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

"SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

"SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

"TITLE IV—MISCELLANEOUS PROVISIONS

"SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

"SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''FOREST SERVICE'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

"§ 6906. Funding

''For each of fiscal years 2008 through 2012—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14–1114–0–1–806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217.

(B) EFFECTIVE DATE.—This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

SEC. 602. CLARIFICATION OF UNIFORM DEFINITION OF CHILD.

(a) CHILD MUST BE YOUNGER THAN CLAIMANT.—Section 152(c)(3)(A) is amended by inserting ''is younger than the taxpayer claiming such individual as a qualifying child and'' after ''such individual''.

(b) CHILD MUST BE UNMARRIED.—Section 152(c)(1) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.''.

(c) RESTRICT QUALIFYING CHILD TAX BENEFITS TO CHILD'S PARENT.—

(1) CHILD TAX CREDIT.—Subsection (a) of section 24 is amended by inserting ''for which the taxpayer is allowed a deduction under section 151'' after ''of the taxpayer''.

(2) PERSONS OTHER THAN PARENTS CLAIMING QUALIFYING CHILD.—

(A) IN GENERAL.—Paragraph (4) of section 152(c) is amended by adding at the end the following new subparagraph:

''(C) NO PARENT CLAIMING QUALIFYING CHILD.—If the parents of an individual may claim such individual as a qualifying child but no parent so claims the individual, such individual may be claimed as the qualifying child of another taxpayer but only if the adjusted gross income of such taxpayer is higher than the highest adjusted gross income of any parent of the individual.''.

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (A) of section 152(c)(4) is amended by striking ''Except'' through ''2 or more taxpayers'' and inserting ''Except as provided in subparagraphs (B) and (C), if (but for this paragraph) an individual may be claimed as a qualifying child by 2 or more taxpayers''.

(ii) The heading for paragraph (4) of section 152(c) is amended by striking ''CLAIMING'' and inserting ''WHO CAN CLAIM THE SAME''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

By Mr. DODD (for himself, Mr. COCHRAN, and Mr. KENNEDY):

S. 3479. A bill to amend the National and Community Service Act of 1990 to establish a Semester of Service grant program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce the Semester of Service Act—a bill which would offer young people the opportunity to spend a semester serving their communities during their junior or senior year of high school. I want to thank Senators COCHRAN and KENNEDY for joining me in introducing this legislation.

Throughout the U.S., there are mounting problems and unmet needs.

We have millions of families losing their homes. We have 14 million children that have no supervised place to go after school. We have a health care system that is barely able to hold itself together. And we have veterans and seniors who have given so much to our country unable to get the treatment they were promised and retire with the dignity they have earned.

We can debate how best to solve these problems and others. Some suggest the market can do the job. Others believe the government has an appropriate role to play.

But one thing upon which we can all agree is that when we provide service to our communities, we can tackle so many of our toughest challenges. Service that draws upon our collective imaginations, ideas, and resolve. No one is better equipped to take part in that effort, Mr. President, than our Nation's young people.

As the father of two young daughters, every day I bear witness to the energy, enthusiasm and imagination children bring to every single thing they do. And if the online communities of today teach us anything, it is that young people yearn for shared experiences—for experiences that take them out of their comfort zones to introduce them to new people, put them in new situations and teach them things they might never otherwise learn.

As a young man serving in the Peace Corps, I learned for myself how much we can grow and learn and, more importantly, the difference we can make when we serve. Today, what children need from us is the impetus and leadership to redirect that boundless energy of theirs toward the betterment of our communities. Unlocking the remarkable potential in our young people is what this legislation is all about.

With a semester of service, they can help tutor elementary-school students. They can assist those living in our veterans' hospitals or in hospice. Or they can help clean up neighborhoods and the environment. Those are just a few of the opportunities the Semester of Service Act offers. The difference service makes to our younger generation is as clear as the need for it.

We talk so much about ways to improve academic performance in our schools. Well, when community service is integrated into our students' curricula at school, we know that young people make gains on achievement tests. Service-learning results in grade point averages going up and more positive feelings about high school.

The benefits of service-learning go well beyond the classroom. When young people participate in community service activities they feel better able to control their own lives in a positive way. They are less prone to engage in risky behavior, more likely to engage in their own education, and far more aware of the career opportunities before them.

Indeed, research shows that for every dollar we spend on a service-learning project, $4 worth of service is provided to the community involved. That means by authorizing $200 million for fiscal year 2009, as this legislation does, our country will save more than half a billion dollars in service performed.

This legislation works by creating a competitive grant program that provides school districts, or nonprofits working in partnership with local school districts, the opportunity to have students participate in a semester of service in their junior or senior year for academic credit. These students are required to perform a minimum of 70 hours of service learning activities over 12 weeks, with at least 24 of those hours spent participating in field-based activities—outside of the classroom.

By engaging both the public and private sector, Semester of Service teaches civic participation skills and helps young people see themselves not merely as residents in their communities—but resources to them.

Ultimately, that is what this legislation is about. As with our legislation to strengthen and expand AmeriCorps and increase senior involvement in national service, this bill is about maximizing our resources. It's about increasing participation, engaging our young people, and lifting up our communities. That is why communities from all across this Nation have endorsed this Semester of Service legislation.

If we ask all Americans to take responsibility for the future of our country as we do with this legislation, I believe our best days can be ahead of us—not in the memories of the past, but in the world of our children. We can move forward as a Nation, lead the world and create a better, brighter tomorrow for all of us.

Let us start that journey today.

By Mr. DODD (for himself, Mr. COCHRAN, and Mr. KENNEDY):

S. 3480. A bill to amend the National and Community Service Act of 1990 to establish Encore Service Programs, Encore Fellowship Programs, and Silver Scholarship Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce the Encore Service Act of 2008—legislation which would offer Americans 55 years of age and older the chance to serve their communities and use their expertise and life lessons to give back to the country that has given them so much. I want to thank Senators COCHRAN and KENNEDY for joining me in introducing this legislation.

As we have discussed time and time again, the challenges facing America are mounting—from an aging population to a broken health care system to challenges in our schools that put our children's futures at risk.

These are problems that countless Americans have lived and struggled with—that we here in this institution have debated for years, decades even. We can disagree amongst ourselves about how to solve them—and we certainly have. But what we can all agree on is the impact citizens can make when it comes to facing some of our biggest challenges.

We know the extraordinary things ordinary citizens can accomplish for our communities when given the opportunity—the difference they can make in our schools and nursing homes, in veterans' hospitals and in helping those living on fixed incomes.

We know the character of our people in our darkest moments. Indeed, while September 11 may have showed us that our world had changed—it was September 12 that reminded us: Americans had not. The community blood drives, the heroic work of our Nation's firefighters, the floods of donations—all were a powerful reminder that Americans are always ready to give back when their country calls.

I will never forget the Mayor of Pass Christian Mississippi telling me about an elderly Connecticut couple who drove all the way to the Gulf Coast in the wake of Katrina for no other reason than to help their fellow countrymen and women. Contrary to what some suggest, I believe the American people are starved for opportunities to serve—and stand at the ready not just in times of crisis, but every day. Americans are simply waiting to be asked. I am introducing this legislation today because, it is time they were.

The truth is, no one is more ready or more poised to make a difference—in our communities and throughout our country—than older Americans.

We have all heard about the aging Baby Boomer generation—in the next decade alone, the number of Americans 55 years and older is expected to grow by another 22 percent. But for all the well-publicized challenges that growth presents, it's time we also recognize something else: The opportunities it offers—if we seize them.

Studies tell us that more than half of those considered a part of the Baby Boomer generation are interested in providing meaningful service to their communities. Countless older men and women who have given so much to their country throughout their lives want to continue to serve their communities as they enter their later years.

Why wouldn't they? After a lifetime of hard work, raising a family, and paying taxes, Americans look forward to retirement—to enjoying their golden years with the security and dignity they have earned. They are living longer, healthier lives than any generation in history. And they recognize something elemental:

Life doesn't end at retirement. For many, it is only beginning—leading perhaps to a second career in the public or nonprofit sector. There can be no greater gift passed on to future generations than the lessons of the past. But the truth is, we too often fail to draw upon the experience, knowledge and ideas of previous generations. What is missing is the opportunity.

Providing older Americans those opportunities is what the Encore Service Act is all about. It creates an Encore Service Program that provides Americans 55 years and older with opportunities to serve communities with the greatest need—to volunteer in our Nation's schools, to help keep our neighborhoods clean, safe and vibrant, and so much more. In return for their service, which may include extensive training and a significant commitment of time, they can receive a stipend and education award, much like AmeriCorps does for younger generations.

Best of all, that stipend can be transferred to children or grandchildren. Imagine what that means for a grandmother or a grandfather who could literally put thousands of dollars into their newborn grandchild's college savings fund as a result of this program—funds that can only be used after the

child turns 18 and can be kept for up to 20 years. Of all the new ideas in this legislation, perhaps this one is the most exciting.

This legislation also creates an Encore Fellows program that places older Americans in one-year management or leadership positions in public or private not-for-profits. These year-long fellowships not only increase the capacity of public service organizations already doing tremendous work in our communities, they also promote those who have already had full, successful careers, perhaps in the private sector, to lend their expertise and experience to the cause of community or public service.

The Encore Service Act also creates a Silver Scholars program that awards older Americans with an education scholarship of up to $1,000 in exchange for volunteering with public agencies or private nonprofits between 250 and 500 hours a year. As with the Encore Service Program, they can use these awards for themselves or transfer them to children, grandchildren or other qualified designees.

Lastly, this legislation expands the capacity and builds on the success of current Senior Programs by raising the authorization funding levels for the Foster Grandparent, Senior Corps and RSVP programs. We all know that seniors and these programs have already made a remarkable difference in our communities. That is why our legislation raises program eligibility levels from 125 to 200 percent above poverty and ensures that all programs will be open to any individual 55 years and older.

The Encore Service Act authorizes $326.7 million in new funding for fiscal year 2009, and such sums as necessary for subsequent years. Ultimately, this bill is about unlocking the remarkable potential in older Americans. It is about creating ample opportunities for them to use their skills and talents to give back to their communities—to elementary schools, retirement homes, soup kitchens operating out of local churches, libraries, and other centers of our communities.

It is about harnessing the power of experience. We all know that when called upon, every generation of Americans has risen to the challenge, often beating great odds to pass on a stronger, safer, more prosperous world to its children and grandchildren.

Americans are ready once again for leadership that marshals the same unity, purpose and generosity that so defined our country in the wake of 9/11, and has so defined our Nation so many times before. That is what the Encore Service Act of 2008 is about. I am honored to introduce it today.

By Mr. LIEBERMAN:

S. 3482. A bill to designate a portion of the Rappahannock River in the Commonwealth of Virginia as the ''John W. Warner Rapids''; to the Committee on Environment and Public Works.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation to designate a portion of the Rappahannock River in Virginia as the ''John W. Warner Rapids''.

These man-made rapids are a testament to Senator WARNER's long-standing commitment to protect and preserve the environment, as they are the remains of the Embrey Dam, whose removal he championed.

The Rappahannock River in Virginia flows over 180 miles from the Blue Ridge Mountains to the Chesapeake Bay. At historic Fredericksburg, founded in 1728 along the river's fall line, the Rappahannock was blocked by a wooden crib dam built in 1853 and a 22-foot high concrete dam built in 1910.

Until the 1960s, the dam was used to generate hydroelectric power, and until 2000 it was used to divert water into a canal as a raw water source for the city. In the 1990s, the city began to develop a new regional water supply; and it was determined that the water facility connected to the dam could be closed.

Funding to remove the dam was a significant hurdle. The City sought support from the Federal government and found a strong advocate in Senator JOHN W. WARNER. In the mid 1990s, the local river conservation group, Friends of the Rappahannock, invited Senator WARNER to a discussion about the removal of the dam. After discussion and a paddle to the site, Senator WARNER pledged that if the group could demonstrate community consensus regarding the dam's removal, he would personally support the effort.

On February 23, 2004, on Senator WARNER's signal, 600 pounds of explosives set by the Army and Air Force Reserves opened a 130-foot breach in Embrey Dam, setting the Rappahannock River to flow free for the first time since 1853. By reopening the Rappahannock River, more than 1,300 river and stream miles immediately became available to migratory fish in the Chesapeake Bay watershed.

On July 30, 2005, the Friends of the Rappahannock and the City of Fredericksburg honored Senator WARNER in a ''Rappahannock River Running Free'' celebration. The American Canoe Association, established in 1880 and the nation's oldest and largest canoe, kayak, and rafting organization, stated: ''For over 150 years the Rappahannock River has been holding its breath behind a wall of iron, concrete, and wood. U.S. Senator JOHN W. WARNER's efforts have allowed the Rappahannock River to breathe free once again. In appreciation of his efforts, the community of paddlers and river users has bestowed upon him their highest honor. So, let it be known, on behalf of the City of Fredericksburg, the Friends of the Rappahannock, the American Canoe Association, and the community of paddlers, that the new rapids formed at the removal of the dam be known, now and forever, and recorded on all maps, as 'John W. Warner Rapids' and may all your travels through be smooth.''

On 1 November 2008, Senator WARNER will be presented with a bronze plaque that will be affixed to a permanent monument along the banks of the Rappahannock River at the rapids formed by the remnants of the dam.

The actions that I have described are a shining example of the commitment Senator WARNER has shown to the environment during his 30 years in this body. He recognizes the importance of protecting and preserving natural treasures for the enjoyment of this and future generations.

It has been a pleasure and a privilege to be able to work so closely with him in this regard. For many years, Senator WARNER and I have served together on the Senate Committee on Environment and Public Works. At the start of this Congress, I became the chairman of that committee's global warming subcommittee. I was honored and delighted when Senator WARNER became, at his request, the ranking minority member of that subcommittee. In February of last year, the two of us held a subcommittee hearing on the impacts of global warming on wildlife. Senator WARNER spoke with conviction and eloquence about his commitment to wildlife conservation, and about his particular love for rivers and streams.

In an example of the courage and statesmanship for which he is rightly known, Senator WARNER joined with me to write a bill to reduce the man-made greenhouse-gas emissions that are disrupting wildlife, threatening our national security, and imperiling our economy. Last October, we introduced our Climate Security Act, and the next month both our subcommittee and the full Environment and Public Works Committee reported the bill favorably. That had never happened before with a climate bill in the U.S. Congress, and it would not have happened without the leadership, credibility, patience, and wisdom of Senator WARNER. I join many, many others in looking up to him, and I am privileged to call him my friend.

The bill that I introduce today is a fitting tribute to the legacy that Senator WARNER leaves behind as he retires. I encourage my colleagues to honor him by passing this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 655—TO IMPROVE CONGRESSIONAL OVERSIGHT OF THE INTELLIGENCE ACTIVITIES OF THE UNITED STATES

Mr. BOND (for himself, Mr. ROCKEFELLER, and Mr. WHITEHOUSE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 655

Whereas the Select Committee on Intelligence of the Senate was created by Senate Resolution 400 in the 94th Congress to oversee and make continuing studies of the intelligence activities of the United States;

Whereas Senate Resolution 400 specifically required that the Select Committee on Intelligence be composed of at least two crossover members, with one such member from each party, from the Committee on Appropriations, the Committee on Armed Services, Committee on Foreign Relations, and the Committee on the Judiciary of the Senate, which would provide such Committees with member insight into intelligence oversight matters;

Whereas the National Commission on Terrorist Attacks Upon the United States (referred to in this Resolution as the ''9/11 Commission'') conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation;

Whereas in its final report, the 9/11 Commission found that under the Rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

Whereas in its final report, the 9/11 Commission further found that as long as oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

Whereas in its final report, the 9/11 Commission further found that a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership;

Whereas in its final report, the 9/11 Commission further found that the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed;

Whereas the 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities;

Whereas Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission;

Whereas the Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding fiscal oversight of intelligence have not been implemented;

Whereas, in Senate Resolution 445 in the 108th Congress, the Senate provided for the establishment of a Subcommittee on Intelligence of the Committee on Appropriations and gave it jurisdiction over funding for intelligence matters;

Whereas there remains a need to improve congressional oversight of the intelligence activities of the United States and provide a strong, stable, and capable congressional committee structure to provide the intelligence community appropriate oversight, support and leadership; and

Whereas there also remains a need to implement a key 9/11 Commission recommendation to make structural changes within Congress to improve the oversight of intelligence activities and provide vigilant legislative oversight to assure that such activities are in conformity with the Constitution and laws of the United States: Now, therefore, be it

Resolved,

That Senate Resolution 445, 108th Congress, agreed to October 9, 2004, is amended by striking section 402 and inserting the following:

''SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

''(a) ESTABLISHMENT.—There is established in the Committee on Appropriations of the Senate a Subcommittee on Intelligence.

''(b) JURISDICTION.—The Subcommittee on Intelligence established under subsection (a) shall have exclusive jurisdiction over all funding for the National Intelligence Program, as defined in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401(a)(6)).

''(c) PROCEDURE.—The Subcommittee on Intelligence established under subsection (a) shall approve for full committee consideration an annual appropriations bill for the National Intelligence Program. Upon approval by such Subcommittee on Intelligence, the annual appropriations bill for the National Intelligence Program shall be considered by the full Committee on Appropriations of the Senate, without intervening review by any other subcommittee. Upon approval by the full Committee on Appropriations, the bill shall then be reported to the Senate for consideration.

''(d) COMPOSITION.—

''(1) MEMBERS OF THE SELECT COMMITTEE ON INTELLIGENCE.—

''(A) IN GENERAL.—Members of the Committee on Appropriations of the Senate who are also members of the Select Committee on Intelligence of the Senate shall have automatic membership on the Subcommittee on Intelligence established under subsection (a).

''(B) EX OFFICIO MEMBER.—If the Chairman or Vice Chairman of the Select Committee on Intelligence of the Senate is not also a member of the Committee on Appropriations of the Senate, then such Chairman or Vice Chairman shall serve as an ex officio member of such Subcommittee on Intelligence.

''(2) SUBCOMMITTEE ON DEFENSE APPROPRIATIONS.—The Chairman and Ranking Member of the Subcommittee on Defense of the Committee on Appropriations of the Senate shall have automatic membership on such Subcommittee on Intelligence.

''(3) CHAIRMAN AND RANKING MEMBER.—The Chairman and Ranking Member of such Subcommittee on Intelligence shall be selected from among those members who are both members of the Committee on Appropriations and the Select Committee on Intelligence of the Senate.

''(4) OTHER ASSIGNMENTS.—Assignment to, and a role on, such Subcommittee on Intelligence shall not count against any other committee or subcommittee role or assignment of any member of the Committee on Appropriations of the Senate.

''(e) STAFF.—

''(1) AUTHORITY TO HIRE.—The Chairman and Ranking Member of the Subcommittee on Intelligence established under subsection (a) shall, in consultation with the Chairman and Ranking Member of the Committee on Appropriations of the Senate, select, designate, or hire staff for such Subcommittee.

''(2) ACCESS TO CLASSIFIED INFORMATION.—A member of the staff of such Subcommittee on Intelligence may not be given access to classified information by such Subcommittee unless such staff member has received an appropriate security clearance, as determined by such Subcommittee in consultation with the Director of National Intelligence.''.

SENATE RESOLUTION 656—EXPRESSING THE SENSE OF THE SENATE REGARDING THE TERRORIST ATTACKS COMMITTED AGAINST THE UNITED STATES OF AMERICA ON SEPTEMBER 11, 2001

Mr. REID (for himself, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TESTER, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 656

Whereas at 8:46 AM on the morning of September 11, 2001, hijacked American Airlines Flight 11 was flown into the upper portion of the North Tower of the World Trade Center in New York City, New York;

Whereas 17 minutes later, at 9:03 AM, hijacked United Airlines Flight 175 crashed into the South Tower of the World Trade Center;

Whereas the Fire Department of New York (FDNY), the New York Police Department (NYPD), the Port Authority Police Department (PAPD), the Office of Emergency Management (OEM) of the Mayor of New York, and countless eyewitnesses and public health officials responded immediately and valiantly to these horrific events;

Whereas at 9:37 AM, the west wall of the Pentagon was hit by hijacked American Airlines Flight 77, whose impact caused immediate and catastrophic damage to the headquarters of the Department of Defense;

Whereas Pentagon officials, county fire, police, and sheriff departments, the Metropolitan Washington Airports Authority, the Ronald Reagan Washington National Airport Fire Department, the Fort Myer Fire Department, the Virginia State Police, the Virginia Department of Emergency Management, the Federal Bureau of Investigation, the Federal Emergency Management Agency, a National Medical Response Team, the Bureau of Alcohol, Tobacco, and Firearms,

and numerous military personnel all responded promptly and courageously to this attack on the United States military establishment;

Whereas the passengers and crew of hijacked United Airlines Flight 93 acted heroically to retake control of the airplane and thwart the taking of additional American lives by crashing the airliner in Shanksville, Pennsylvania, and, in doing so, gave their lives to save countless others;

Whereas nearly 3,000 innocent civilians were killed in the heinous attacks of September 11, 2001;

Whereas the Fire Department of New York suffered 343 fatalities on September 11, 2001, the largest loss of life of any emergency response agency in United States history;

Whereas the Port Authority Police Department suffered 37 fatalities in the attacks, the largest loss of life of any police force in United States history;

Whereas the New York Police Department suffered 23 fatalities as a result of the terrorist attacks, the second largest loss of life of any police force in United States history, exceeded only by the number of Port Authority Police Department officers lost that same day;

Whereas seven years later, the people of the United States of America and people around the world continue to mourn the tremendous loss of innocent life on that fateful day; and

Whereas seven years later, thousands of men and women in the United States Armed Forces remain in harm's way defending our Nation against those who seek to threaten the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes September 11, 2008, as a day of solemn commemoration of the events of September 11, 2001;

(2) offers its deepest and most sincere condolences to the families, friends, and loved ones of the innocent victims of the September 11, 2001, terrorist attacks;

(3) honors the heroic service, actions, and sacrifices of first responders, law enforcement personnel, State and local officials, volunteers, and countless others who aided the innocent victims of these attacks and, in doing so, bravely risked and often gave their own lives;

(4) recognizes the valiant service, actions, and sacrifices of United States personnel, including members of the United States Armed Forces, the United States intelligence agencies, the United States diplomatic service, law enforcement personnel, and their families, who have given so much, including their lives and well-being, to support the cause of freedom and defend our Nation's security; and

(5) reaffirms that the people of the United States will never forget the challenges our country endured on and since September 11, 2001, and will work tirelessly to defeat those who attacked our Nation.

Mr. BOND. Mr. President, I join my colleagues and all Americans in solemn observance of the loss of 3,000 American lives on September 11, 2001, truly the greatest tragedy on American soil in our recent history. Our thoughts and prayers are with these victims and their families.

We all know that al-Qaida terrorists declared war on the United States 7 years ago today. These vicious attacks claimed American lives and brought great concern and destruction across our country. While America has remained safe from another attack on our soil since 9/11/2001, it is by no accident.

It is fitting that as we observe the seventh anniversary of the 9/11 al-Qaida attacks, al-Qaida has been dealt a significant defeat in Iraq, both tactically and most certainly morally. It has been handed such a defeat in what its own leaders claim was the central front in the war against the United States. This victory was achieved at the hands of our brave troops and the people of Iraq.

As the result of new leadership under General Petraeus, his counterinsurgency strategy, and the surge, we are seeing our troops come home on success, including my son Sam, a marine who served two tours in Iraq. I heard about the success from the troops on the ground in my visits to Iraq, and our military leaders testified about this success before Congress, but now even the New York Times and Washington Post are writing about our return on success.

Look at some of the facts:

Anbar Province, once considered lost, has now been reclaimed by the Iraqi people. Not just in Anbar, but across the country, the Iraqis are leading operations to seek out al-Qaida—from Mosul to the Diyala Province. Across Iraq, violence is at its lowest point since the spring of 2004, and civilian deaths, sectarian killings, and suicide bombings are all down. For the Iraqi people, life is returning to normal. Markets are open and thriving, students are going to school—including girls, for the first time—and professionals are returning to work in Iraq. This win in Iraq is not only critical to the Middle East, but it is critical to our own Nation's security.

Defeat in Iraq would have given the terrorists who launched the 9/11 attacks a safe haven to exploit terror worldwide. It is fitting that on this day we honor the memory of the victims of 9/11 and their families, that we take a moment to thank our troops fighting the al-Qaida terrorists in Iraq.

Our troops fought in Iraq so that future generations of Americans will not have to fight them on our own soil. I am proud of these brave men and women who sacrificed so much in defense of freedom and security here at home. We owe them a debt that can never be repaid.

Our troops are also fighting the terrorists in Afghanistan. Troop increases are now making a difference. But it will also take smart power, a careful blend of kinetic and nonkinetic power of the United States and its allies to defeat the terrorists in Afghanistan and elsewhere; efforts to build institutions in education, rule of law, infrastructure development, roads and power; efforts such as our Missouri National Guards's agriculture development teams. These teams are training the Afghanis in sustainable agriculture methods and techniques that will help them build a more secure and stable society.

It is critical that Pakistan continue to partner with the United States in defeating the terrorists who plague Afghanistan. The Taliban and other terror fighters hide in Pakistan's remote borders. We all hope that the country's newly elected democratic leaders will seek out and destroy these terrorists, not only for the security of their country but to prevent the terrorists from gaining a haven to plot and carry out attacks on America and our allies.

As we thank our troops fighting in Iraq and Afghanistan, killing the terrorists before they can attack the homeland, we also thank the many patriots who fight unseen and unheard to keep our Nation safe. As the vice chairman of the Senate Intelligence Committee, I know all too well the dangers facing us.

I also know that in addition to our troops, our intelligence operators are on the front lines of the war on terror. Our intelligence officers and law enforcement efforts work tirelessly to stop attacks before they happen. We all owe the brave Americans who work to keep us safe, and the firefighters and first responders who come to our aid when disaster strikes.

In Congress, it is our job to ensure the intelligence community has the tools it needs to detect, disrupt, and prevent attacks on America, our troops, and our allies, which is why it is important that here in Congress we never forget the critical lessons of September 11—that our intelligence proved inadequate to stop the mass murder of innocent Americans on our own soil.

As we honor these lives lost, we must continue to work to improve our intelligence capabilities to keep a similar tragedy from ever happening again. Since 9/11 we have strived to strengthen our intelligence. My proudest accomplishment in 22 years in the Senate was the passage of the bipartisan Foreign Intelligence Surveillance Act—our Nation's early warning system to alert us of attacks. It was a long fight, but we now have a terrorist surveillance law that allows our intelligence operators to listen in on foreign terrorists.

We have also made other important changes in our laws and priorities related to the threat of international terrorism, such as the USA PATRIOT Act, intelligence reform measures, and implementing recommendations of the 9/11 Commission Act. But Congress has not done enough.

On the seventh anniversary of 9/11, it is noteworthy that there remains one unaddressed 9/11 commission recommendation, and that is to reform the legislative branch's oversight of intelligence and terrorism activities which the commission rightly described as ''dysfunctional.''

The 9/11 Commission stated:

> Of all of our recommendations, strengthening congressional oversight may be among the most difficult and important.

Yet here we are 7 years after 9/11 and 4 years past the issuance of the 9/11 commission report, and that most significant recommendation for change remains unaddressed. The Senate tinkered around the edges by adding term

limits for Intelligence Committee members, but it has not addressed the fundamental structural dysfunction regarding the fiscal oversight of the intelligence.

The 9/11 commission made two bold recommendations to fix the problem: either consolidate authorization and appropriation functions into a single committee in both Houses or create a bicameral intelligence committee. Both of these approaches were considered and rejected by the Senate during consideration of S. Res. 445 in October of 2004. But many of us believe there is a better, less disruptive way to achieve reform through a carefully constructive intelligence appropriations subcommittee.

This approach was endorsed earlier this year by all but 1 of 15 members of the Intelligence Committee in a letter sent to the majority and minority leaders along with an endorsement from the chairman and ranking member of the Homeland and Government Affairs Committee.

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

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

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, March 6, 2008.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Republican Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: This letter sets forth our recommendations for change within the Senate to improve congressional oversight for intelligence. Section 603 of the Implementing Recommendations of the 9/11 Commission Act (Public Law 110–53) required the Senate Select Committee on Intelligence (SSCI) and the Homeland Security and Governmental Affairs Committee (HSGAC) to undertake a review of the 9/11 Commission's Final Report with regard to intelligence reform and congressional intelligence oversight reform. It also required the Committees to submit to the Senate recommendations for reform of congressional oversight of intelligence. The recommendations in this letter match those proposed to you in a letter sent by the Chairman and Ranking Member of the Homeland Security and Governmental Affairs Committee.

On November 13, 2007, the SSCI conducted a public hearing to receive testimony from members of the 9/11 Commission, as well as from experts from the Library of Congress and the private sector. On February 27, 2008, the SSCI met to formulate conclusions on the matter. The Committee concluded that the Senate should enact either one of two options to implement the necessary changes embodied by the comments and recommendations of the 9/11 Commission.

The first option is to implement the 9/11 Commission recommendation with regard to fiscal oversight of intelligence by consolidating authorization and appropriations authority in the SSCI. This option would implement directly the 9/11 Commission recommendation. We understand that this approach was considered and rejected by the Senate during consideration of S. Res. 445 in October 2004. We note, however, that Senators Burr, Bayh, Feingold, Hagel, McCain, Snowe and Sununu have reintroduced this measure in the 110th Congress with S. Res. 375.

The second option embodies the spirit of the 9/11 Commission recommendation yet poses less structural change to the Senate and could be accomplished during this Congress simply by amending and implementing part of S. Res. 445. Section 402 of S. Res. 445 called for the creation of a Subcommittee on Intelligence within the Appropriations Committee. To date, this subcommittee has not been created. We recommend, as the second option, to amend and implement Section 402 of S. Res. 445 with the following necessary changes:

The Subcommittee on Intelligence shall be an additional appropriations subcommittee and therefore require no reorganization of the Appropriations Committee.

The Subcommittee on Intelligence shall appropriate all funds for the National Intelligence Program (NIP) (as opposed to the current situation where appropriations for the NIP are fragmented among several subcommittees within the Appropriations Committee).

There will be a mechanism allowing for the allocation of the intelligence budget to the Subcommittee through the congressional budget process.

The annual appropriations bill for the NIP reported by the Subcommittee on Intelligence shall pass from the Subcommittee to the full Appropriations Committee without intervening review by any other subcommittee; it shall then be reported to the Senate like any other appropriations measure.

Appropriations Committee members who are members of the SSCI shall have automatic membership on the Subcommittee on Intelligence as shall the Chairman and Ranking Member of the Subcommittee on Defense Appropriations.

The Chairman and Ranking member of the Subcommittee on Intelligence shall be selected from among those members who are both Appropriations Committee and SSCI members.

Assignment to and role on the Subcommittee on Intelligence shall not count against other subcommittee roles and assignments of any member of the Appropriations Committee.

The Chairman and Ranking member of the Subcommittee on Intelligence of the Appropriations Committee shall select, designate or hire staff with appropriate clearances for the Subcommittee on Intelligence.

If either, or both, the Chairman and Vice Chairman of the SSCI are not appropriations cross-over members to the SSCI, then either, or both, shall serve as ex officio members of the Subcommittee on Intelligence.

The effective date of these changes shall be the date upon which the Senate adopts these amendments to S. Res. 445.

The Senate has already voted overwhelmingly to create a Subcommittee on Intelligence of the Appropriations Committee. We believe constituting this subcommittee with the necessary stipulations above will provide the closest approximation to the 9/11 Commission recommendation for consolidation and consistency of oversight, while at the same time imposing the least alteration to Senate organization and tradition. After consulting with you on these options we plan to sponsor the appropriate Senate resolution to address this issue.

Sincerely,

John D. Rockefeller IV, Chairman; Christopher S. Bond, Vice Chairman; Dianne Feinstein; John Warner; Ron Wyden; Chuck Hagel; Evan Bayh; Saxby Chambliss; Barbara A. Mikulski; Orrin Hatch; Olympia J. Snowe; Bill Nelson; Richard Burr; Sheldon Whitehouse.

Mr. BOND. This approach embodies the spirit of the 9/11 commission recommendation, yet poses less structural change to the Senate and could be accomplished easily during this Congress simply by creating a carefully designed subcommittee on intelligence within the Appropriations Committee. The necessary parameters of this new committee are contained in the Senate resolution that I will submit momentarily. We believe these stipulations in this resolution would effect the change sought by the 9/11 commission and enable us to bring intelligence spending under effective oversight.

Now, some of my colleagues may ask themselves why I decided to file this Senate resolution today. The answer is simple. Here we are on the seventh anniversary of the 9/11 attacks and more than 4 years after the 9/11 commission's final report was issued, and we still haven't addressed the recommendation that they considered most important. Furthermore, I have tried to work within the system for 5 years now to bring about adequate change to no avail.

I believe we should no longer delay the implementation of this crucial recommendation. Congress has insisted that others reform, but we have not yet adopted any meaningful reform ourselves. The hypocrisy has not gone unnoticed by members of the 9/11 commission or by the families of the victims whom we honor today. The time has come for us to put our House in order, and I believe a carefully designed appropriations subcommittee on intelligence is the proper way to implement the spirit of the 9/11 congressional oversight recommendations.

I am concerned about wasteful spending, not just in the billions of dollars, but in the dozens of billions of dollars, that the public does not know about because it is all classified. I am concerned about technology programs that consume billions of dollars for a number of years and never get off the ground. Our current Director of National Intelligence boasted publicly about killing one such program early last year. But that was a program that our defense and intelligence leaders trumpeted for years as a silver bullet before finally throwing in the towel because it did not work. The intelligence acquisition system is hard to change, and the DNI and the intelligence community need Congress's oversight and accountability.

As for Congress, when the Intelligence Committee looks at an issue of great import for several years, and when the Armed Services Committee does the same and agrees in its assessment, yet the appropriations process is so disconnected from them that billions of dollars come to naught because the executive branch is not having its feet held to the fire, then the American taxpayers are ill served, and billions of

dollars that could have been used elsewhere are wasted.

Another example of disjointed oversight happened again yesterday in the Senate Defense Appropriations Subcommittee markup. After years of billions of dollars having been wasted by the intelligence community and the National Reconnaissance Office I proposed a much cheaper, multifunctional approach to sustain our satellite constellation.

This approach is advocated by outside experts and scientists and officials within the intelligence agencies. It also was adopted 2 years in a row by the Intelligence Committee and by the Armed Services Committee in its bill that is on the floor before us today.

Yet, in the Defense Appropriations markup yesterday, even though multiple Senators who have been studying this issue on other committees for years spoke in strong support of it, the old system kicked in and the measure was shut out; that is a structural deficiency the 9/11 Commission pointed out.

In a classified session I can give examples upon examples from other services.

Those who have the time and mandate to study the issue extensively need to be the ones whose discernment is brought to bear on those matters—this is case in point of what the 9/11 Commission said must happen in this specific area of national security, with intelligence. It is in this one area, in our front line of defense against terror, where this has to take place.

Having tried to work within the system and failed, I cannot remain silent about this sort of thing any longer.

We hear a lot today about needed change and reform coming to Washington. Let us prove to the American people that we do not need to wait for an election to start that process.

At this point, lest anyone get the wrong idea about the problems I am addressing here, I must say something about the leadership of the Defense Appropriations Subcommittee. The American people all know about our war hero from the Senate, JOHN MCCAIN, who is running for President, but I want to draw attention to another one of our war heroes who served 2 wars before Senator MCCAIN did in Vietnam, and that is Senator DAN INOUYE from Hawaii, chairman of the Defense Appropriations Subcommittee.

Senator INOUYE is a true American hero whom I have the utmost admiration for, and I greatly commend him for the manner in which he has led, and is leading, the Defense Subcommittee. He ensures that America's priorities on defense are put in the right place.

I also commend my good friend Senator STEVENS, another true American patriot and veteran. His leadership has been invaluable on this subcommittee for over two decades. And I commend my good friend Senator COCHRAN also, who has recently been sitting in for Senator STEVENS as ranking member on the subcommittee and has always listened patiently to my concerns over the years.

I cannot say enough about these three men who are true leaders; they have acted with wisdom and discernment in how they have led the subcommittee. They are good friends, they are esteemed colleagues, and I am honored to serve under their leadership. So let me make it very clear, that the problem I am addressing today is not the people; these men lead with dignity and discernment in putting together the most complicated funding bill in the Congress.

The problem rather that I am addressing is structure. With a nearly $500 billion Defense appropriations bill, of which less than 10 percent is for intelligence, and with only a handful of committee staff on hand to look at intelligence matters and barely enough time for just a few hearings on intelligence squeezed between all the defense hearings and briefings throughout the year, there is simply no way they can pay adequate attention to intelligence, it is just not possible.

They are rightly consumed with the other 90 percent of their budget that focuses on defense matters. On the Intelligence Committee, however, we spend several days each week poring over intelligence matters and receiving briefs on all aspects of the intelligence community, and with a cadre of 50 professional staff at our disposal we are able to dig real deep into a number of disciplines.

We know that change is needed, and I appreciate the leadership that Chairman ROCKEFELLER and the rest of my colleagues on the Intelligence Committee have shown on this issue. I am also grateful for the support expressed by other Members of the Senate who recognize the importance of this issue to our esteemed body.

I recognize that we are quickly running short on legislative days to get this done. However, I would ask my colleagues to give serious consideration to this Senate resolution. I stand ready to discuss its details and debate its merits. If we are not able to act in this Congress, then I expect to address this issue again first thing in the new Congress.

As we reflect on the horrible events of the September 11 terrorist attacks, I suggest to my colleagues that we all ask ourselves whether we can do more to improve congressional oversight of intelligence. I think we would all agree that the answer to that question must be an emphatic ''yes.''

If we agree that we can do more, then why don't we?

AMENDMENTS SUBMITTED AND PROPOSED

SA 5446. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 5447. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5448. Mr. AKAKA (for himself, Mr. STEVENS, Mr. INOUYE, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5449. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5450. Mrs. MCCASKILL (for herself, Mr. KENNEDY, and Mr. ENZI) submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5451. Mr. FEINGOLD (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5452. Mr. LEVIN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5453. Mr. SPECTER (for himself and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5454. Mr. SPECTER (for himself, Mr. DEMINT, Mr. SESSIONS, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5455. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5456. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5457. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5458. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5459. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5460. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5461. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5462. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5463. Mr. SPECTER (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5464. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5465. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5466. Mr. SCHUMER (for himself, Mr. MARTINEZ, Mr. MENENDEZ, Mrs. CLINTON, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5467. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5468. Mr. INHOFE (for himself, Mr. CRAPO, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5469. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5470. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5471. Mr. LAUTENBERG (for himself, Mr. CASEY, and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5472. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5473. Mr. LEVIN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5474. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5475. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5476. Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. INOUYE, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5477. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5478. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5479. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5480. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5481. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5482. Mr. KERRY (for himself, Ms. SNOWE, Mr. MENENDEZ, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5483. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5484. Mr. FEINGOLD (for himself, Mr. NELSON, of Florida, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5485. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5486. Mr. BROWN (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5487. Mr. CASEY (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5488. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5489. Mr. LIEBERMAN (for himself, Mr. GRAHAM, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5490. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5491. Mr. WARNER (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5492. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5493. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5494. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5495. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5496. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

SA 5497. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 3001, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5446. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 454, after line 21, add the following:

SEC. 2814. EXPANDED IMPLEMENTATION OF FIRST SERGEANTS BARRACKS INITIATIVE.

The Secretary of the Army shall implement the First Sergeants Barracks Initiative (FSBI) throughout the Army in order to improve the quality of life and living environments for single soldiers.

SA 5447. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1068. SENSE OF SENATE ON CARE FOR WOUNDED WARRIORS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Wounded Warrior Act (title XVI of Public Law 110–181) established a comprehensive policy on improvements to care, management, and transition of recovering service members.

(2) This policy included guidance on Training and Skills of Health Care Professionals, Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members.

(3) The Department of Veterans Affairs currently has eight fully trained Recovery Care Coordinators in the field serving 123 wounded warriors with an additional two Recovery Care Coordinators in training and additional applicants being considered.

(4) The requirement for Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members exceeds the current availability of these personnel within the Department of Veterans Affairs and Department of Defense.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Department of Veterans Affairs and Department of Defense should—

(1) aggressively recruit, hire, and train individuals as Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members;

(2) establish partnerships between Department of Defense medical facilities and Department of Veterans Affairs medical facilities, on the one hand, and public and private institutions of higher education, on the other hand, to assist in training medical care case management personnel needed to support returning wounded and ill service members;

(3) work closely with public and private institutions of higher education to ensure the most current care management techniques and evidenced based guidelines are incorporated into training programs for Health Care Professionals, Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers; and

(4) expand the use of Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers to include other than newly wounded and disabled recovering service members.

SA 5448. Mr. AKAKA (for himself, Mr. STEVENS, Mr. INOUYE, and Ms. MURKOWSKI) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

Subtitle H—Non-Foreign Area Retirement Equity Assurance

SEC. 1091. SHORT TITLE.

This title may be cited as the ''Non-Foreign Area Retirement Equity Assurance Act of 2008'' or the ''Non-Foreign AREA Act of 2008''.

SEC. 1092. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting after subparagraph (A) the following:

''(B) positions under subsection (h)(1)(D) not covered by appraisal systems certified under section 5382; and''; and

(iv) in subparagraph (C) (as redesignated by this paragraph), by striking ''under subsection (h)(1)(D)'' and inserting ''under subsection (h)(1)(E)''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(D) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (C) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (D) as subparagraph (E);

(C) by inserting after subparagraph (C) the following:

''(D) a Senior Executive Service position under section 3132 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was eligible to receive a cost-of-living allowance under section 5941; and''; and

(D) in clause (iii) in the matter following subparagraph (D), by inserting ''stationed in the 48 contiguous States and the District of Columbia, or stationed within the United States, but outside the 48 contiguous States and the District of Columbia, in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was not eligible to receive a cost-of-living allowance under section 5941; and'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) of this subsection shall be the cost-of-living allowance rate in effect on December 31, 2008, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2008.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2009; and

''(B) on January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 1094 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2009 and each calendar year thereafter, the applicable percentage under section 1094 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2008; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. 1093. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 1094 of this Act, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 1099 of this Act.

(b) DEPARTMENT OF VETERANS AFFAIRS.—Each special rate of pay established under section 7455 of title 38, United States Code, and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the Secretary of Veterans Affairs that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 1094 ending on the first day of the first pay period beginning on or after January 1, 2011, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. 1094. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this title or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this title, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2009, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2010, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2011 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. 1095. SAVINGS PROVISION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the application of this title to any employee should not result in a decrease in the take home pay of that employee.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Bureau of Labor Statistics will conduct separate surveys pursuant to the establishment by the President's Pay Agent of 1 new locality area for the entire State of Hawaii and 1 new locality area for the entire State of Alaska, and that upon the completion of the phase in period no employee shall receive less than the Rest of the U.S. locality pay rate.

(c) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 1094 of this Act, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 1094 of this Act, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this title, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2008 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 1094 of this Act which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code for his position including any future increase to statutory pay caps under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any

amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. 1096. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on—

(I) the day before the date of enactment of this Act—

(aa) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(bb) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(II) or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(ii) except as provided under paragraph (2), is not covered under—

(I) section 5941 of title 5, United States Code (as amended by section 1092 of this Act); and

(II) section 1094 of this Act; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this title (including the amendments made by this title) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 1092 of this Act), and section 1094 of this Act apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this title shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this title including section 5941 of title 5, United States Code (as amended by section 1092 of this Act), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) section 6(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this title, any employee of the Postal Service (other than an employee covered by section 1003(b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2008 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 4.

(B) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 1097 or 1098 of this Act.

SEC. 1097. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 1094 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2009, through December 31, 2011; and

(3) who files and election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2011.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2009 through the first applicable pay period ending on or after December 31, 2011, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 1094 of this Act did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if that subsection had been in effect during that period; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. 1098. ELECTION OF COVERAGE BY EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of this title (other than section 1096(b)), an employee may make an irrevocable election in accordance with this section, if—

(1) that employee is paid an allowance under section 5941 of title 5, United States Code, during a pay period in which the date of the enactment of this Act occurs; or

(2) that employee—

(A) is a covered employee as defined under section 6(a)(1); and

(B) during a pay period in which the date of the enactment of this Act occurs is paid an allowance—

(i) under section 1603(b) of title 10, United States Code;

(ii) under section 1005(b) of title 39, United States Code; or

(iii) based on section 5941 of title 5, United States Code.

(b) FILING ELECTION.—Not later than 60 days after the date of enactment of this Act, an employee described under subsection (a) may file an election with the Office of Personnel Management to be treated for all purposes—

(1) in accordance with the provisions of this title (including the amendments made by this title); or

(2) as if the provisions of this title (including the amendments made by this title) had not been enacted, except that the cost-of-living allowance rate paid to that employee shall be the cost-of-living allowance rate in effect on December 31, 2008, for that employee without any adjustment after that date.

(c) FAILURE TO FILE.—Failure to make a timely election under this section shall be treated in the same manner as an election made under subsection (b)(1) on the last day authorized under that subsection.

(d) NOTICE.—To the greatest extent practicable, the Office of Personnel Management shall provide timely notice of the election

which may be filed under this section to employees described under subsection (a).

SEC. 1099. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this title, including—

(1) rules for special rate employees described under section 3;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 1094 ending on the first day of the first pay period beginning on or after January 1, 2011; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2011.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this title with respect to employees in such pay system, consistent with the regulations issued by the Office under subsection (a).

SEC. 1099a. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 1092 and the provisions of section 1094 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2009.

SA 5449. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 344. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT REQUIREMENT.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is amended—

(1) by striking ''No Federal agency'' and inserting the following:

''(a) REQUIREMENT.—Except as provided in subsection (b), no Federal agency''; and

(2) by adding at the end the following:

''(b) EXCEPTION.—Subsection (a) shall not prohibit a Federal agency from entering into a contract to purchase a generally available fuel that is produced in whole or in part from a nonconventional petroleum source, if—

''(1) the contract does not specifically require the contractor to provide a fuel from a nonconventional petroleum source;

''(2) the purpose of the contract is not to obtain a fuel from a nonconventional petroleum source;

''(3) the contract does not provide incentives (excluding compensation at market prices for the purchase of fuel purchased) for a refinery upgrade or expansion to allow a refinery to use or increase the use by the refinery of fuel from a nonconventional petroleum source; and

''(4) in the case of a fuel predominantly produced from a nonconventional petroleum source, obtaining an alternative supply is not practicable due to unavailability or substantial additional costs.''.

SA 5450. Mrs. MCCASKILL (for herself, Mr. KENNEDY, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1083. INDEPENDENT STUDENT.

(a) AMENDMENT.—Section 480(d)(1)(D) of the Higher Education Act of 1965 (as amended by Public Law 110–84) (20 U.S.C. 1087vv(d)(1)(D)) is amended—

(1) by striking ''(c)(1)) or is'' and inserting ''(c)(1)), is''; and

(2) by inserting '', or is a current active member of the National Guard or Reserve who has completed initial military training'' after ''purposes''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective on July 1, 2009.

SA 5451. Mr. FEINGOLD (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVII—COMMISSIONS ON TREATMENT OF EUROPEAN AMERICANS, EUROPEAN LATIN AMERICANS, AND JEWISH REFUGEES DURING WORLD WAR II

SEC. 1701. SHORT TITLE.

This title may be cited as the ''Wartime Treatment Study Act''.

SEC. 1702. FINDINGS.

Congress makes the following findings:

(1) During World War II, the United States Government deemed as ''enemy aliens'' more than 600,000 Italian-born and 300,000 German-born United States resident aliens and their families and required them to carry Certificates of Identification and limited their travel and personal property rights. At that time, these groups were the 2 largest foreign-born groups in the United States.

(2) During World War II, the United States Government arrested, interned, or otherwise detained thousands of European Americans, some remaining in custody for years after cessation of World War II hostilities, and repatriated, exchanged, or deported European Americans, including American-born children, to European Axis nations, many to be exchanged for Americans held in those nations.

(3) Pursuant to a policy coordinated by the United States with Latin American nations, many European Latin Americans, including German and Austrian Jews, were arrested, brought to the United States, and interned. Many were later expatriated, repatriated, or deported to European Axis nations during World War II, many to be exchanged for Americans and Latin Americans held in those nations.

(4) Millions of European Americans served in the armed forces and thousands sacrificed their lives in defense of the United States.

(5) The wartime policies of the United States Government were devastating to the Italian American and German American communities, individuals, and their families. The detrimental effects are still being experienced.

(6) Prior to and during World War II, the United States restricted the entry of Jewish refugees who were fleeing persecution or genocide and sought safety in the United States. During the 1930's and 1940's, the quota system, immigration regulations, visa requirements, and the time required to process visa applications affected the number of Jewish refugees, particularly those from Germany and Austria, who could gain admittance to the United States.

(7) The United States Government should conduct an independent review to fully assess and acknowledge these actions. Congress has previously reviewed the United States Government's wartime treatment of Japanese Americans through the Commission on Wartime Relocation and Internment of Civilians. An independent review of the treatment of German Americans and Italian Americans and of Jewish refugees fleeing persecution and genocide has not yet been undertaken.

(8) Time is of the essence for the establishment of commissions, because of the increasing danger of destruction and loss of relevant documents, the advanced age of potential witnesses and, most importantly, the advanced age of those affected by the United States Government's policies. Many who suffered have already passed away and will never know of this effort.

SEC. 1703. DEFINITIONS.

In this title:

(1) DURING WORLD WAR II.—The term ''during World War II'' refers to the period between September 1, 1939, through December 31, 1948.

(2) EUROPEAN AMERICANS.—

(A) IN GENERAL.—The term ''European Americans'' refers to United States citizens and resident aliens of European ancestry, including Italian Americans, German Americans, Hungarian Americans, Romanian Americans, and Bulgarian Americans.

(B) ITALIAN AMERICANS.—The term ''Italian Americans'' refers to United States citizens and resident aliens of Italian ancestry.

(C) GERMAN AMERICANS.—The term ''German Americans'' refers to United States citizens and resident aliens of German ancestry.

(3) EUROPEAN LATIN AMERICANS.—The term ''European Latin Americans'' refers to persons of European ancestry, including Italian or German ancestry, residing in a Latin American nation during World War II.

(4) LATIN AMERICAN NATION.—The term ''Latin American nation'' refers to any nation in Central America, South America, or the Carribean.

Subtitle A—Commission on Wartime Treatment of European Americans

SEC. 1711. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF EUROPEAN AMERICANS.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of European Americans (referred to in this subtitle as the ''European American Commission'').

(b) MEMBERSHIP.—The European American Commission shall be composed of 7 members, who shall be appointed not later than 90 days after the date of the enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the European American Commission. A vacancy in the European American Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The European American Commission shall include 2 members representing the interests of Italian Americans and 2 members representing the interests of German Americans.

(e) MEETINGS.—The President shall call the first meeting of the European American Commission not later than 120 days after the date of the enactment of this Act.

(f) QUORUM.—Four members of the European American Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The European American Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the European American Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the European American Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the European American Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 1712. DUTIES OF THE EUROPEAN AMERICAN COMMISSION.

(a) IN GENERAL.—It shall be the duty of the European American Commission to review the United States Government's wartime treatment of European Americans and European Latin Americans as provided in subsection (b).

(b) SCOPE OF REVIEW.—The European American Commission's review shall include the following:

(1) A comprehensive review of the facts and circumstances surrounding United States Government actions during World War II with respect to European Americans and European Latin Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21 et seq.), Presidential Proclamations 2526, 2527, 2655, 2662, and 2685, Executive Orders 9066 and 9095, and any directive of the United States Government pursuant to such law, proclamations, or executive orders respecting the registration, arrest, exclusion, internment, exchange, or deportation of European Americans and European Latin Americans. This review shall include an assessment of the underlying rationale of the United States Government's decision to develop related programs and policies, the information the United States Government received or acquired suggesting the related programs and policies were necessary, the perceived benefit of enacting such programs and policies, and the immediate and long-term impact of such programs and policies on European Americans and European Latin Americans and their communities.

(2) A comprehensive review of United States Government action during World War II with respect to European Americans and European Latin Americans pursuant to the Alien Enemies Acts (50 U.S.C. 21 et seq.), Presidential Proclamations 2526, 2527, 2655, 2662, and 2685, Executive Orders 9066 and 9095, and any directive of the United States Government pursuant to such law, proclamations, or executive orders, including registration requirements, travel and property restrictions, establishment of restricted areas, raids, arrests, internment, exclusion, policies relating to the families and property that excludees and internees were forced to abandon, internee employment by American companies (including a list of such companies and the terms and type of employment), exchange, repatriation, and deportation, and the immediate and long-term effect of such actions, particularly internment, on the lives of those affected. This review shall include a list of—

(A) all temporary detention and long-term internment facilities in the United States and Latin American nations that were used to detain or intern European Americans and European Latin Americans during World War II (in this paragraph referred to as ''World War II detention facilities'');

(B) the names of European Americans and European Latin Americans who died while in World War II detention facilities and where they were buried;

(C) the names of children of European Americans and European Latin Americans who were born in World War II detention facilities and where they were born; and

(D) the nations from which European Latin Americans were brought to the United States, the ships that transported them to the United States and their departure and disembarkation ports, the locations where European Americans and European Latin Americans were exchanged for persons held in European Axis nations, and the ships that transported them to Europe and their departure and disembarkation ports.

(3) A brief review of the participation by European Americans in the United States Armed Forces including the participation of European Americans whose families were excluded, interned, repatriated, or exchanged.

(4) A recommendation of appropriate remedies, including how civil liberties can be protected during war, or an actual, attempted, or threatened invasion or incursion, an assessment of the continued viability of the Alien Enemies Acts (50 U.S.C. 21 et seq.), and public education programs related to the United States Government's wartime treatment of European Americans and European Latin Americans during World War II.

(c) FIELD HEARINGS.—The European American Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) REPORT.—The European American Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 101(e).

SEC. 1713. POWERS OF THE EUROPEAN AMERICAN COMMISSION.

(a) IN GENERAL.—The European American Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this subtitle, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The European American Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) GOVERNMENT INFORMATION AND COOPERATION.—The European American Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the European American Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the European American Commission and furnish all information requested by the European American Commission to the extent permitted by law, including information collected under the Commission on Wartime and Internment of Civilians Act (Public Law 96–317; 50 U.S.C. App. 1981 note) and the Wartime Violation of Italian Americans Civil Liberties Act (Public Law 106–451; 50 U.S.C. App. 1981 note). For purposes of section 552a(b)(9) of title 5, United States Code (commonly known as the ''Privacy Act of 1974''), the European American Commission shall be deemed to be a committee of jurisdiction.

SEC. 1714. ADMINISTRATIVE PROVISIONS.

The European American Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 1715. FUNDING.

Of the amounts authorized to be appropriated to the Department of Justice, $600,000 shall be available to carry out this subtitle.

SEC. 1716. SUNSET.

The European American Commission shall terminate 60 days after it submits its report to Congress.

Subtitle B—Commission on Wartime Treatment of Jewish Refugees

SEC. 1721. ESTABLISHMENT OF COMMISSION ON WARTIME TREATMENT OF JEWISH REFUGEES.

(a) IN GENERAL.—There is established the Commission on Wartime Treatment of Jewish Refugees (referred to in this subtitle as the ''Jewish Refugee Commission'').

(b) MEMBERSHIP.—The Jewish Refugee Commission shall be composed of 7 members, who shall be appointed not later than 90 days

after the date of the enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives, in consultation with the minority leader.

(3) Two members shall be appointed by the majority leader of the Senate, in consultation with the minority leader.

(c) TERMS.—The term of office for members shall be for the life of the Jewish Refugee Commission. A vacancy in the Jewish Refugee Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(d) REPRESENTATION.—The Jewish Refugee Commission shall include 2 members representing the interests of Jewish refugees.

(e) MEETINGS.—The President shall call the first meeting of the Jewish Refugee Commission not later than 120 days after the date of the enactment of this Act.

(f) QUORUM.—Four members of the Jewish Refugee Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Jewish Refugee Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Jewish Refugee Commission.

(h) COMPENSATION.—

(1) IN GENERAL.—Members of the Jewish Refugee Commission shall serve without pay.

(2) REIMBURSEMENT OF EXPENSES.—All members of the Jewish Refugee Commission shall be reimbursed for reasonable travel and subsistence, and other reasonable and necessary expenses incurred by them in the performance of their duties.

SEC. 1722. DUTIES OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—It shall be the duty of the Jewish Refugee Commission to review the United States Government's refusal to allow Jewish and other refugees fleeing persecution or genocide in Europe entry to the United States as provided in subsection (b).

(b) SCOPE OF REVIEW.—The Jewish Refugee Commission's review shall cover the period between January 1, 1933, through December 31, 1945, and shall include, to the greatest extent practicable, the following:

(1) A review of the United States Government's decision to deny Jewish and other refugees fleeing persecution or genocide entry to the United States, including a review of the underlying rationale of the United States Government's decision to refuse the Jewish and other refugees entry, the information the United States Government received or acquired suggesting such refusal was necessary, the perceived benefit of such refusal, and the impact of such refusal on the refugees.

(2) A review of Federal refugee law and policy relating to those fleeing persecution or genocide, including recommendations for making it easier in the future for victims of persecution or genocide to obtain refuge in the United States.

(c) FIELD HEARINGS.—The Jewish Refugee Commission shall hold public hearings in such cities of the United States as it deems appropriate.

(d) REPORT.—The Jewish Refugee Commission shall submit a written report of its findings and recommendations to Congress not later than 18 months after the date of the first meeting called pursuant to section 1721(e).

SEC. 1723. POWERS OF THE JEWISH REFUGEE COMMISSION.

(a) IN GENERAL.—The Jewish Refugee Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this subtitle, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Jewish Refugee Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production.

(b) GOVERNMENT INFORMATION AND COOPERATION.—The Jewish Refugee Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information that the Jewish Refugee Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Jewish Refugee Commission and furnish all information requested by the Jewish Refugee Commission to the extent permitted by law, including information collected as a result of the Commission on Wartime and Internment of Civilians Act (Public Law 96–317; 50 U.S.C. App. 1981 note) and the Wartime Violation of Italian Americans Civil Liberties Act (Public Law 106–451; 50 U.S.C. App. 1981 note). For purposes of section 552a(b)(9) of title 5, United States Code (commonly known as the ''Privacy Act of 1974''), the Jewish Refugee Commission shall be deemed to be a committee of jurisdiction.

SEC. 1724. ADMINISTRATIVE PROVISIONS.

The Jewish Refugee Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS–15 of the General Schedule under section 5332 of such title;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

(3) obtain the detail of any Federal Government employee, and such detail shall be without reimbursement or interruption or loss of civil service status or privilege;

(4) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(5) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(6) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

SEC. 1725. FUNDING.

Of the amounts authorized to be appropriated to the Department of Justice, $600,000 shall be available to carry out this subtitle.

SEC. 1726. SUNSET.

The Jewish Refugee Commission shall terminate 60 days after it submits its report to Congress.

SA 5452. Mr. LEVIN (for himself, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 342, between lines 10 and 11, insert the following:

SEC. 1208. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.

(a) EXTENSION OF AUTHORITY.—Paragraph (2) of subsection (a) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881), as amended by section 1021 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1593) and section 1022 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2382), is amended by striking ''September 30, 2008'' and inserting ''September 30, 2010''.

(b) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section 1033 is amended by adding at the end the following new paragraphs:

''(19) The Government of El Salvador.

''(20) The Government of Nicaragua.

''(21) The Government of Honduras.''.

(c) MAXIMUM ANNUAL AMOUNTS OF SUPPORT.—Subsection (e)(2) of such section is amended—

(1) by striking ''or'' after ''2006''; and

(2) by inserting before the period at the end the following: '', or $75,000,000 during either of the fiscal years 2009 and 2010''.

SA 5453. Mr. SPECTER (for himself, and Mr. KOHL) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE—NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008

SEC. ___. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008.

(a) SHORT TITLE.—This section may be cited as the ''No Oil Producing and Exporting Cartels Act of 2008'' or ''NOPEC''.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any

other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

SA 5454. Mr. SPECTER (for himself, Mr. DEMINT, Mr. SESSIONS, and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. IMMIGRANT REPATRIATION.

(a) SHORT TITLE.—This section may be cited as the ''Accountability in Immigrant Repatriation Act''.

(b) PROHIBITION ON FEDERAL FINANCIAL ASSISTANCE TO COUNTRIES THAT DENY OR UNREASONABLY DELAY THE ACCEPTANCE OF NATIONALS WHO HAVE BEEN ORDERED REMOVED FROM THE UNITED STATES.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) by redesignating section 135, as added by section 5(a) of Public Law 109–121, as section 136; and

(2) by adding at the end the following:

''SEC. 137. PROHIBITION ON FEDERAL FINANCIAL ASSISTANCE TO COUNTRIES THAT DENY OR UNREASONABLY DELAY THE REPATRIATION OF NATIONALS WHO HAVE BEEN ORDERED REMOVED FROM THE UNITED STATES.

''(a) IN GENERAL.—Except as otherwise provided under this section, funds made available under this Act may not be dispersed to a foreign country that refuses or unreasonably delays the acceptance of an alien who—

''(1) is a citizen, subject, national, or resident of such country; and

''(2) has received a final order of removal under chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.).

''(b) DEFINED TERM.—In this section and in section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)), a country is deemed to have refused or unreasonable delayed the acceptance of an alien who is a citizen, subject, national, or resident if the country does not accept the alien within 90 days after receiving a request to repatriate such alien from an official of the United States who is authorized to make such a request.

''(c) QUARTERLY REPORTS.—Not later than 90 days after the date of the enactment of this section, and every 3 months thereafter, the Secretary of Homeland Security shall submit a report to the Senate and to the House of Representatives that—

''(1) lists all the countries which refuse or unreasonably delay repatriation (as defined in subsection (b)); and

''(2) includes the total number of aliens who were refused repatriation, organized by—

''(A) country;

''(B) detention status; and

''(C) criminal status.

''(d) ISSUANCE OF TRAVEL DOCUMENTS.—Any country that is listed in a report submitted under subsection (c) shall be subject to the sanctions described in subsection (a) and in section 243(d) of the Immigration and Nationality Act unless the country issues appropriate travel documents—

''(1) not later than 100 days after the submission of such report on behalf of all aliens described in subsection (a) who have been convicted of a crime committed while in the United States; and

''(2) not later than 200 days after the submission of such report on behalf of all other aliens described in subsection (a).

''(e) WAIVER.—

''(1) REQUEST.—The President or a member of the President's cabinet who has been designated by the President, may submit a written request to Congress that this section be waived, wholly or in part, with respect to any country.

''(2) RESOLUTION OF APPROVAL.—Not later than 7 legislative days after the receipt of a waiver request under paragraph (1), the Senate and the House of Representatives shall vote on a joint resolution authorizing the waiver request.

''(3) EFFECT OF FAILURE TO VOTE.—If the Senate or the House of Representatives fails to vote on the joint resolution described in paragraph (2) before the end of the time period specified in paragraph (2), the waiver request is effectively denied.

''(f) STANDING.—A victim or an immediate family member of a victim of a crime committed by any alien described in subsection (a) after such alien has been issued a final order of removal shall have standing to sue in any Federal district court to enforce the provisions of this section and the provisions of section 243(d) of the Immigration and Nationality Act. No attorney's fees or monetary judgments may be awarded in a suit filed under this subsection.''.

(c) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIENS.—Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended to read as follows:

''(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIENS.—

''(1) IN GENERAL.—If a country is listed on the most recent report submitted by the Secretary of Homeland Security to Congress under section 137(c) of the Foreign Assistance Act of 1961, the Secretary may not issue a visa to a subject, national, or resident of such country unless—

''(A) the country is in full compliance with section 137(d) of such Act; or

''(B) Congress passes a joint resolution providing for the waiver of this subsection with respect to such country.

''(2) EFFECT OF UNAUTHORIZED ISSUANCE.—Any visa issued in violation of this paragraph shall be null and void.

''(3) WAIVER.—

''(A) REQUEST.—The President or a member of the President's cabinet who has been designated by the President, may submit a written request to Congress that this subsection be waived, wholly or in part, with respect to any country.

''(B) RESOLUTION OF APPROVAL.—Not later than 7 legislative days after the receipt of a request described in subparagraph (A), the Senate and the House of Representatives shall vote on a joint resolution authorizing the waiver request.

''(C) EFFECT OF FAILURE TO VOTE.—If the Senate or the House of Representatives fails to vote on the joint resolution described in subparagraph (B), the waiver request is effectively denied.

''(4) STANDING.—A victim or an immediate family member of a victim of a crime committed by any alien described in section 137(a) of the Foreign Assistance Act of 1961 after such alien has been issued a final order of removal shall have standing to sue in any Federal district court to enforce the provisions of this subsection. No attorney's fees or monetary judgments may be awarded in a suit filed under this subsection.''.

SA 5455. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1083. OIL SAVINGS.

(a) FINDINGS.—Congress finds that—

(1) the United States imports more oil from the Middle East today than before the attacks on the United States on September 11, 2001;

(2) the United States remains the most oil-dependent industrialized nation in the world, consuming approximately 25 percent of the oil supply of the world;

(3) the Department of Defense is the largest consumer of oil in the United States;

(4) the ongoing dependence of the United States on foreign oil is one of the greatest threats to the national security and economy of the United States; and

(5) the United States needs to take transformative steps to wean itself from its addiction to oil.

(b) POLICY ON REDUCING OIL DEPENDENCE.—It is the policy of the United States to reduce the dependence of the United States on oil, and thereby—

(1) alleviate the strategic dependence of the United States on oil-producing countries;

(2) reduce the economic vulnerability of the United States; and

(3) reduce the greenhouse gas emissions associated with oil use.

(c) OIL SAVINGS REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act and every 3 years thereafter, the Secretary of Defense shall submit to Congress a report on options for agency action that, when taken together, would save from the baseline determined under paragraph (4)—

(A) 8 percent of the oil consumed by the Department of Defense per day on average during calendar year 2016;

(B) 35 percent of the oil consumed by the Department of Defense per day on average during calendar year 2026; and

(C) 50 percent of the oil consumed by the Department of Defense per day on average during calendar year 2030.

(2) CONTENTS.—Each report shall—

(A) include a description of the advantages and disadvantages (including implications for national security) for each option; and

(B) not include options for an alternative or synthetic fuel if the lifecycle greenhouse gas emissions associated with the production and combustion of the fuel is greater than the emissions from the equivalent quantity of conventional fuel produced from conventional petroleum sources.

(3) ADDITIONAL LEGISLATIVE AUTHORITY.—Each report may include a request to Congress for any additional legislative authority that is necessary to implement any recommendations made in the report.

(4) BASELINE.—In performing the analyses required for the report, the Secretary of Defense (in consultation with the Energy Information Administration) shall—

(A) determine oil savings as the projected reduction in oil consumption from baseline consumption by the Department of Defense as established by the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2008'';

(B) determine the oil savings projections required on an annual basis for each of calendar years 2009 through 2030; and

(C) account for any overlap among implementation actions to ensure that the projected oil savings from all the recommendations, taken together, are as accurate as practicable.

(d) ANNUAL REPORT ON OIL SAVINGS MEASURES.—Not later than 1 year after the date of initial oil savings report under subsection (c) and annually thereafter, the Secretary of Defense shall submit to Congress a report that describes and evaluates the oil savings measures that the Department of Defense has implemented during the prior year.

(e) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects the authority provided or responsibility delegated under any other law.

SA 5456. Mr. REID (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal years, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 344. RECOMMENDATIONS FOR MITIGATING THE IMPACT OF ENERGY TECHNOLOGIES ON MILITARY ACTIVITIES OR READINESS.

(a) ADVISORY COMMITTEE FOR RECOMMENDATIONS.—

(1) REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall establish within the Department of Defense an advisory committee to make recommendations to the Secretary for the mitigation of adverse impacts of energy technologies (including petroleum, natural gas, oil shale, tar sands, wind energy, solar energy, geothermal energy, or biomass energy projects) on military training, operations, activities, or readiness.

(2) MEMBERS.—The advisory committee shall be composed of such individuals as the Secretary shall designate for purposes of this section, including individuals with an expertise in each of the energy technologies and their interaction with military training, operation, activities and readiness.

(b) DEVELOPMENT OF RECOMMENDATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the establishment of the advisory committee required under subsection (a), the advisory committee shall develop and submit to the Secretary such recommendations as the advisory committee considers appropriate under that subsection.

(2) CONSULTATION.—In developing recommendations under paragraph (1), the advisory committee shall consult with such technical experts, interested parties, representatives of energy industries, other Federal agencies, and members of the public as the advisory committee considers appropriate.

(c) DESIGNATION OF OFFICIAL.—Not later than 90 days after the receipt under subsection (b) of the recommendations required under that subsection, the Secretary shall assign to an official within the Department of Defense the responsibility for advising officials of the Department, agencies of the Federal government and State governments, and private sector entities on steps that should be taken to mitigate any adverse impacts of energy technologies or projects on military training, operations, activities, or readiness.

(d) REPORT.—The Secretary shall submit to Congress a report setting forth the findings and recommendations of the advisory committee. The report shall include the following:

(1) A comprehensive description of the recommendations made by the advisory committee.

(2) The official assigned the responsibility for providing advice in accordance with subsection (c).

SA 5457. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVII—VETERANS MEDICAL FACILITY MATTERS

SEC. 1701. SHORT TITLE.

This title may be cited as the ''Captain James A. Lovell Federal Health Care Center Act of 2008''.

SEC. 1702. TRANSFER OF PROPERTY.

(a) TRANSFER.—

(1) TRANSFER AUTHORIZED.—Upon the conclusion of a resource-sharing agreement between the Secretary of Defense and the Secretary of Veterans Affairs providing for the joint use by the Department of Defense and the Department of Veterans Affairs of a facility and supporting facilities in North Chicago, Illinois, and Great Lakes, Illinois, and for joint use of related medical personal property and equipment, the Secretary of Defense may transfer, without reimbursement, to the Department of Veterans Affairs the Navy ambulatory care center (on which construction commenced in July 2008), parking structure, and supporting facilities, and related medical personal property and equipment, located in Great Lakes, Illinois.

(2) DESIGNATION OF JOINT USE FACILITY.—The facility and supporting facilities subject to joint use under the agreement and transfer under this subsection shall be designated as known as the ''Captain James A. Lovell Federal Health Care Center''.

(b) REVERSION.—

(1) IN GENERAL.—If any of the real and related personal property transferred pursuant to subsection (a) is subsequently used for purposes other than the purposes specified in the joint use specified in the resource-sharing agreement described in that subsection or otherwise determined by the Secretary of Veterans Affairs to be excess to the needs of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall offer to transfer such property, without reimbursement, to the Secretary of Defense. Any such transfer shall be completed not later than one year after the acceptance of the offer of transfer.

(2) REVERSION IN EVENT OF LACK OF FACILITIES INTEGRATION.—

(A) WITHIN INITIAL PERIOD.—During the 5-year period beginning on the date of the transfer of the real and related personal property described in subsection (a), if the Secretary of Veterans Affairs and the Secretary of Defense jointly determine that the integration of the facilities described in that subsection should not continue, the real and related personal property of the Navy ambulatory care center, parking structure, and support facilities described in that subsection shall be transferred, without reimbursement, to the Secretary of Defense. Such transfer shall occur not later than 180 days after the date of such determination by the Secretaries.

(B) AFTER INITIAL PERIOD.—After the end of the 5-year period described in subparagraph (A), if either the Secretary of Veterans Affairs or the Secretary of Defense determines that the integration of the facilities described in subsection (a) should not continue, the Secretary of Veterans Affairs shall transfer, without reimbursement, to the Secretary of Defense the real and related personal property described in paragraph (1). Such transfer shall occur not later than one year after the date of the determination by the Secretary concerned.

SEC. 1703. TRANSFER OF CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORIZATION FOR TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—The Secretary of Defense may transfer to the Department of Veterans Affairs, and the Secretary of Veterans Affairs may accept from the Department of Defense, functions necessary for the effective operation of the Captain James A. Lovell Federal Health Care Center.

(2) TREATMENT OF TRANSFERS.—Any transfer of functions under this subsection is a transfer of functions within the meaning of section 3503 of title 5, United States Code.

(b) TERMS OF AGREEMENT.—

(1) RESOURCE-SHARING AGREEMENT.—Any transfer of functions under subsection (a) shall be effectuated in a resource-sharing agreement between the Secretary of Defense and the Secretary of Veterans Affairs.

(2) ELEMENTS.—Notwithstanding any other provision of law, including but not limited to any provisions of title 5, United States Code, relating to transfers of function or reductions-in-force, the agreement described in paragraph (1) shall be controlling and may make provision for—

(A) the transfer of civilian employee positions of the Department of Defense identified in the agreement to the Department of Veterans Affairs and of the incumbent civilian employees in such positions;

(B) the transition of transferred employees to pay, benefits, and personnel systems of the Department of Veterans Affairs in a manner which will not result in any reduction of pay, grade, or employment progression of any employee or any change in employment status for employees who have already successfully completed or are in the process of completing a one-year probationary period under title 5, United States Code;

(C) the establishment of integrated seniority lists and other personnel management provisions that recognize an employee's experience and training so as to provide comparable recognition of employees previously with the Department of Veterans Affairs and employees newly transferred to such Department; and

(D) such other matters relating to civilian personnel management as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

(c) PRESERVATION OF AUTHORITY.—Notwithstanding subsections (a) and (b), nothing in this section shall be construed as limiting the authority of the Secretary of Defense to establish civilian employee positions in the Department of Defense and utilize all civilian personnel authorities otherwise available to the Secretary if the Secretary determines that such actions are necessary and appropriate to meet mission requirements of the Department of Defense.

SEC. 1704. EXTENSION AND EXPANSION OF JOINT INCENTIVE FUND.

(a) TEN-YEAR EXTENSION OF AUTHORITY FOR JOINT INCENTIVES PROGRAM.—Paragraph (3) of section 8111(d) of title 38, United States Code, is amended by striking ''2010'' and inserting ''2020''.

(b) FUNDING OF MAINTENANCE AND MINOR CONSTRUCTION FROM THE JOINT INCENTIVE FUND.—Paragraph (2) of such section is amended by adding at the end the following new sentence: ''Such purposes shall include real property maintenance and minor construction projects that are not required to be specifically authorized by law under section 8104 of this title and section 2805 of title 10.''.

SEC. 1705. HEALTH CARE ELIGIBILITY FOR SERVICES AT THE CAPTAIN JAMES A. LOVELL FEDERAL HEALTH CARE CENTER.

(a) IN GENERAL.—For purposes of eligibility for health care under chapter 55 of title 10, United States Code, the Captain James A. Lovell Federal Health Care Center authorized by this title may be deemed to be a facility of the uniformed services to the extent provided in an agreement between the Secretary of Defense and the Secretary of Veterans Affairs under subsection (b).

(b) ELEMENTS OF AGREEMENT.—Subsection (a) may be implemented through an agreement between the Secretary of Veterans Affairs and the Secretary of Defense. The agreement may—

(1) establish an integrated priority list for access to available care at the facility described in subsection (a), integrating the respective priority lists of the Secretaries, taking into account categories of beneficiaries, enrollment program status, and such other factors as the Secretaries determine appropriate;

(2) incorporate any resource-related limitations for access to care at that facility established by the Secretary of Defense for purposes of administering space-available eligibility for care in facilities of the uniformed services under chapter 55 of title 10, United States Code;

(3) allocate financial responsibility for care provided at that facility for individuals who are eligible for care under both title 38, United States Code, and chapter 55 of title 10, United States Code; and

(4) waive the applicability to that facility of any provision of section 8111(e) of title 38, United States Code, as specified by the Secretaries.

SA 5458. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 714. REQUIREMENT FOR PROVISION OF MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.

Section 1074a(f)(1) of title 10, United States Code, is amended by striking ''may provide'' and inserting ''shall provide''.

SA 5459. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 152. AC–130 GUNSHIPS.

(a) REPORT ON REDUCTION IN SERVICE LIFE IN CONNECTION WITH ACCELERATED DEPLOYMENT.—Not later than December 31, 2008, the Secretary of the Air Force shall submit to the congressional defense committees an assessment of the reduction in the service life of AC–130 gunships of the Air Force as a result of the accelerated deployments of such gunships that are anticipated during the seven- to ten-year period beginning with the date of the enactment of this Act, assuming that operating tempo continues at a rate per year of the average of their operating rate for the last five years.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An estimate by series of the maintenance costs for the AC–130 gunships during the period described in subsection (a), including any major airframe and engine overhauls of such aircraft anticipated during that period.

(2) A description by series of the age, serviceability, and capabilities of the armament systems of the AC–130 gunships.

(3) An estimate by series of the costs of modernizing the armament systems of the AC–130 gunships to achieve any necessary capability improvements.

(4) A description by series of the age and capabilities of the electronic warfare systems of the AC–130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(5) A description by series of the age of the avionics systems of the AC–130 gunships, and an estimate of the cost of upgrading such systems during that period to achieve any necessary capability improvements.

(6) An estimate of the costs of replacing the AC–130 gunships with AC–130J gunships, including—

(A) a description of the time required for the replacement of every AC–130 gunship with an AC–130J gunship; and

(B) a comparative analysis of the costs of operation of AC–130 gunships by series, including costs of operation, maintenance, and personnel, with the anticipated costs of operation of AC–130J gunships.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

SA 5460. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXXI, add the following:

SEC. 3116. STUDY ON SURVEILLANCE OF THE NUCLEAR WEAPONS STOCKPILE.

(a) STUDY.—

(1) IN GENERAL.—The Administrator for Nuclear Security shall enter into a contract with the private scientific advisory group known as JASON to conduct an independent technical study of the efforts of the National Nuclear Security Administration to monitor the aging of, and to detect defects related to aging in, nuclear weapons components and materials that could affect the reliability of nuclear weapons currently in the nuclear weapons stockpile.

(2) AVAILABILITY OF INFORMATION.—The Administrator shall make available to JASON all information necessary to complete the study on a timely basis.

(b) ELEMENTS.—The study required under subsection (a) shall include an assessment of the following:

(1) The ability of the National Nuclear Security Administration to monitor and measure the effects of aging on, and defects relating to aging in, nuclear weapons components and materials, other than plutonium pits, that could affect the reliability of nuclear weapons in the nuclear weapons stockpile.

(2) Available methods for addressing such effects.

(c) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Administrator for Nuclear Security shall submit to the congressional defense committees a report containing—

(A) the findings of the study; and

(B) recommendations for improving efforts within the Directed Stockpile Work Program, the Science Campaign, and the Engineering Campaign of the National Nuclear Security Administration to monitor the effects of aging on, and to detect defects related to aging in, the nuclear weapons stockpile between fiscal year 2009 and fiscal year 2014.

(2) FORM OF REPORT.—The report required under paragraph (1) shall be submitted in an unclassified form, but may include a classified annex.

SA 5461. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal

year, and for other purposes; which was ordered to lie on the table; as follows:

On page 72, after line 20, add the following:

SEC. 314. EXTENSION AND EXPANSION OF REPORTING REQUIREMENTS REGARDING DEPARTMENT OF DEFENSE ENERGY EFFICIENCY PROGRAMS.

Section 317(e) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1054) is amended to read as follows:

''(e) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than January 1, 2002, and each January 1 thereafter through 2013, the Secretary shall submit to the congressional defense a report regarding progress made toward achieving the energy efficiency goals of the Department of Defense, consistent with the provisions of section 303 of Executive Order 13123 (64 Fed. Reg. 30851; 42 U.S.C. 8521 note) and section 11(b) of Executive Order 13423 (72 Fed. Reg. 3919; 42 U.S.C. 4321 note).

''(2) REPORTS SUBMITTED AFTER JANUARY 1, 2008.—Each report required under paragraph (1) that is submitted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009 shall include the following:

''(A) A description of steps taken to ensure that facility and installation management goals are consistent with current legislative and other requirements, including applicable requirements under the Energy Independence and Security Act of 2007 (Public Law 110–140).

''(B) A description of steps taken to determine best practices for measuring energy consumption in Department of Defense facilities and installations in order to use the data for better energy management.

''(C) A description of steps taken to comply with requirements of the Energy Independence and Security Act of 2007, including new design and construction requirements for buildings.

''(D) A description of steps taken to comply with section 533 of the National Energy Conservation Policy Act (42 U.S.C. 8259b), requiring the General Services Administration and the Defense Logistics Agency to supply Energy Star and Federal Energy Management Program (FEMP) designated products to its Department of Defense customers.

''(E) A description of steps taken to ensure the use of Energy Star and FEMP designated products at military installations in government or contract maintenance activities.

''(F) A description of steps taken to comply with standards required for projects built using appropriated funds and established by the Energy Independence and Security Act of 2007 for privatized construction projects, whether residential, administrative, or industrial.

''(G) A classified annex that provides—

''(i) a systematic assessment of the risk of extended commercial power outage to critical installations;

''(ii) details on the investment strategy of the Department of Defense to reduce risks to acceptable levels based on application of Integrated Risk Management principals; and

''(iii) risk reduction solutions that emphasize the use of clean renewable energy sources and higher energy efficiency.''.

SA 5462. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1041. CONSIDERATION OF ADVISORY MISSIONS BY THE DEPARTMENT OF DEFENSE IN SUPPORT OF UNITED STATES EFFORTS TO BUILD PARTNER CAPACITY IN THE 2009 QUADRENNIAL DEFENSE REVIEW.

(a) IN GENERAL.—In conducting the quadrennial defense review required in 2009 by section 118 of title 10, United States Code, the Secretary of Defense shall assess the following:

(1) The advisability of advisory missions by the Department of Defense in support of United States efforts to build partner capacity, including advisory missions as follows:

(A) Combat advisory missions to train ground forces and air forces of partner countries.

(B) Advisory missions to the defense ministries of partner countries.

(2) The forces, whether general purposes forces or special operations forces, that are the most effective means of undertaking the future advisory missions of the Department as described in paragraph (1).

(3) The modifications in the force structure necessary to ensure the continued effectiveness of the advisory missions of the Department as described in paragraph (1).

(b) SUBMITTAL TO CONGRESS.—The quadrennial defense review required to be submitted to Congress under section 118(d) of title 10, United States Code, in 2010 shall include a separate discussion of the results of the assessment required by subsection (a).

SA 5463. Mr. SPECTER (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—FREE SPEECH PROTECTION ACT OF 2008

SEC. 01. SHORT TITLE.

This title may be cited as the ''Free Speech Protection Act of 2008''.

SEC. 02. FINDINGS.

Congress finds the following:

(1) The freedom of speech and the press is enshrined in the first amendment to the Constitution of the United States.

(2) Free speech, the free exchange of information, and the free expression of ideas and opinions are essential to the functioning of representative democracy in the United States.

(3) The free expression and publication by journalists, academics, commentators, experts, and others of the information they uncover and develop through research and study is essential to the formation of sound public policy and thus to the security of the people of the United States.

(4) The first amendment jurisprudence of the Supreme Court of the United States, articulated in such precedents as New York Times v. Sullivan (376 U.S. 254 (1964)), and its progeny, reflects the fundamental value that the people of the United States place on promoting the free exchange of ideas and information, requiring in cases involving public figures a demonstration of actual malice, that is, that allegedly defamatory, libelous, or slanderous statements about public figures are not merely false but made with knowledge of that falsity or with reckless disregard of their truth or falsity.

(5) Some persons are obstructing the free expression rights of United States persons, and the vital interest of the people of the United States in receiving information on matters of public importance, by first seeking out foreign jurisdictions that do not provide the full extent of free-speech protection that is fundamental in the United States and then suing United States persons in such jurisdictions in defamation actions based on speech uttered or published in the United States, speech that is fully protected under first amendment jurisprudence in the United States and the laws of the several States and the District of Columbia.

(6) Some of these actions are intended not only to suppress the free speech rights of journalists, academics, commentators, experts, and other individuals but to intimidate publishers and other organizations that might otherwise disseminate or support the work of those individuals with the threat of prohibitive foreign lawsuits, litigation expenses, and judgments that provide for money damages and other speech-suppressing relief.

(7) The governments and courts of some foreign countries have failed to curtail this practice, permitting lawsuits filed by persons who are often not citizens of those countries, under circumstances where there is often little or no basis for jurisdiction over the United States persons against whom such suits are brought.

(8) Some of the plaintiffs bringing such suits are intentionally and strategically refraining from filing their suits in the United States, even though the speech at issue was published in the United States, in order to avoid the Supreme Court's first amendment jurisprudence and frustrate the protections it affords United States persons.

(9) The United States persons against whom such suits are brought must consequently endure the prohibitive expense, inconvenience, and anxiety attendant to being sued in foreign courts for conduct that is protected under the first amendment, or decline to answer such suits and risk the entry of costly default judgments that may be executed in countries other than the United States where those individuals travel or own property.

(10) Journalists, academics, commentators, experts, and others subjected to such suits are suffering concrete and profound financial and professional damage for engaging in conduct that is protected under the Constitution of the United States and essential to informing the people of the United States, their representatives, and other policymakers.

(11) In turn, the people of the United States are suffering concrete and profound harm because they, their representatives, and other government policymakers rely on the free expression of information, ideas, and opinions developed by responsible journalists, academics, commentators, experts, and others for the formulation of sound public policy, including national security policy.

(12) The United States respects the sovereign right of other countries to enact their own laws regarding speech, and seeks only to protect the first amendment rights of the people of the United States in connection with speech that occurs, in whole or in part, in the United States.

SEC. 03. FEDERAL CAUSE OF ACTION.

(a) CAUSE OF ACTION.—Any United States person against whom a lawsuit is brought in a foreign country for defamation on the basis of the content of any writing, utterance, or other speech by that person that has been

published, uttered, or otherwise disseminated in the United States may bring an action in a United States district court specified in subsection (f) against any person who, or entity which, serves or causes to be served, in the United States, any documents in connection with such foreign lawsuit, if the writing, utterance, or other speech at issue in the foreign lawsuit does not constitute defamation under United States law.

(b) JURISDICTION.—It shall be sufficient to establish jurisdiction over the person or entity serving or causing to be served documents in connection with the foreign lawsuit described in subsection (a) that—

(1) such person or entity has served or caused to be served, any documents in connection with the foreign lawsuit described in subsection (a) on a United States person in the United States; and

(2) such United States person has assets in the United States against which the claimant in the foreign lawsuit could execute if a judgment in the foreign lawsuit were awarded.

(c) REMEDIES.—

(1) ORDER TO BAR ENFORCEMENT AND OTHER INJUNCTIVE RELIEF.—In a cause of action described in subsection (a), if the court determines that the applicable writing, utterance, or other speech at issue in the underlying foreign lawsuit does not constitute defamation under United States law, the court shall order that any foreign judgment in the foreign lawsuit in question may not be enforced in the United States, including by any Federal, State, or local court, and may order such other injunctive relief that the court considers appropriate to protect the right to free speech under the first amendment to the Constitution of the United States.

(2) DAMAGES.—In addition to the remedy under paragraph (1), damages may be awarded to the United States person bringing the action under subsection (a), based on the following:

(A) The amount of any foreign judgment in the underlying foreign lawsuit.

(B) The costs, including reasonable legal fees, attributable to the underlying foreign lawsuit that have been borne by the United States person.

(C) The harm caused to the United States person due to decreased opportunities to publish, conduct research, or generate funding.

(d) TREBLE DAMAGES.—If, in an action brought under subsection (a), the court or, if applicable, the jury determines by a preponderance of the evidence that the person or entity bringing the foreign lawsuit which gave rise to the cause of action intentionally engaged in a scheme to suppress rights under the first amendment to the Constitution of the United States by discouraging publishers or other media from publishing, or discouraging employers, contractors, donors, sponsors, or similar financial supporters from employing, retaining, or supporting, the research, writing, or other speech of a journalist, academic, commentator, expert, or other individual, the court may award treble damages.

(e) EXPEDITED DISCOVERY.—Upon the filing of an action under subsection (a), the court may order expedited discovery if the court determines, based on the allegations in the complaint, that the speech at issue in the underlying foreign lawsuit is protected under the first amendment to the Constitution of the United States.

(f) VENUE.—An action under subsection (a) may be brought by a United States person only in a United States district court in which the United States person is domiciled, does business, or owns real property that could be executed against in satisfaction of a judgment in the underlying foreign lawsuit which gave rise to the action.

(g) TIMING OF ACTION; STATUTE OF LIMITATIONS.—

(1) TIMING.—An action under subsection (a) may be commenced after the filing of the foreign lawsuit in a foreign country on which the action is based.

(2) STATUTE OF LIMITATIONS.—For purposes of section 1658(a) of title 28, United States Code, the cause of action under subsection (a) accrues on the first date on which papers in connection with the foreign lawsuit described in section (a), on which the cause of action is based, are served on a United States person in the United States.

SEC. 04. APPLICABILITY.

This title applies with respect to any foreign lawsuit that is described in section 3(a) in connection with papers that were served before, on, or after the date of the enactment of this title.

SEC. 05. CONSTRUCTION.

Nothing in this title limits the right of foreign litigants who bring good faith defamation actions to prevail against journalists, academics, commentators, and others who have failed to adhere to standards of professionalism by publishing false information maliciously or recklessly.

SEC. 06. DEFINITIONS.

In this title:

(1) DEFAMATION.—The term ''defamation'' means any action or other proceeding for defamation, libel, slander, or similar claim alleging that forms of speech are false, have caused damage to reputation or emotional distress, have presented a person or persons in a negative light, or have resulted in criticism or condemnation of a person or persons.

(2) FOREIGN COUNTRY.—The term ''foreign country'' means any country other than the United States.

(3) FOREIGN JUDGMENT.—The term ''foreign judgment'' means any judgment of a foreign country, including the court system or an agency of a foreign country, that grants or denies any form of relief, including injunctive relief and monetary damages, in a defamation action.

(4) FOREIGN LAWSUIT.—The term ''foreign lawsuit'' includes any other hearing or proceeding in or before any court, grand jury, department, office, agency, commission, regulatory body, legislative committee, or other authority of a foreign country or political subdivision thereof.

(5) UNITED STATES.—The term ''United States'' means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(6) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) an alien lawfully admitted for permanent residence to the United States;

(C) an alien lawfully residing in the United States at the time that the speech that is the subject of the foreign defamation suit or proceeding was researched, prepared, or disseminated; or

(D) a business entity incorporated in, or with its primary location or place of operation in, the United States.

SA 5464. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 72, after line 20, add the following:

SEC. 314. STUDY AND EVALUATION OF POLICIES CONCERNING THE RE-USE, RE-REFINING, OR RECYCLING OF USED FUELS AND LUBRICATING OILS.

(a) STUDY AND EVALUATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report reviewing the policies and programs of the Department of Defense concerning the re-use, re-refining, or recycling of used fuels and lubricating oils for the purpose of identifying cost-savings, energy conservation, and environmental benefits.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) an evaluation of the existing closed loop recycling process offered through the Defense Supply Center Richmond, Virginia;

(2) an assessment of existing programs at the military installation level;

(3) an identification of what regulatory or other barriers may exist that constrain the ability of the Department of Defense to re-use, re-refine, or recycle used fuels and lubricating oils; and

(4) an estimate of projected cost-savings, energy conservation, and environmental benefits through these Department of Defense programs.

SA 5465. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XII, add the following:

SEC. 1222. SPECIAL IMMIGRANT STATUS FOR CERTAIN AFGHANS.

(a) IN GENERAL.—Subject to subsection (c), the Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State in consultation with the Secretary of Homeland Security, may provide an alien described in paragraph (1), (2), or (3) of subsection (b) with the status of a special immigrant under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) or an agent acting on behalf of the alien, submits a petition for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(2) is otherwise eligible to receive an immigrant visa;

(3) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)); and

(4) clears a background check and appropriate screening, as determined by the Secretary of Homeland Security.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this paragraph if the alien—

(A) is a citizen or national of Afghanistan;

(B) was or is employed by or on behalf of the United States Government in Afghanistan on or after October 7, 2001, for not less than one year;

(C) provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation, subject to paragraph (4), from the employee's senior supervisor or the person currently occupying that position, or a more senior person, if the employee's senior supervisor has left the employer or has left Afghanistan; and

(D) has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government.

(2) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien—

(A) is the spouse or child of a principal alien described in paragraph (1); and

(B) is accompanying or following to join the principal alien in the United States.

(3) TREATMENT OF SURVIVING SPOUSE OR CHILD.—An alien is described in this paragraph if the alien—

(A) was the spouse or child of a principal alien described in paragraph (1) who had a petition for classification approved pursuant to this section or section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 8 U.S.C. 1101 note), which included the alien as an accompanying spouse or child; and

(B) due to the death of the principal alien—

(i) such petition was revoked or terminate (or otherwise rendered null); and

(ii) such petition would have been approved if the principal alien had survived.

(4) APPROVAL BY CHIEF OF MISSION REQUIRED.—A recommendation or evaluation required under paragraph (1)(C) shall be accompanied by approval from the Chief of Mission, or the designee of the Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable service to the United States Government prior to approval of a petition under this section.

(c) NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (3), the total number of principal aliens who may be provided special immigrant status under this section may not exceed 1500 per year for each fiscal year 2009, 2010, 2011, 2012, or 2013.

(2) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant status under this section shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

(3) CARRY FORWARD.—

(A) FISCAL YEARS 2009 THROUGH 2013.—If the numerical limitation specified in paragraph (1) is not reached during a given fiscal year referred to in such paragraph, with respect to fiscal year 2009, 2010, 2011, 2012, or 2013, the numerical limitation specified in such paragraph for the following fiscal year shall be increased by a number equal to the difference between—

(i) the numerical limitation specified in paragraph (1) for the given fiscal year; and

(ii) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(B) FISCAL YEAR 2014.—If the numerical limitation determined under subparagraph (A) is not reached in fiscal year 2013, the total number of principal aliens who may be provided special immigrant status under this section for fiscal year 2014 shall be equal to the difference between—

(i) the numerical limitation determined under subparagraph (A) for fiscal year 2013; and

(ii) the number of principal aliens provided such status under this section during fiscal year 2013.

(d) VISA AND PASSPORT ISSUANCE AND FEES.—Neither the Secretary of State nor the Secretary of Homeland Security may charge an alien described in paragraph (1), (2), or (3) of subsection (b) any fee in connection with an application for, or issuance of, a special immigrant visa. The Secretary of State shall make a reasonable effort to ensure that aliens described in this section who are issued special immigrant visas are provided with the appropriate series Afghan passport necessary to enter the United States.

(e) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other relevant Federal agencies, shall make a reasonable effort to provide an alien described in this section who is applying for a special immigrant visa with protection or the immediate removal from Afghanistan, if possible, of such alien if the Secretary determines after consultation that such alien is in imminent danger.

(f) ELIGIBILITY FOR ADMISSION UNDER OTHER CLASSIFICATION.—No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(g) RESETTLEMENT SUPPORT.—Afghan aliens granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) for a period not to exceed 8 months.

(h) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subsection (b) to that of an alien lawfully admitted for permanent residence under subsection (a) of such section 245 if the alien—

(1) was paroled or admitted as a nonimmigrant into the United States; and

(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)).

(i) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 8 U.S.C. 1101 note).

(j) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

(2) CONTENT.—The report required by paragraph (1) shall address steps taken, and additional administrative measures that may be needed, to ensure program integrity and national security.

(3) ADMINISTRATIVE MEASURES.—The Secretary of State and the Secretary of Homeland Security shall implement such additional administrative measures identified in the report as the they may deem necessary and appropriate to ensure program integrity and national security.

SA 5466. Mr. SCHUMER (for himself, Mr. MARTINEZ, Mr. MENENDEZ, Mrs. CLINTON, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PROHIBITION ON DISCRIMINATION IN LIFE INSURANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), an insurer shall not—

(1) refuse to issue a policy to an individual;

(2) refuse to continue in effect the policy of an insured;

(3) limit or decrease the amount of coverage, extent of coverage, or type of coverage available under a policy to an individual; or

(4) require the payment of an additional amount as premiums for an insured under a policy (except increases in premiums in individual term insurance based upon age);

based on the lawful travel experiences of the individual or insured.

(b) EXCEPTION.—

(1) IN GENERAL.—Subsection (a) shall not apply if, with respect to the individual or insured involved, the insurer determines that—

(A) the risk of loss for the individual or insured because of travel to a specified destination at a specified time is reasonably anticipated to be greater than if the individual or insured did not travel to that destination at that time; and

(B) the risk classification referred to in subparagraph (A) is based on sound actuarial principles and actual or reasonably anticipated experience.

(2) DETERMINATIONS.—An insurer shall be deemed to meet the requirements of paragraph (1) if the action involved was taken by the insurer based on—

(A) the issuance by the Director of the Centers for Disease Control and Prevention of the highest level of alert or warning with respect to the travel destination involved, including a recommendation against non-essential travel to such destination, due to a serious health-related condition; or

(B) the existence of an ongoing armed conflict involving the military of a sovereign nation foreign to the country of conflict.

(c) DEFINITIONS.—In this section:

(1) INSURED.—The term ''insured'' means an individual whose life is insured under a policy.

(2) INSURER.—The term ''insurer'' includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

(3) POLICY.—The term ''policy'' means any individual contract for whole, endowment, universal, or term life insurance, including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association.

(4) PREMIUM.—The term ''premium'' means the amount specified in an insurance policy to be paid to keep the policy in force.

SA 5467. Mr. INHOFE (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, between lines 6 and 7, insert the following:

SEC. 323. MODIFICATION OF AUTHORITY FOR ARMY INDUSTRIAL FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) CLARIFICATION OF AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS.—The second sentence of section 4544(a) of title 10, United States Code, as added by section 328(a)(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 66), is amended by inserting after ''not more than eight contracts or cooperative agreements'' the following: ''in addition to the contracts and cooperative agreements in place as of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181)''.

(b) ADDITIONAL ELEMENTS REQUIRED FOR ANALYSIS OF USE OF AUTHORITY.—Section 328(b)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 67) is amended—

(1) by striking ''a report assessing the advisability'' and inserting the following: ''a report—

''(A) assessing the advisability''; and

(2) by striking ''pursuant to such authority.'' and inserting the following: ''pursuant to such authority;

''(B) assessing the benefit to the Federal Government of using such authority;

''(C) assessing the impact of the use of such authority on the availability of facilities needed by the Army and on the private sector; and

''(D) describing the steps taken to comply with the requirements under section 4544(g) of title 10, United States Code.''.

SA 5468. Mr. INHOFE (for himself, Mr. CRAPO, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3104 and insert the following:

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2009 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $247,371,000.

(b) OFFSET.—The amount authorized to be appropriated by this division (other than the amount authorized to be appropriated for defense nuclear waste disposal) is hereby reduced by $50,000,000, with the amount of the reduction to be allocated among the accounts for which funds are authorized to be appropriated by this division in a manner specified by the Secretary of Energy.

SA 5469. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1068. SENSE OF SENATE ON CARE FOR WOUNDED WARRIORS.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Wounded Warrior Act (title XVI of Public Law 110–181) established a comprehensive policy on improvements to care, management, and transition of recovering service members.

(2) This policy included guidance on Training and Skills of Health Care Professionals, Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members.

(3) The Department of Veterans Affairs currently has eight fully trained Recovery Care Coordinators in the field serving 123 wounded warriors with an additional two Recovery Care Coordinators in training and additional applicants being considered.

(4) The requirement for Recovery Care Coordinators and Medical Care Case Managers continues to exceed the current availability of these personnel within the Department of Veterans Affairs and Department of Defense.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Department of Veterans Affairs and Department of Defense should—

(1) aggressively recruit, hire, and train individuals as Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers for Recovering Service Members;

(2) establish partnerships between Department of Defense medical facilities and Department of Veterans Affairs medical facilities, on the one hand, and public and private institutions of higher education, on the other hand, to assist in training medical care case management personnel needed to support returning wounded and ill service members;

(3) work closely with public and private institutions of higher education to ensure the most current care management techniques and evidence-based guidelines are incorporated into training programs for Health Care Professionals, Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers; and

(4) ensure the availability of the services of Recovery Care Coordinators, Medical Care Case Managers, and Non-Medical Care Managers to any wounded and disabled recovering service members, who need or desire such services.

SA 5470. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 240, between lines 6 and 7, insert the following:

Subtitle G—SBIR and STTR Programs

SEC. 861. DEFINITIONS.

In this subtitle—

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

(2) the terms ''extramural budget'', ''Federal agency'', ''Small Business Innovation Research Program'', ''SBIR'', ''Small Business Technology Transfer Program'', and ''STTR'' have the meanings given such terms in section 9 of the Small Business Act (15 U.S.C. 638); and

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

PART I—REAUTHORIZATION OF THE SBIR AND STTR PROGRAMS

SEC. 871. EXTENSION OF TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended by striking ''2008'' and inserting ''2022''.

(b) STTR.—Section 9(n)(1)(A) of the Small Business Act (15 U.S.C. 638(n)(1)(A)) is amended by striking ''2009'' and inserting ''2023''.

SEC. 872. STATUS OF THE OFFICE OF TECHNOLOGY.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and'';

(3) by redesignating paragraph (8) as paragraph (9); and

(4) by adding at the end the following:

''(10) to maintain an Office of Technology—

''(A) to carry out its responsibilities under this section, headed by the Assistant Administrator for Technology, who shall report directly to the Administrator; and

''(B) which shall be independent from the Office of Government Contracting and sufficiently staffed and funded to comply with the oversight, reporting, and public database responsibilities assigned to the Office of Technology by the Administrator.''.

SEC. 873. SBIR CAP INCREASE.

Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end; and

(B) by striking subparagraph (C) and inserting the following:

''(C) not less than 2.5 percent of such budget in fiscal year 2009;

''(D) not less than 2.6 percent of such budget in fiscal year 2010;

''(E) not less than 2.7 percent of such budget in fiscal year 2011;

''(F) not less than 2.8 percent of such budget in fiscal year 2012;

''(G) not less than 2.9 percent of such budget in fiscal year 2013;

''(H) not less than 3.0 percent of such budget in fiscal year 2014;

''(I) not less than 3.1 percent of such budget in fiscal year 2015;

''(J) not less than 3.2 percent of such budget in fiscal year 2016;

''(K) not less than 3.3 percent of such budget in fiscal year 2017;

''(L) not less than 3.4 percent of such budget in fiscal year 2018; and

''(M) not less than 3.5 percent of such budget in fiscal year 2019 and each fiscal year thereafter,''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the margins accordingly;

(B) by striking ''A Federal agency'' and inserting the following:

''(A) IN GENERAL.—A Federal agency''; and

(C) by adding at the end the following:

''(B) DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY.—For the Department of Defense and the Department of Energy, to the greatest extent practicable, the increased percentage of expenditures required under subparagraphs (D) through (M) of paragraph (1) shall not be used for new Phase I or Phase II awards and shall be used for activities that further the technology readiness levels of technologies being developed under Phase II awards, including to conduct testing and evaluation, in order to promote the transition of such technologies into commercial or

defense products or systems furthering the mission needs of the Department of Defense or the Department of Energy, as the case may be.

''(C) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Subparagraphs (D) through (M) of paragraph (1) shall not apply to the Department of Health and Human Services. For fiscal year 2009, and each fiscal year thereafter, the Department of Health and Human Services shall expend with small business concerns not less than 2.5 percent of the extramural budget for research or research and development of the department of Health and Human Services.''.

SEC. 874. STTR CAP INCREASE.

Section 9(n)(1)(B) of the Small Business Act (15 U.S.C. 638(n)(1)(B)) is amended—

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

(2) in clause (ii), by striking ''thereafter.'' and inserting ''through fiscal year 2009;''; and

(3) by adding at the end the following:

''(iii) 0.4 percent for fiscal years 2010 and 2011;

''(iv) 0.5 percent for fiscal years 2012 and 2013; and

''(v) 0.6 percent for fiscal year 2014 and each fiscal year thereafter.''.

SEC. 875. SBIR AND STTR AWARD LEVELS.

(a) SBIR ADJUSTMENTS.—Section 9(j)(2)(D) of the Small Business Act (15 U.S.C. 638(j)(2)(D)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(b) STTR ADJUSTMENTS.—Section 9(p)(2)(B)(ix) of the Small Business Act (15 U.S.C. 638(p)(2)(B)(ix)) is amended—

(1) by striking ''$100,000'' and inserting ''$150,000''; and

(2) by striking ''$750,000'' and inserting ''$1,000,000''.

(c) TRIENNIAL ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking ''5 years'' and inserting ''3 years''; and

(B) by striking ''and programmatic considerations''; and

(2) in subsection (p)(2)(B)(ix) by striking ''greater or lesser amounts to be awarded at the discretion of the awarding agency,'' and inserting ''and an adjustment for inflation of such amounts once every 3 years,''.

(d) LIMITATION ON CERTAIN AWARDS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) LIMITATION ON CERTAIN AWARDS.—No Federal agency may issue an award under the SBIR program or the STTR program if the size of the award exceeds the award guidelines established under this section by more than 50 percent. Participating agencies shall maintain information on awards exceeding the guidelines, including award amounts, justification for exceeding the amount, identities and locations of recipients, whether a recipient has received venture capital investment and, if so, if the recipient is majority-owned and controlled by multiple venture capital companies, and the Administration shall include such information in its annual report to Congress.''.

SEC. 876. AGENCY AND PROGRAM COLLABORATION.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(bb) SUBSEQUENT PHASES.—

''(1) AGENCY COLLABORATION.—A small business concern that received an award from a Federal agency under this section shall be eligible to receive an award for a subsequent phase from another Federal agency, if the head of each relevant Federal agency or its component makes a written determination that the topics of the relevant awards are the same and both agencies report the awards to the Administration for inclusion in the public database under subsection (k).

''(2) SBIR AND STTR COLLABORATION.—A small business concern which received an award under this section under the SBIR program or the STTR program may receive an award under this section for a subsequent phase in either the SBIR program or the STTR program and the participating agency or agencies shall report the awards to the Administration for inclusion in the public database under subsection (k).''.

SEC. 877. ELIMINATION OF PHASE II INVITATIONS.

Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4)(B), by striking ''to further'' and inserting: ''not encumbered by any invitation, pre-screening, pre-selection, or down-selection process between the first phase and the second phase that will further''; and

(2) in paragraph (6)(B), by striking ''to further develop proposed ideas to'' and inserting ''not encumbered by any invitation, pre-screening, pre-selection, or down-selection process between the first phase and the second phase that will further develop proposals which''.

SEC. 878. MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(cc) MAJORITY-VENTURE INVESTMENTS IN SBIR FIRMS.—

''(1) AUTHORITY AND DETERMINATION.—

''(A) IN GENERAL.—Upon a written determination provided not later than 30 days in advance to the Administrator and to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives—

''(i) the head of the SBIR program of the National Institutes of Health may award not more than 18 percent of the SBIR funds of the National Institutes of Health allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns; and

''(ii) the head of any other Federal agency participating in the SBIR program may award not more than 8 percent of the SBIR funds of the Federal agency allocated in accordance with this Act, in the first full fiscal year beginning after the date of enactment of this subsection, and each fiscal year thereafter, to small business concerns that are owned in majority part by venture capital companies and that satisfy the qualification requirements under paragraph (2) through competitive, merit-based procedures that are open to all eligible small business concerns.

''(B) DETERMINATION.—A written determination under subparagraph (A) shall demonstrate that the use of the authority under that subparagraph will induce additional venture capital funding of small business innovations, substantially contribute to the mission of the funding Federal agency, demonstrate a need for public research, and otherwise fulfill the capital needs of small business concerns for additional financing for the SBIR project.

''(2) QUALIFICATION REQUIREMENTS.—The Administrator shall establish requirements relating to the affiliation by small business concerns with venture capital companies, which may not exclude a United States small business concern from participation in the program under paragraph (1) on the basis that the small business concern is owned in majority part by, or controlled by, more than 1 United States venture capital company, so long as no single venture capital company owns more than 49 percent of the small business concern.

''(3) REGISTRATION.—Any small business concern that is majority owned and controlled by multiple venture capital companies and qualified for participation in the program authorized under paragraph (1) shall—

''(A) register with the Administrator on the date that the small business concern submits an application for an award under the SBIR program; and

''(B) indicate whether the small business concern is registered under subparagraph (A) in any SBIR proposal.

''(4) COMPLIANCE.—A Federal agency described in paragraph (1) shall collect data regarding the number and dollar amounts of phase I, phase II, and all other categories of awards under the SBIR program, and the Administrator shall report on the data and the compliance of each such Federal agency with the maximum amounts under paragraph (1) as part of the annual report by the Administration under subsection (b)(7).

''(5) ENFORCEMENT.—If a Federal agency awards more than the amount authorized under paragraph (1) for a purpose described in paragraph (1), the amount awarded in excess of the amount authorized under paragraph (1) shall be transferred to the funds for general SBIR programs from the non-SBIR research and development funds of the Federal agency within 60 days of the date on which the Federal agency awarded more than the amount authorized under paragraph (1) for a purpose described in paragraph (1).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(t) VENTURE CAPITAL COMPANY.—In this Act, the term 'venture capital company' means an entity described in clause (i), (v), or (vi) of section 121.103(b) of title 13, Code of Federal Regulations (or any successor thereto).''.

(c) ASSISTANCE FOR DETERMINING AFFILIATES.—Not later than 30 days after the date of enactment of this Act, the Administrator shall post on the website of the Administration (with a direct link displayed on the homepage of the website of the Administration or the SBIR website of the Administration)—

(1) a clear explanation of the SBIR affiliation rules under part 121 of title 13, Code of Federal Regulations; and

(2) contact information for officers or employees of the Administration who—

(A) upon request, shall review an issue relating to the rules described in paragraph (1); and

(B) shall respond to a request under subparagraph (A) not later than 20 business days after the date on which the request is received.

SEC. 879. SBIR AND STTR SPECIAL ACQUISITION PREFERENCE.

Section 9(r) of the Small Business Act (15 U.S.C. 638(r)) is amended by adding at the end the following:

''(4) PHASE III AWARDS.—Congress intends that, to the greatest extent practicable, Federal agencies and Federal prime contractors shall issue Phase III awards, including sole

source awards, to the SBIR and STTR award recipients that developed the technology.''.

SEC. 879A. COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(dd) COLLABORATING WITH FEDERAL LABORATORIES AND RESEARCH AND DEVELOPMENT CENTERS.—

''(1) AUTHORIZATION.—Subject to the limitations under this section, the head of each participating Federal agency may issue SBIR and STTR awards to any eligible small business concern that—

''(A) intends to enter into an agreement with a Federal laboratory or federally funded research and development center for portions of the activities to be performed under that award; or

''(B) has entered into a cooperative research and development agreement (as defined in section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d))) with a Federal laboratory.

''(2) PROHIBITION.—No Federal agency shall—

''(A) condition a SBIR or STTR award upon entering into agreement with any Federal laboratory or any federally funded laboratory or research and development center for any portion of the activities to be performed under that award;

''(B) approve an agreement between a small business concern receiving a SBIR or STTR award and a Federal laboratory or federally funded laboratory or research and development center, if the small business concern performs a lesser portion of the activities to be performed under that award than required by this section and by the SBIR and STTR Policy Directives; or

''(C) approve an agreement that violates any provision, including any data rights protections provision, of this section or the SBIR and the STTR Policy Directives.

''(3) IMPLEMENTATION.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall modify the SBIR Policy Directive and the STTR Policy Directive issued under this section to ensure that small business concerns—

''(A) have the flexibility to use the resources of the Federal laboratories and federally funded research and development centers; and

''(B) are not mandated to enter into agreement with any Federal laboratory or any federally funded laboratory or research and development center as a condition of an award.''.

SEC. 879B. NOTICE REQUIREMENT.

The head of any Federal agency involved in a case or controversy before any Federal judicial or administrative tribunal concerning the SBIR program or the STTR program shall provide timely notice, as determined by the Administrator, of the case or controversy to the Administrator.

PART II—OUTREACH AND COMMERCIALIZATION INITIATIVES

SEC. 881. RURAL AND STATE OUTREACH.

(a) OUTREACH.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by inserting after subsection (r) the following:

''(s) OUTREACH.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State—

''(A) if the total value of contracts awarded to the State under this section during the most recent fiscal year for which data is available was less than $5,000,000; and

''(B) that certifies to the Administration described in paragraph (2) that the State will, upon receipt of assistance under this subsection, provide matching funds from non-Federal sources in an amount that is not less than 50 percent of the amount provided under this subsection.

''(2) PROGRAM AUTHORITY.—Of amounts made available to carry out this section for each of the fiscal years 2000 through 2014, the Administrator may expend with eligible States not more than $5,000,000 in each such fiscal year in order to increase the participation of small business concerns located in those States in the programs under this section.

''(3) AMOUNT OF ASSISTANCE.—The amount of assistance provided to an eligible State under this subsection in any fiscal year—

''(A) shall be equal to not more than 50 percent of the total amount of matching funds from non-Federal sources provided by the State; and

''(B) shall not exceed $100,000.

''(4) USE OF ASSISTANCE.—Assistance provided to an eligible State under this subsection shall be used by the State, in consultation with State and local departments and agencies, for programs and activities to increase the participation of small business concerns located in the State in the programs under this section, including—

''(A) the establishment of quantifiable performance goals, including goals relating to

''(i) the number of program awards under this section made to small business concerns in the State; and

''(ii) the total amount of Federal research and development contracts awarded to small business concerns in the State;

''(B) the provision of competition outreach support to small business concerns in the State that are involved in research and development;

''(C) the development and dissemination of educational and promotional information relating to the programs under this section to small business concerns in the State; and

''(D) the establishment of initiatives to reach out to women and minorities with the goal of increasing their involvement in the SBIR and STTR programs.''.

(b) FEDERAL AND STATE PROGRAM EXTENSION.—Section 34 of the Small Business Act(15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking ''2001 through 2005'' each place it appears and inserting ''2009 through 2014''; and

(2) in subsection (i), by striking ''2005'' and inserting ''2014''.

(c) RURAL AREAS.—Section 34(e)(2) of the Small Business Act (15 U.S.C. 657d(e)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

''(C) RURAL AREAS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 50 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in a rural area.

''(ii) ENHANCED RURAL AWARDS.—For a recipient located in a rural area that is located in a State described in subparagraph (A)(i), the non-Federal share of the cost of the activity carried out using an award or under a cooperative agreement under this section shall be 35 cents for each Federal dollar that will be directly allocated by a recipient described in paragraph (A) to serve small business concerns located in the rural area.

''(iii) DEFINITION OF RURAL AREA.—In this subparagraph, the term 'rural area' has the meaning given that term in section 1393(a)(2)) of the Internal Revenue Code of 1986.''.

SEC. 882. SBIR–STEM WORKFORCE DEVELOPMENT GRANT PILOT PROGRAM.

(a) PILOT PROGRAM ESTABLISHED.—From amounts made available to carry out this section, the Administrator shall establish a SBIR–STEM Workforce Development Grant Pilot Program to encourage the business community to provide workforce development opportunities for college students, in the fields of science, technology, engineering, and math (in this section referred to as ''STEM college students''), by providing a SBIR bonus grant.

(b) ELIGIBLE ENTITIES DEFINED.—In this section the term ''eligible entity'' means a grantee receiving a grant under the SBIR Program on the date of the bonus grant under subsection (a) that provides an internship program for STEM college students.

(c) AWARDS.—An eligible entity shall receive a bonus grant equal to 10 percent of either a Phase I or Phase II grant, as applicable, with a total award maximum of not more than $10,000 per year.

(d) EVALUATION.—Following the fourth year of funding under this section, the Administrator shall submit a report to Congress on the results of the SBIR–STEM Workforce Development Grant Pilot Program.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000 for fiscal year 2010;
(2) $1,000,000 for fiscal year 2011;
(3) $1,000,000 for fiscal year 2012;
(4) $1,000,000 for fiscal year 2013; and
(5) $1,000,000 for fiscal year 2014.

SEC. 883. TECHNICAL ASSISTANCE FOR AWARDEES.

Section 9(q)(3) of the Small Business Act (15 U.S.C. 638(q)(3)) is amended—

(1) in subparagraph (A), by striking ''$4,000'' and inserting ''$5,000'';

(2) in subparagraph (B)—

(A) by striking ''with funds available from their SBIR awards'' and inserting ''which shall be in addition to the amount of the recipient's award'';

(B) by striking ''$4,000'' and inserting ''$5,000''; and

(C) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) FLEXIBILITY.—In carrying out subparagraphs (A) and (B), each Federal agency shall provide the allowable amounts to a recipient that meets the eligibility requirements under the applicable subparagraph, if the recipient requests to seek technical assistance from an individual or entity other than the vendor selected under paragraph (2) by the Federal agency.

''(D) LIMITATION.—A Federal agency may not—

''(i) use the amounts authorized under subparagraph (A) or (B) unless the vendor selected under paragraph (2) provides the technical assistance to the recipient; or

''(ii) enter a contract with a vendor under paragraph (2) under which the amount provided for technical assistance is based on total number of Phase I or Phase II awards.''.

SEC. 884. COMMERCIALIZATION PILOT PROGRAM AT DEPARTMENT OF DEFENSE.

Section 9(y) of the Small Business Act (15 U.S.C. 638(y)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program''; and

(B) by adding at the end the following: ''The authority to create and administer a Commercialization Pilot Program under this

subsection may not be construed to eliminate or replace any other SBIR program or STTR program that enhances the insertion or transition of SBIR or STTR technologies, including any such program in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136).'';

(2) in paragraph (2), by inserting ''or Small Business Technology Transfer Program'' after ''Small Business Innovation Research Program'';

(3) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8), respectively;

(4) by inserting after paragraph (4) the following:

''(5) INSERTION INCENTIVES.—For any contract with a value of not less than $100,000,000, the Secretary of Defense is authorized to—

''(A) establish goals for transitioning Phase III technologies in subcontracting plans; and

''(B) require a prime contractor on such a contract to report the number and dollar amount of contracts entered into by that prime contractor for Phase III SBIR or STTR projects.

''(6) GOAL FOR SBIR AND STTR TECHNOLOGY INSERTION.—The Secretary of Defense shall—

''(A) set a goal to increase the number of Phase II SBIR contracts and the number of Phase II STTR contracts awarded by that Secretary that lead to technology transition into programs of record or fielded systems;

''(B) use incentives in effect on the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, or create new incentives, to encourage agency program managers and prime contractors to meet the goal under subparagraph (A); and

''(C) include in the annual report to Congress the percentage of contracts described in subparagraph (A) awarded by that Secretary, which shall include information on the ongoing status of projects funded through the Commercialization Pilot Program and efforts to transition these technologies into programs of record or fielded systems.''; and

(5) in paragraph (8), as so redesignated, by striking ''fiscal year 2009'' and inserting ''fiscal year 2014''.

SEC. 885. COMMERCIALIZATION PILOT PROGRAM FOR CIVILIAN AGENCIES.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ee) PILOT PROGRAM.—

''(1) AUTHORIZATION.—Except for the Department of Defense, the head of each participating Federal agency may set aside not more than 10 percent of the SBIR and STTR funds of such agency for further technology development, testing, and evaluation of SBIR and STTR Phase II technologies (in this section referred to as a 'pilot program').

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—A Federal agency may not establish a pilot program unless such agency makes a written application to the Administrator, not less than 90 days prior to the beginning of the fiscal year in which such pilot program is to be established, based on a compelling reason that additional investment in SBIR or STTR technologies is required due to unusually high regulatory, systems integration, or other costs relating to development or manufacturing of identifiable, highly promising small business technologies or a class of such technologies expected to substantially advance the agency's mission.

''(B) DETERMINATION.—The Administrator shall—

''(i) make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the beginning of the fiscal year for which such application is submitted;

''(ii) publish such decision in the Federal Register; and

''(iii) make a copy of such decision, and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(C) MAXIMUM AMOUNT.—No award under a pilot program may be made in excess of 2 times the dollar amounts generally established for Phase II awards under this section.

''(D) MATCHING.—No award may be made under a pilot program unless new private, Federal non-SBIR, or Federal non-STTR funding which at least matches the award from the Federal agency is dedicated towards SBIR or STTR Phase II technology.

''(E) ELIGIBILITY.—Awards under a pilot program may be made to any applicant that is eligible to receive a Phase III award related to such SBIR or STTR Phase II technology.

''(F) REGISTRATION.—Applicants receiving awards under a pilot program shall register with the Administrator in a publicly available registry.

''(G) TERMINATION.—The authority to establish a pilot program under this section expires at the end of fiscal year 2014.''.

SEC. 886. NANOTECHNOLOGY INITIATIVE.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(ff) NANOTECHNOLOGY INITIATIVE.—Each Federal agency participating in the SBIR or STTR program shall encourage the submission of applications for support of nanotechnology related projects to such program.''.

(b) SUNSET.—Effective October 1, 2014, subsection (ff) of the Small Business Act, as added by subsection (a) of this section, is repealed.

SEC. 887. ACCELERATING CURES.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

''SEC. 44. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

''(a) NIH CURES PILOT.—

''(1) ESTABLISHMENT.—An independent advisory board shall be established at the National Academy of Sciences to conduct periodic evaluations of the SBIR program (as that term is defined in section 9) of all the National Institutes of Health (referred to in this section as the 'NIH') institutes and centers for the purpose of improving the management of the SBIR program through data-driven assessment.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The advisory board shall consist of—

''(i) the Director of the NIH, the Director of the SBIR program, senior NIH agency managers, industry experts, and other program stakeholders; and

''(ii) awardees under the SBIR program of the NIH.

''(B) EQUAL REPRESENTATION.—The number of members of the advisory board described in clause (i) of subparagraph (A) shall be equal to the number of members of the advisory board described in clause (ii) of subparagraph (A).

''(b) ADDRESSING DATA GAPS.—In order to enhance the evidence-base guiding SBIR program decisions and changes, the Director of the SBIR program of the NIH shall address the gaps and deficiencies in the data collection concerns identified in the 2007 National Academies of Science's report entitled 'An Assessment of the Small Business Innovation Research Program at the NIH'.

''(c) PILOT PROGRAM.—

''(1) IN GENERAL.—The Director of the SBIR program of the NIH may initiate a pilot program, under a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the development of cures and therapies.

''(2) CONSIDERATIONS.—The Director of the SBIR program of the NIH may consider conducting a pilot program to include individuals with successful SBIR program experience in study sections, hiring individuals with small business development experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

''(d) REPORT TO CONGRESS.—The Director of the NIH shall submit an annual report to Congress and the independent advisory board described in subsection (a) on the activities of the SBIR program of the NIH under this section.

''(e) SBIR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—In awarding grants and contracts under the SBIR program of the NIH each SBIR program manager shall place an emphasis on applications that identify from the onset products and services that may enhance the development of cures and therapies.

''(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The independent advisory board described in subsection (a) shall evaluate the implementation of the requirement under paragraph (1) by examining increased commercialization and other metrics, to be determined and collected by the SBIR program of the NIH.

''(3) PHASE I AND II.—To the greatest extent practicable, the Director of the SBIR program of the NIH shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR program of the NIH to 6 months.

''(f) LIMIT.—Not more than a total of 1 percent of the extramural budget (as defined in section 9 of the Small Business Act (15 U.S.C. 638)) of the NIH for research or research and development may be used for the pilot programs under subsection (c) and to carry out subsection (e).

''(g) SUNSET.—This section shall cease to be effective on the date that is 5 years after the date of enactment of the National Defense Authorization Act for Fiscal Year 2009.''.

PART III—OVERSIGHT AND EVALUATION

SEC. 891. STREAMLINING ANNUAL EVALUATION REQUIREMENTS.

Section 9(b) of the Small Business Act (15 U.S.C. 638(b)), as amended by section 872 of this Act, is amended—

(1) in paragraph (7)—

(A) by striking ''STTR programs, including the data'' and inserting the following: ''STTR programs, including—

''(A) the data'';

(B) by striking ''(g)(10), (o)(9), and (o)(15), the number'' and all that follows through ''under each of the SBIR and STTR programs, and a description'' and inserting the following: ''(g)(8) and (o)(9); and

''(B) the number of proposals received from, and the number and total amount of awards to, HUBZone small business concerns and firms with venture capital investment (including those majority owned and controlled by multiple venture capital firms) under each of the SBIR and STTR programs;

''(C) a description of the extent to which each Federal agency is increasing outreach

and awards to firms owned and controlled by women and minorities under each of the SBIR and STTR programs;

''(D) general information about the implementation and compliance with the allocation of funds for firms majority owned and controlled by multiple venture capital firms under each of the SBIR and STTR programs;

''(E) a detailed description of appeals of Phase III awards and notices of noncompliance with the SBIR and the STTR Policy Directives filed by the Administrator with Federal agencies; and

''(F) a description''; and

(2) by inserting after paragraph (7) the following:

''(8) to coordinate the implementation of electronic databases at each of the participating agencies, including the technical ability of the participating agencies to electronically share data;''.

SEC. 892. DATA COLLECTION FROM AGENCIES FOR SBIR.

Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by striking paragraph (10);

(2) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(3) by inserting after paragraph (7) the following:

''(8) collect, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from awardees as is necessary to assess the SBIR program, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an awardee—

''(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

''(I) the amount of venture capital that the awardee has received as of the date of the award; and

''(II) the amount of additional capital that the awardee has invested in the SBIR technology, which shall be collected on an annual basis;

''(ii) has an investor who—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a minority or has a minority as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

''(vi) is university faculty or a university student; and

''(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;''; and

(4) in paragraph (10), as so redesignated, by adding ''and'' at the end.

SEC. 893. DATA COLLECTION FROM AGENCIES FOR STTR.

Section 9(o) of the Small Business Act (15 U.S.C. 638(o)) is amended—

(1) by striking paragraph (9) and inserting the following:

''(9) collect, and maintain in a common format in accordance with the simplified reporting requirements under subsection (v), such information from applicants and awardees as is necessary to assess the STTR program outputs and outcomes, including information necessary to maintain the database described in subsection (k), including—

''(A) whether an applicant or awardee—

''(i) has venture capital or is majority owned and controlled by multiple venture capital firms, and, if so—

''(I) the amount of venture capital that the applicant or awardee has received as of the date of the application or award, as applicable; and

''(II) the amount of additional capital that the applicant or awardee has invested in the SBIR technology, which shall be collected on an annual basis;

''(ii) has an investor who—

''(I) is an individual who is not a citizen of the United States or a lawful permanent resident of the United States, and if so, the name of any such individual; or

''(II) is a person that is not an individual and is not organized under the laws of a State or the United States, and if so the name of any such person;

''(iii) is owned by a woman or has a woman as a principal investigator;

''(iv) is owned by a minority or has a minority as a principal investigator;

''(v) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

''(vi) is university faculty or a university student; and

''(B) a justification statement from the agency, if an awardee receives an award in an amount that is more than the award guidelines under this section;'';

(2) in paragraph (14), by adding ''and'' at the end;

(3) by striking paragraph (15); and

(4) by redesignating paragraph (16) as paragraph (15).

SEC. 894. PUBLIC DATABASE.

Section 9(k)(1) of the Small Business Act (15 U.S.C. 638(k)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) for each small business concern that has received a Phase I or Phase II SBIR or STTR award from a Federal agency, whether the small business concern—

''(i) has venture capital and, if so, whether the small business concern is registered as majority owned and controlled by multiple venture capital companies as required under subsection (cc)(3);

''(ii) is owned by a woman or has a woman as a principal investigator;

''(iii) is owned by a minority or has a minority as a principal investigator;

''(iv) received assistance under the FAST program under section 34 or the outreach program under subsection (s); or

''(v) is owned by university faculty or a university student.''.

SEC. 895. GOVERNMENT DATABASE.

Section 9(k)(2) of the Small Business Act (15 U.S.C. 638(k)(2)) is amended—

(1) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(2) by inserting after subparagraph (B) the following:

''(C) includes, for each awardee—

''(i) the name, size, location, and any identifying number assigned by the Administration;

''(ii) whether the awardee has venture capital, and, if so—

''(I) the amount of venture capital as of the date of the award;

''(II) the percentage of ownership of the awardee held by a venture capital firm, including whether the awardee is majority owned and controlled by multiple venture capital firms; and

''(III) the amount of additional capital that the awardee has invested in the SBIR technology, which shall be collected on an annual basis;

''(iii) the names and locations of any affiliates of the awardee;

''(iv) the number of employees of the awardee;

''(v) the number of employees of the affiliates of the awardee; and

''(vi) the names and percentage of ownership of the awardee held by—

''(I) an individual who is not a citizen of the United States or a lawful permanent resident of the United States; or

''(II) a person that is not an individual and is not organized under the laws of a State or the United States;''; and

(3) in subparagraph (D), as so redesignated—

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

(B) by adding at the end, the following:

''(iv) whether the applicant was majority owned and controlled by multiple venture capital firms; and

''(v) the number of employees of the applicant;''.

SEC. 896. ACCURACY IN FUNDING BASE CALCULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall—

(1) conduct a fiscal and management audit of the SBIR program and the STTR program for the applicable period to determine whether Federal agencies are complying with the allocation requirements of this part and the amendments made by this part;

(2) assess the extent of compliance with the requirements of subparagraphs (A) and (B) of section 9(i)(2) of the Small Business Act (15 U.S.C. 638(i)(2)) by participating agencies and the Administration;

(3) assess whether it would be more consistent and effective to base the amount of the allocations under the SBIR program and the STTR program on a percentage of the research and development budget of a Federal agency, rather than the extramural budget of the Federal agency;

(4) determine the portion of the extramural research or research and development budget of a Federal agency that each Federal agency is spending for administrative purposes relating to the SBIR program or STTR program, and for what specific purposes, including whether and, if so, the portion of such budget the Federal agency is spending for salaries and expenses, travel to visit applicants, outreach events, marketing, and technical assistance; and

(5) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the audit conducted under paragraph (1), the assessments required under paragraphs (2) and (3), and the determination made under paragraph (4).

(b) DEFINITION OF APPLICABLE PERIOD.—In this section, the term ''applicable period'' means—

(1) for the first report submitted under this section, the period beginning on October 1, 2000, and ending on September 30 of the last full fiscal year before the date of enactment of this Act for which information is available; and

(2) for the second and each subsequent report submitted under this section, the period—

(A) beginning on October 1 of the first fiscal year after the end of the most recent full fiscal year relating to which a report under this section was submitted; and

(B) ending on September 30 of the last full fiscal year before the date of the report.

SEC. 897. CONTINUED EVALUATION BY THE NATIONAL ACADEMY OF SCIENCES.

Section 108 of the Small Business Reauthorization Act of 2000 (Public Law 106–554; 114 Stat. 2763A–671) is amended by adding at the end the following:

''(e) EXTENSIONS AND ENHANCEMENTS OF AUTHORITY.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, the head of each agency described in subsection (a), in consultation with the Small Business Administration, shall cooperatively enter into an agreement with the National Academy of Sciences for the National Research Council to conduct a study described in subsection (a)(1) and make recommendations described in subsection (a)(2) not later than 4 years after the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, and every 4 years thereafter.

''(2) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the National Defense Authorization Act for Fiscal Year 2009, and every 4 years thereafter, the National Research Council shall submit to the head of the agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate, and the Committee on Small Business of the House of Representatives a report regarding the study conducted under paragraph (1) and containing the recommendations described in paragraph (1).''.

SEC. 898. TECHNOLOGY INSERTION REPORTING REQUIREMENTS.

Section 9 of the Small Business Act (15 U.S.C. 638), as amended by this Act, is amended by adding at the end the following:

''(gg) PHASE III REPORTING.—The annual SBIR or STTR report to Congress by the Administration under subsection (b)(7) shall include, for each Phase III award by the Federal agency—

''(1) the name of the contracting agency;

''(2) the identity of the agency or company making the Phase III award;

''(3) the identity of the company or individual receiving the Phase III award;

''(4) the dollar amount of the Phase III award; and

''(5) the Federal agency, or component of a Federal agency, making the Phase III award.''.

SEC. 898A. INTELLECTUAL PROPERTY PROTECTIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the SBIR program to assess whether—

(1) Federal agencies are adhering to the data rights protections for SBIR awardees and the technologies of SBIR awardees;

(2) the laws and policy directives intended to clarify the scope of data rights, including in prototypes and mentor-protégé relationships and agreements with Federal laboratories, are sufficient to protect SBIR awardees; and

(3) there is an effective grievance tracking process for SBIR awardees who have grievances against a Federal agency regarding data rights and a process for resolving those grievances.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the study conducted under subsection (a).

PART IV—POLICY DIRECTIVES

SEC. 899. CONFORMING AMENDMENTS TO THE SBIR AND THE STTR POLICY DIRECTIVES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall promulgate amendments to the SBIR Policy Directive and the STTR Policy Directive to conform such directives to this subtitle and the amendments made by this subtitle.

(b) PUBLISHING SBIR POLICY DIRECTIVE AND THE STTR POLICY DIRECTIVE IN THE FEDERAL REGISTER.—The Administration shall publish the amended SBIR Policy Directive and the amended STTR Policy Directive in the Federal Register.

SA 5471. Mr. LAUTENBERG (for himself, Mr. CASEY, and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 620. MONTHLY SPECIAL PAY FOR MEMBERS OF THE UNIFORMED SERVICES WHOSE SERVICE ON ACTIVE DUTY IS EXTENDED BY A STOP-LOSS ORDER OR SIMILAR MECHANISM.

(a) PAY REQUIRED.—

(1) IN GENERAL.—Subchapter I of chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

''§ 330a. Special pay: members of the uniformed services whose service on active duty is extended by a stop-loss order or similar mechanism

''(a) SPECIAL PAY.—A member of the uniformed services entitled to basic pay whose enlistment or period of obligated service is extended, or whose eligibility for retirement is suspended, pursuant to the exercise of an authority referred to in subsection (b) is entitled while on active duty during the period of such extension or suspension to special pay in the amount specified in subsection (c).

''(b) AUTHORITIES.—An authority referred to in this section is an authority for the extension of an enlistment or period of obligated service, or for suspension of eligibility for retirement, of a member of the uniformed services under a provision of law as follows:

''(1) Section 123 of title 10.

''(2) Section 12305 of title 10.

''(3) Any other provision of law (commonly referred to as a 'stop-loss authority') authorizing the President to extend an enlistment or period of obligated service, or suspend an eligibility for retirement, of a member of the uniformed services in time of war or of national emergency declared by Congress or the President.

''(c) MONTHLY AMOUNT.—The amount of special pay specified in this subsection is $200 per month.

''(d) CONSTRUCTION WITH OTHER PAYS.—Special pay payable under this section is in addition to any other pay payable to members of the uniformed services by law.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by inserting after the item relating to section 330 the following new item:

''330a. Special pay: members of the uniformed services whose service on active duty is extended by a stop-loss order or similar mechanism.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 2001.

SA 5472. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1083. DEMONSTRATION PROJECT ON SERVICE OF RETIRED MILITARY NURSES AS FACULTY OF CIVILIAN NURSING SCHOOLS.

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Secretary of Defense may conduct a demonstration project to assess the feasability and advisability of encouraging retired military nurses to serve as faculty at civilian nursing schools.

(b) ELIGIBILITY REQUIREMENTS.—

(1) RETIRED MILITARY NURSES.—An individual is eligible to participate in the demonstration project if the individual—

(A) is a retired nurse corps officer of an Armed Force;

(B) has at least 20 years of active service as a commissioned officer in the Armed Forces before retiring from the Armed Forces; and

(C) possesses a doctoral or master degree in nursing that qualifies the officer to become a full-time faculty member of an accredited school of nursing.

(2) CIVILIAN NURSING SCHOOLS.—A school of nursing is eligible to participate in the demonstration project if—

(A) the school is an accredited school of nursing; and

(B) the school, or its parent institution of higher education—

(i) is a school of nursing that is accredited to award, at a minimum, a bachelor of science in nursing and provides educational programs leading to such degree;

(ii) has a resident Senior Reserve Officer Training Corps unit that fulfils the requirements of sections 2101 and 2102 of title 10, United States Code;

(iii) does not prevent access to the Senior Reserve Officer Training Corps or military recruiting on campus in a manner which would lead to a denial of Federal funds under section 983 of title 10, United States Code;

(iv) provides any retired nurse corps officer participating in the demonstration project a salary and other compensation at the level to which other similarly situated faculty members of the accredited school of nursing are entitled, as determined by the Secretary of Defense; and

(v) agrees to comply with the requirements of subsection (d).

(c) EMPLOYMENT OF RETIRED MILITARY NURSES.—The Secretary of Defense may authorize a Secretary of a military department to authorize qualified schools of nursing (as described in subsection (b)(2)) to employ as faculty eligible individuals (as described in subsection (b)(1)) who are receiving retired pay, whose qualifications are approved by the Secretary of the military department and the school of nursing, and who request such employment, subject to the following:

(1) A retired nurse corps officer so employed is entitled to receive the officer's retired pay without reduction by reason of any additional amount paid to the officer by the school of nursing. In the case of payment of any such additional amount by the school of nursing, the Secretary of the military department concerned may pay the school the amount equal to one-half the amount paid to the retired officer by the institution for any period, up to a maximum of one-half of the difference between the officer's retired pay for that period and the active duty pay and allowances that the officer would have received for that period if on active duty. Payments by the Secretary of the military department concerned under this paragraph shall be made from funds specifically appropriated for that purpose.

(2) Notwithstanding any other provision of law, a retired nurse corps officer so employed shall not, while so employed, be considered to be on active duty or inactive duty training in the Armed Forces for any purpose.

(d) SCHOLARSHIPS FOR NURSE OFFICER CANDIDATES.—For purposes of the eligibility of an institution under subsection (b)(2)(B)(v), the following requirements apply:

(1) The school of nursing shall provide full academic scholarships to individuals undertaking an educational program at the school of nursing leading to a bachelor of science in nursing degree who agree, upon completion of such program and subject to such terms and conditions as the Secretary of Defense shall prescribe for purposes of this section, to accept a commission as an officer in the nurse corps of an Armed Force.

(2) The total number of scholarships provided by a school of nursing under paragraph (1) shall be equivalent to the number of retired nurse corps officers who elect to serve as faculty at the school under the demonstration project.

(e) REPORT.—

(1) IN GENERAL.—Not later than 24 months after the commencement of the demonstration project, the Secretary of Defense shall submit to the congressional defense committees a report on the demonstration project.

(2) ELEMENTS.—The report under paragraph (1) shall include the following:

(A) A description of the demonstration project under this section.

(B) The current number of retired nurse corps officers who are eligible to participate in the demonstration project.

(C) The number of retired nurse corps officers participating in the demonstration project.

(D) The number of schools of nursing participating in the demonstration project.

(E) The number of scholarships awarded to nurse officer candidates under the demonstration project.

(F) The number, if any, of nurse officer candidates who participated in the demonstration project who have accessed into the Armed Forces as a commissioned nurse corps officer, and the number, if any, of nurse officer candidates who participated in the demonstration project and did not access into the Armed Forces as a commissioned nurse corps officer.

(G) The amount, if any, of Federal funds expended on the demonstration project.

(H) Such recommendations as the Secretary of Defense considers appropriate regarding the extension or expansion of the demonstration project.

(f) DEFINITIONS.—In this section, the terms ''school of nursing'' and ''accredited'' have the meeting given such terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

SA 5473. Mr. LEVIN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 360, after line 20, add the following:

SEC. 1233. REPORTS ON ENHANCING SECURITY AND STABILIZATION IN THE REGION ALONG THE BORDER OF AFGHANISTAN AND PAKISTAN.

(a) ADDITIONAL REPORTS REQUIRED.—Subsection (a) of section 1232 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 392) is amended—

(1) in paragraph (1)—

(A) in the paragraph heading, by striking ''IN GENERAL'' and inserting ''INITIAL REPORT''; and

(B) by inserting after ''the appropriate congressional committees'' the following: '', the majority leader and minority leader of the Senate, and the Speaker of the House of Representatives and the minority leader of the House of Representatives'';

(2) by striking paragraph (4);

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph:

''(3) SUBSEQUENT REPORTS.—Concurrent with the submission of each report submitted under section 1230 after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2009, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional defense committees, the majority leader and minority leader of the Senate, and the Speaker of the House of Representatives and the minority leader of the House of Representatives a report on enhancing security and stability in the region along the border of Afghanistan and Pakistan. Each such report shall include the following:

''(A) A detailed description of the efforts by the Government of Pakistan to achieve the following objectives:

''(i) Eliminate safe havens for Taliban, Al Qaeda, and other violent extremist forces on the national territory of Pakistan.

''(ii) Prevent the movement of such forces across the border of Pakistan into Afghanistan to engage in insurgent or terrorist activities.

''(B) An assessment of the Secretary of Defense as to whether Pakistan is making substantial and sustained efforts to achieve the objectives specified in subparagraph (A).

''(C) A description of any peace agreements between the Government of Pakistan and tribal leaders from regions along the Afghanistan-Pakistan border that contain commitments to prevent cross-border incursions into Afghanistan and any mechanisms in such agreements to enforce such commitments.

''(D) An assessment of the effectiveness of such peace agreements in preventing cross-border incursions into Pakistan and of the Government of Pakistan in enforcing those agreements.''.

(b) EXTENSION OF NOTIFICATION REQUIREMENT RELATING TO DEPARTMENT OF DEFENSE COALITION SUPPORT FUNDS FOR PAKISTAN.—Subsection (b)(5) of such section is amended by striking ''September 30, 2009'' and inserting ''September 30, 2010''.

(c) SUBMISSION OF AFGHANISTAN REPORT TO CONGRESSIONAL LEADERSHIP.—Section 1230(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385) is amended by inserting after ''the appropriate congressional committees'' the following: '', the majority leader and minority leader of the Senate, and the Speaker of the House of Representatives and the minority leader of the House of Representatives''.

SA 5474. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 815. BUY AMERICAN REQUIREMENTS FOR MILK AND POWDERED MILK PRODUCTS.

Section 2533a(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) Milk or powdered milk products.''.

SA 5475. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title III, the following:

SEC. 332. REPORT ON EQUIPPING MILITARY AIRCRAFT WITH LASER-BASED COUNTERMEASURES FOR THE PROTECTION OF SUCH AIRCRAFT.

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 plans of the Department of Defense for equipping fixed wing and rotary wing military aircraft with laser-based countermeasures for the protection of such aircraft. The report shall include a description of the plans of the Department to consider technologies other than Advanced Threat Infrared Countermeasure systems to provide a functional, laser-based infrared countermeasure capability for both fixed wing and rotary wing aircraft.

SA 5476. Mr. LAUTENBERG (for himself, Mr. SMITH, Mr. INOUYE, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION —MARITIME ADMINISTRATION

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Maritime Administration Act for Fiscal Year 2009''.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Adjunct professors at the Merchant Marine Academy.
Sec. 3. Actions to address sexual harassment and violence at the Academy.
Sec. 4. Gifts to the Academy.
Sec. 5. Temporary appointments to the Academy.
Sec. 6. Riding gang member requirements.
Sec. 7. Assistance for small shipyards and maritime communities.
Sec. 8. Student incentive payment program.
Sec. 9. Marine war risk insurance.
Sec. 10. MARAD consultation on Jones Act waivers.
Sec. 11. Vessel traffic risk assessments.
Sec. 12. Small vessel exception from definition of fish processing vessel.
Sec. 13. Transportation in American vessels of government personnel and certain cargoes.
Sec. 14. Exclusion of certain employee benefits for individuals in the recreational marine industry.
Sec. 15. Authorization of appropriations for fiscal year 2009.
Sec. 16. Enforcement of maritime cabotage laws.

SEC. 2. ADJUNCT PROFESSORS AT THE MERCHANT MARINE ACADEMY.

(a) IN GENERAL.—If the Secretary of Transportation determines that there is a temporary need for adjunct professors at the United States Merchant Marine Academy, the Secretary may execute personal service contracts with adjunct professors to meet that need.

(b) LIMITATIONS.—

(1) NUMBER.—The Secretary may not execute such contracts with more than 25 individuals under subsection (a) to provide service as adjunct professors during any trimester of academic year 2008–2009.

(2) CONTRACT TERM.—The Secretary may not execute a personal service contract under subsection (a) for a term that expires later than the end of academic year 2008–2009.

(c) SUNSET.—The authority of the Secretary to execute a personal service contract under subsection (a) shall terminate at the end of academic year 2008–2009.

(d) PRE-EXISTING CONTRACTS.—An employment contract executed by the Secretary before the date of enactment of this Act for service by an individual as an adjunct professor at the Academy shall be taken into account for purposes of subsection (b)(1) and shall remain in effect until the earlier of—

''(1) the end of the period of time for which the services were contracted; or

''(2) the end of academic year 2008–2009.

(e) REPORT.—If the Secretary executes one or more personal service contracts under subsection (a), the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Armed Services, and the Committees on Appropriations of both Houses specifying the specific need for each such contract and the duties that will be performed by each such adjunct professor brought under contract. The report shall be submitted solely by the Secretary and not by any designee on the Secretary's behalf.

SEC. 3. ACTIONS TO ADDRESS SEXUAL HARASSMENT AND VIOLENCE AT THE ACADEMY.

(a) REQUIRED POLICY.—The Secretary of Transportation shall direct the Superintendent of the United States Merchant Marine Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include—

(1) a program to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel;

(2) procedures that a cadet should follow in the case of an occurrence of sexual harassment or sexual violence, including—

(A) a specification of the person or persons to whom an alleged occurrence of sexual harassment or sexual violence should be reported by a cadet and the options for confidential reporting;

(B) a specification of any other person whom the victim should contact; and

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault;

(3) a procedure for disciplinary action in cases of alleged criminal sexual assault involving a cadet or other Academy personnel;

(4) any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible; and

(5) required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—

(1) The Secretary shall direct the Superintendent to conduct an assessment at the Academy during each Academy program year, to be administered by the Department of Transportation, to determine the effectiveness of the policies, training, and procedures of the Academy with respect to sexual harassment and sexual violence involving Academy personnel.

(2) For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Superintendent shall conduct a survey, to be administered by the Department, of Academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

(B) to assess the perceptions of Academy personnel of—

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and sexual violence involving Academy personnel; and

(iv) any other issues relating to sexual harassment and sexual violence involving Academy personnel.

(d) ANNUAL REPORT.—

(1) The Secretary shall direct the Superintendent of the Academy to submit to the Secretary a report on sexual harassment and sexual violence involving cadets or other personnel at the Academy for each Academy program year.

(2) Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or other Academy personnel that have been reported to Academy officials during the program year and, of those reported cases, the number that have been substantiated.

(B) The policies, procedures, and processes implemented by the Superintendent and the leadership of the Academy in response to sexual harassment and sexual violence involving cadets or other Academy personnel during the program year.

(C) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

(3) Each report under paragraph (1) for an Academy program year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that program year under subsection (c)(2).

(4)(A) The Superintendent shall transmit to the Secretary, and to the Board of Visitors of the Academy, each report received by the Superintendent under this subsection, together with the Superintendent's comments on the report.

(B) The Secretary shall transmit each such report, together with the Secretary's comments on the report, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 4. GIFTS TO THE ACADEMY.

(a) IN GENERAL.—Chapter 513 of title 46, United States Code, is amended by adding at the end thereof the following:

''§ 51315. Gifts to the Merchant Marine Academy

''(a) In General.—The Maritime Administrator may accept and use conditional or unconditional gifts of money or property for the benefit of the United States Merchant Marine Academy, including acceptance and use for non-appropriated fund instrumentalities of the Merchant Marine Academy. The Maritime Administrator may accept a gift of services in carrying out the Administrator's duties and powers. Property accepted under this section and proceeds from that property must be used, as nearly as possible, in accordance with the terms of the gift.

''(b) ESTABLISHMENT OF ACADEMY GIFT FUND.—There is established in the Treasury a fund, to be known as the 'Academy Gift Fund'. Disbursements from the Fund shall be made on order of the Maritime Administrator. Unless otherwise specified by the terms of the gift, the Maritime Administrator may use monies in the Fund for appropriated or non-appropriated purposes at the Academy. The Fund consists of—

''(1) gifts of money;

''(2) income from donated property accepted under this section;

''(3) proceeds from the sale of donated property; and

''(4) income from securities under subsection (c) of this section;

''(c) INVESTMENT OF FUND BALANCES.—On request of the Maritime Administrator, the Secretary of the Treasury may invest and reinvest amounts in the Fund in securities of, or in securities the principal and interest of which is guaranteed by, the United States Government.

''(d) DISBURSEMENT AUTHORITY.—There are hereby appropriated from the Fund such sums as may be on deposit, to remain available until expended.''.

''(e) DEDUCTABILITY OF GIFTS.—Gifts accepted under this section are a gift to or for the use of the Government under the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 513 of title 46, United

States Code, is amended by inserting after the item relating to section 51314 the following:

''51315. Gifts to the Merchant Marine Academy''.

SEC. 5 TEMPORARY APPOINTMENTS TO THE ACADEMY.

(a) IN GENERAL.—Chapter 513 of title 46, United States Code, as amended by section 5 of this division, is further amended by adding at the end thereof the following:

''§ 51316. Temporary appointments to the Academy

Notwithstanding any other provision of law, the Maritime Administrator may appoint any present employee of the United States Merchant Marine Academy non-appropriated fund instrumentality to a position on the General Schedule of comparable pay. Eligible personnel shall be engaged in work permissibly funded by annual appropriations, and such appointments to the Civil Service shall be without regard to competition, for a term not to exceed 2 years.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 513 of title 46, United States Code, as amended by section 15 of this division, is amended by inserting after the item relating to section 51317 the following:

''51316. Temporary appointments to the Academy''.

SEC. 6. RIDING GANG MEMBER REQUIREMENTS.

Section 1018 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (120 Stat. 2381) is amended—

(1) by striking ''requirements'' and all that follows in subsection (a)(1) and inserting ''requirements as provided in section 8106 of title 46, United States Code.'';

(2) by striking paragraphs (2) and (3) of subsection (a) and redesignating paragraph (4) as paragraph (2);

(3) by striking ''8106'' in paragraph (2), as redesignated, of subsection (a) and inserting ''2101''; and

(4) by striking subsection (b)(1) and inserting the following:

''(1) IN GENERAL.—Pursuant to regulations issued by the Secretary of Defense, an individual—

''(A) who is aboard a vessel, which is under charter or contract for the carriage of cargo for the Department of Defense, for purposes other than engaging in the operation or maintenance of the vessel, and

''(B) who—

''(i) accompanies, supervises, guards, or maintains unit equipment aboard a ship, commonly referred to as supercargo personnel,

''(ii) is one of the force protection personnel of the vessel,

''(iii) is a specialized repair technician, or

''(iv) is otherwise required by the Secretary of Defense to be aboard the vessel,

shall not be deemed a riding gang member for purposes of title 46, United States Code.''.

SEC. 7. ASSISTANCE FOR SMALL SHIPYARDS AND MARITIME COMMUNITIES.

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting the following new chapter after chapter 539:

''CHAPTER 541—MISCELLANEOUS

''Sec.

''54101. Assistance for small shipyards and maritime communities

''§ 54101. Assistance for small shipyards and maritime communities

''(a) ESTABLISHMENT OF PROGRAM.—Subject to the availability of appropriations, the Administrator of the Maritime Administration shall execute agreements with shipyards to provide assistance—

''(1) in the form of grants, loans, and loan guarantees to small shipyards for capital improvements; and

''(2) for maritime training programs to foster technical skills and operational productivity in communities whose economies are related to or dependent upon the maritime industry.

''(b) AWARDS.—In providing assistance under the program, the Administrator shall—

''(1) take into account—

''(A) the economic circumstances and conditions of maritime communities;

''(B) projects that would be effective in fostering efficiency, competitive operations, and quality ship construction, repair, and reconfiguration; and

''(C) projects that would be effective in fostering employee skills and enhancing productivity; and

''(2) make grants within 120 days after the date of enactment of the appropriations Act for the fiscal year concerned.

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Assistance provided under this section may be used—

''(A) to make capital and related improvements in small shipyards located in or near maritime communities;

''(B) to provide training for workers in communities whose economies are related to the maritime industry; and

''(C) for such other purposes as the Administrator determines to be consistent with and supplemental to such activities.

''(2) ADMINISTRATIVE COSTS.—Not more than 2 percent of amounts made available to carry out the program may be used for the necessary costs of grant administration.

''(d) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities or to acquire land unless such use is specifically approved by the Administrator in support of subsection (c)(1)(C).

''(e) MATCHING REQUIREMENTS; ALLOCATION.—

''(1) FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

''(2) EXCEPTION.—If the Administrator determines that a proposed project merits support and cannot be undertaken without a higher percentage of Federal financial assistance, the Administrator may award a grant for such project with a lesser matching requirement than is described in paragraph (1).

''(3) ALLOCATION OF FUNDS.—The Administrator may not award more than 25 percent of the funds appropriated to carry out this section for any fiscal year to any small shipyard in one geographic location that has more than 600 employees.

''(f) APPLICATIONS.—

''(1) IN GENERAL.—To be eligible for assistance under this section, an applicant shall submit an application, in such form, and containing such information and assurances as the Administrator may require, within 60 days after the date of enactment of the appropriations Act for the fiscal year concerned.

''(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application submitted under paragraph (1) shall include—

''(A) a comprehensive description of—

''(i) the need for the project;

''(ii) the methodology for implementing the project; and

''(iii) any existing programs or arrangements that can be used to supplement or leverage assistance under the program.

''(3) PROCEDURAL SAFEGUARDS.—The Administrator, in consultation with the Office of the Inspector General, shall issue guidelines to establish appropriate accounting, reporting, and review procedures to ensure that—

''(A) grant funds are used for the purposes for which they were made available;

''(B) grantees have properly accounted for all expenditures of grant funds; and

''(C) grant funds not used for such purposes and amounts not obligated or expended are returned.

''(4) PROJECT APPROVAL REQUIRED.—The Administrator may not award a grant under this section unless the Administrator determines that—

''(A) sufficient funding is available to meet the matching requirements of subsection (e);

''(B) the project will be completed without unreasonable delay; and

''(C) the recipient has authority to carry out the proposed project.

''(g) AUDITS AND EXAMINATIONS.—All grantees under this section shall maintain such records as the Administrator may require and make such records available for review and audit by the Administrator.

''(h) SMALL SHIPYARD DEFINED.—In this section, the term 'small shipyard' means a shipyard facility in one geographic location that does not have more than 1,200 employees.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Maritime Administration for each of fiscal years 2006 through 2010 to carry out this section—

''(1) $5,000,000 for training grants; and

''(2) $25,000,000 for capital and related improvements.''.

(b) CONFORMING AMENDMENT.—Section 3506 of the National Defense Authorization Act for Fiscal Year 2006 (46 U.S.C. 53101 note) is repealed.

SEC. 8. STUDENT INCENTIVE PAYMENT PROGRAM.

Section 51509 of title 46, United States Code, is amended—

(1) by striking ''to the individual.'' in subsection (a) and inserting ''to the individual or the academy, as determined by the Secretary.'';

(1) by striking ''$4,000'' and inserting ''$8,000'';

(2) by striking ''as prescribed by the Secretary, while the individual is attending the academy.'' in subsection (b) and inserting ''subject to such conditions as may be prescribed by the Secretary.'';

(3) by inserting ''tuition,'' in subsection (b) after ''uniforms,''; and

(4) by striking subsection (c) and inserting the following:

''(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—Each agreement entered into under this section shall require the individual to accept midshipman and enlisted reserve status in the United States Navy Reserve (including the Merchant Marine Reserve) or the United States Coast Guard Reserve before any payments are made under the agreement.''.

SEC. 9. MARINE WAR RISK INSURANCE.

Section 53912 of title 46, United States Code, is amended by striking ''December 31, 2010.'' and inserting ''December 31, 2015.''.

SEC. 10. MARAD CONSULTATION ON JONES ACT WAIVERS.

Section 501(b) of title 46, United States Code, is amended to read as follows:

''(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual, following a determination by the Maritime Administrator, acting in the Administrator's capacity as Director, National Shipping Authority, of the non-availability of qualified United States flag capacity to meet national defense requirements, may waive compliance with those laws to the extent, in the manner,

and on the terms the individual, in consultation with the Administrator, acting in that capacity, prescribes.''.

SEC. 11. VESSEL TRAFFIC RISK ASSESSMENTS.

(a) REQUIREMENT.—The Commandant of the Coast guard, acting through the appropriate Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act, shall prepare a vessel traffic risk assessment—

(1) for Cook Inlet, Alaska, within 1 year after the date of enactment of this Act; and

(2) for the Aleutian Islands, Alaska, within 2 years after the date of enactment of this Act.

(b) CONTENTS.—Each of the assessments shall describe, for the region covered by the assessment—

(1) the amount and character of present and estimated future shipping traffic in the region; and

(2) the current and projected use and effectiveness in reducing risk, of—

(A) traffic separation schemes and routing measures;

(B) long-range vessel tracking systems developed under section 70115 of title 46, United States Code;

(C) towing, response, or escort tugs;

(D) vessel traffic services;

(E) emergency towing packages on vessels;

(F) increased spill response equipment including equipment appropriate for severe weather and sea conditions;

(G) the Automatic Identification System developed under section 70114 of title 46, United States Code;

(H) particularly sensitive sea areas, areas to be avoided, and other traffic exclusion zones;

(I) aids to navigation; and

(J) vessel response plans.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—Each of the assessments shall include any appropriate recommendations to enhance the safety and security, or lessen potential adverse environmental impacts, of marine shipping.

(2) CONSULTATION.—Before making any recommendations under paragraph (1) for a region, the Area Committee shall consult with affected local, State, and Federal government agencies, representatives of the fishing industry, Alaska Natives from the region, the conservation community, and the merchant shipping and oil transportation industries.

(d) PROVISION TO CONGRESS.—The Commandant shall provide a copy of each assessment to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant $1,800,000 for each of fiscal years 2008 and 2009 to conduct the assessments.

SEC. 12. SMALL VESSEL EXCEPTION FROM DEFINITION OF FISH PROCESSING VESSEL.

Section 2101(11b) of title 46, United States Code, is amended by striking ''chilling.'' and inserting ''chilling, but does not include a fishing vessel operating in Alaskan waters under a permit or license issued by Alaska that—

(A) fillets only salmon taken by that vessel;

(B) fillets less than 5 metric tons of such salmon during any 7-day period.''.

SEC. 13. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

(a) IN GENERAL.—Section 55305(b) of title 46, United States Code, is amended—

(1) by striking ''country'' and inserting ''country, organization, or persons'';

(2) by inserting ''or obtaining'' after ''furnishing''; and

(3) by striking ''commodities'' the first place it appears and inserting ''commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted,''.

(b) OTHER AGENCIES.—Section 55305(d) of title 46, United States Code, is amended to read as follows:

''(d) PROGRAMS OF OTHER AGENCIES.—

''(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.

''(2) The Secretary—

''(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section;

''(B) may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;

''(C) may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than $25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and

''(D) may take other measures as appropriate under the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1) or contract with respect to each violation.''.

(c) REGULATIONS.—The Secretary of Transportation shall prescribe such rules as are necessary to carry out section 55305(d) of title 46, United States Code. The Secretary may prescribe interim rules necessary to carry out section 55305(d) of such title. An interim rule prescribed under this subsection shall remain in effect until superseded by a final rule.

(d) CHANGE OF YEAR.—Section 55314(a) of title 46, United States Code, is amended by striking ''calendar'' each place it appears and inserting ''fiscal''.

SEC. 14. EXCLUSION OF CERTAIN EMPLOYEE BENEFITS FOR INDIVIDUALS IN THE RECREATIONAL MARINE INDUSTRY.

Subparagraph (F) of section 2(3) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)) is amended to read as follows:

''(F) individuals who—

''(i) are employed to manufacture any recreational vessel under 165 feet in length; or

''(ii) are employed to repair any recreational vessel or to dismantle any part of any recreational vessel in connection with repair of the vessel;''.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation, for the use of the Maritime Administration, for fiscal year 2009 the following amounts:

(1) For expenses necessary for operations and training activities, $140,112,000, of which—

(A) $79,858,000 shall remain available until expended for expenses at the United States Merchant Marine Academy, of which $26,640,000 shall be available for the capital improvement program; and

(B) $8,306,000 which shall remain available until expended for maintenance and repair of school ships at the State Maritime Academies.

(2) For expenses to maintain and preserve a United States-flag merchant fleet to serve the national security needs of the United States under chapter 531 of title 46, United States Code, $174,000,000.

(3) For paying reimbursement under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), $19,500,000.

(4) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92–402, $18,000,000.

(5) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C 661a(5))) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, $30,000,000.

(6) For administrative expenses related to the implementation of the loan guarantee program under chapter 537 of title 46, United States Code, administrative expenses related to implementation of the reimbursement program under section 3517 of the Maritime Security Act of 2003 (46 U.S.C. 53101 note), and administrative expenses related to the implementation of the small shipyards and maritime communities assistance program under section 54101 of title 46, United States Code, $6,000,000.

(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available, as provided in appropriations Acts, until expended.

SEC. 16. ENFORCEMENT OF MARITIME CABOTAGE LAWS.

It is the sense of the Senate that, in order to fulfill the objectives and policies of section 50101 of title 46, United States Code, and encourage the development and maintenance of a merchant marine necessary for the national defense and the domestic commerce of the United States, the Department of Homeland Security, in cooperation with the Department of Transportation, should take measures necessary to enforce the letter and intent of the coastwise laws in chapter 551 of title 46, United States Code, and to support the cruise ship operations authorized by section 211 of title II of division B of Public Law 108–7.

SA 5477. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, add the following:

SEC. 1068. SERVICE AS LEGISLATIVE FELLOWS OF MEMBERS OF THE ARMED FORCES WHO ARE UNDERGOING CONVALESCENCE AT MILITARY MEDICAL TREATMENT FACILITIES IN THE NATIONAL CAPITAL REGION.

(a) ACTIONS REQUIRED.—

(1) IN GENERAL.—Commencing not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall take actions to ensure that eligible members of the Armed Forces who are undergoing convalescence at military medical treatment facilities in the National Capital Region, including Walter Reed Army Medical Center, District of Columbia, are informed about and encouraged to apply for selection as a legislative fellow under applicable Department of

Defense instructions controlling assignment of personnel to the Legislative Branch.

(2) VOLUNTARY PARTICIPATION.—The participation of members of the Armed Forces as a legislative fellow under this section shall be on a voluntary basis.

(3) ENCOURAGEMENT OF PARTICIPATION IN PROGRAM.—The Secretary shall take appropriate actions—

(A) to notify members of the Armed Forces described in subsection (a)(1) of their eligibility for participation as legislative fellows under this section; and

(B) to facilitate participation as legislative fellows under this section by members who elect to participate as fellows, including through the provision of appropriate support for such members in participating as fellows.

(4) PROHIBITION ON POLITICAL ACTIVITIES.—While serving in an office as a legislative fellow under this section, a member of the Armed Forces participating as a fellow may not engage in any political activity otherwise prohibited by law for similar employees of such office.

(b) PAY AND ALLOWANCES.—

(1) NO ADDITIONAL PAY AND ALLOWANCES.—A member of the Armed Forces participating as a legislative fellow under this section shall not be entitled to any pay and allowances by reason of participation as a fellow other than the pay and allowances otherwise payable to the member by law.

(2) EXPENSES.—A member of the Armed Forces participating as a legislative fellow under this section shall be paid or reimbursed for the expenses incurred by the member in connection with participation as a fellow.

(c) ADMINISTRATIVE MATTERS.—

(1) ADMINISTRATION.—The activities required by this section shall be administered within the Department of Defense by an appropriate official of the Department assigned by the Secretary for that purpose.

(2) RESPONSIBILITIES.—The official assigned under paragraph (1) shall—

(A) work collaboratively with Members and committees of Congress to identify appropriate fellowship opportunities for members of the Armed Forces seeking to participate as legislative fellows under this section; and

(B) work collaboratively with the Director of the Capitol Guide Service and Congressional Special Services Office of the Architect of the Capitol to accommodate the special physical needs of members of the Armed Forces who are participating as legislative fellows under this section.

SA 5478. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subsection A of title XXVIII, add the following:

SEC. 2814. MODIFICATION OF AUTHORITY TO CONVEY PROPERTY AT MILITARY INSTALLATIONS TO LIMIT ENCROACHMENT.

(a) REPEAL OF APPLICABILITY OF AUTHORITY TO EXCHANGES FOR MILITARY CONSTRUCTION PROJECTS.—Section 2869 of title 10, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking ''military construction project or'';

(2) in subsection (b), by striking ''military construction,'' each place it appears and inserting ''land,''; and

(3) in subsection (d)(2)(A), by striking ''military construction project,'' each place it appears in clauses (ii) and (iii).

(b) REPEAL OF LIMITATION ON APPLICABILITY OF AUTHORITY TO EXCESS NON-BRAC PROPERTY.—Such section is further amended—

(1) in subsection (a), by striking paragraph (3); and

(2) in subsection (e)(2), by striking ''the period specified in paragraph (3) of subsection (a)'' and inserting ''the period beginning on October 17, 2006, and ending on September 30, 2008,''.

(c) REPEAL OF PILOT PROGRAM.—Such section is further amended by striking subsection (c).

(d) REPEAL OF REQUIREMENTS RELATING TO REPORTS.—Such section is further amended by striking subsection (f).

(e) CONFORMING AMENDMENTS.—Such section is further amended by redesignating subsections (d), (e), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(f) ADDITIONAL CONFORMING AND CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

''§ 2869. Conveyance of property at military installations to support military housing or limit encroachment''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2869 and inserting the following new item:

''2869. Conveyance of property at military installations to support military housing or limit encroachment.''.

SA 5479. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

SEC. 1083. POSTAL BENEFITS PROGRAM FOR MEMBERS OF THE ARMED FORCES SERVING IN IRAQ OR AFGHANISTAN.

(a) AVAILABILITY OF POSTAL BENEFITS.—The Secretary of Defense, in consultation with the United States Postal Service, shall provide for a program under which postal benefits are provided to qualified individuals in accordance with this section.

(b) QUALIFIED INDIVIDUAL.—In this section, the term ''qualified individual'' means a member of the Armed Forces on active duty (as defined in section 101 of title 10, United States Code) who—

(1) is serving in Iraq or Afghanistan; or

(2) is hospitalized at a facility under the jurisdiction of the Department of Defense as a result of a disease or injury incurred as a result of service in Iraq or Afghanistan.

(c) POSTAL BENEFITS DESCRIBED.—

(1) VOUCHERS.—The postal benefits provided under the program shall consist of such coupons or other similar evidence of credit, whether in printed, electronic, or other format (in this section referred to as a ''voucher''), as the Secretary of Defense, in consultation with the Postal Service, shall determine, which entitle the bearer or user to make qualified mailings free of postage.

(2) QUALIFIED MAILING.—In this section, the term ''qualified mailing'' means the mailing of a single mail piece which—

(A) is first-class mail (including any sound-recorded or video-recorded communication) not exceeding 13 ounces in weight and having the character of personal correspondence or parcel post not exceeding 10 pounds in weight;

(B) is sent from within an area served by a United States post office; and

(C) is addressed to a qualified individual.

(3) COORDINATION RULE.—Postal benefits under the program are in addition to, and not in lieu of, any reduced rates of postage or other similar benefits which might otherwise be available by or under law, including any rates of postage resulting from the application of section 3401(b) of title 39, United States Code.

(d) NUMBER OF VOUCHERS.—A member of the Armed Forces shall be eligible for one voucher for every second month in which the member is a qualified individual.

(e) LIMITATIONS ON USE; DURATION.—A voucher may not be used—

(1) for more than a single qualified mailing; or

(2) after the earlier of—

(A) the expiration date of the voucher, as designated by the Secretary of Defense; or

(B) the end of the one-year period beginning on the date on which the regulations prescribed under subsection (f) take effect.

(f) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense (in consultation with the Postal Service) shall prescribe such regulations as may be necessary to carry out the program, including—

(1) procedures by which vouchers will be provided or made available in timely manner to qualified individuals; and

(2) procedures to ensure that the number of vouchers provided or made available with respect to any qualified individual complies with subsection (d).

(g) TRANSFERS TO POSTAL SERVICE.—

(1) BASED ON ESTIMATES.—The Secretary of Defense shall transfer to the Postal Service, out of amounts available to carry out the program and in advance of each calendar quarter during which postal benefits may be used under the program, an amount equal to the amount of postal benefits that the Secretary estimates will be used during such quarter, reduced or increased (as the case may be) by any amounts by which the Secretary finds that a determination under this section for a prior quarter was greater than or less than the amount finally determined for such quarter.

(2) BASED ON FINAL DETERMINATION.—A final determination of the amount necessary to correct any previous determination under this section, and any transfer of amounts between the Postal Service and the Department of Defense based on that final determination, shall be made not later than six months after the end of the one-year period referred to in subsection (e)(2)(B).

(3) CONSULTATION REQUIRED.—All estimates and determinations under this subsection of the amount of postal benefits under the program used in any period shall be made by the Secretary of Defense in consultation with the Postal Service.

(h) FUNDING.—Of the amounts authorized to be appropriated for the Department of Defense for fiscal year 2009 for military personnel, $10,000,000 shall be for postal benefits provided in this section.

SA 5480. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 572. REPORT ON CREATING CAREERS FOR MILITARY SPOUSES.

(a) STUDY.—The Under Secretary of Defense for Personnel and Readiness, in conjunction with the Deputy Under Secretary of Defense for Military Community and Family Policy, shall conduct a study of the challenges that face qualified military spouses in finding and maintaining employment during the terms of service of their active duty spouses.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Under Secretary of Defense for Personnel and Readiness, shall submit to the congressional committees a report on the study conducted under subsection (a).

(2) ELEMENTS.—The report required under paragraph (1) shall include the following elements:

(A) A description of the major challenges that face qualified military spouses in finding and maintaining employment during the terms of service of their spouses.

(B) A listing of significant incentive programs the Department of Defense could utilize to create incentives for the hiring of qualified military spouses, including those the Department can implement independently and those that require statutory changes.

(C) A description of the resources available to qualified military spouses for assistance in finding and maintaining employment.

(D) An examination of the implications for retention of military service members of insufficient employment opportunities for qualified military spouses.

(E) A description of current programs to assist qualified military spouses in securing telecommuting and home office employment.

(c) QUALIFIED MILITARY SPOUSE DEFINED.—In this section, the term ''qualified military spouse'' means a spouse of a member of the Armed Forces who is serving on a period of extended active duty which includes the hiring date. For purposes of the preceding sentence, the term ''extended active duty'' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

SA 5481. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 458, between lines 12 and 13, insert the following:

SEC. 2842. DISPOSAL OF REAL PROPERTY AT OUTLYING LANDING FIELD, BEAUFORT AND WASHINGTON COUNTIES, NORTH CAROLINA.

Notwithstanding any other provision of law, the Secretary of the Navy shall make an exception to policy when the Secretary disposes of the land acquired for the Navy's now-cancelled Outlying Landing Field (OLF) in Beaufort and Washington Counties, North Carolina, by first offering the previous property owners the opportunity to reacquire their land by right of first refusal at fair market value. Should these parties decline the Navy's offer, the Secretary shall dispose of these properties in a manner most likely to ensure continued agricultural productivity.

SA 5482. Mr. KERRY (for himself, Ms. SNOWE, Mr. MENENDEZ, Mr. LAUTENBERG, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 13 and 14, insert the following:

SEC. 1083. PROHIBITIONS RELATING TO PUBLICITY OR PROPAGANDA.

(a) PROHIBITION.—No part of any appropriation shall be used by the Department of Defense for publicity or propaganda purposes not authorized by Congress, including the production of any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio that it was prepared or funded by the Department.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Inspector General of the Department of Defense shall submit to Congress a report identifying the extent to which the Department of Defense has used appropriated funds to recruit, train, or give special consideration to retired military officers to induce them to comment favorably on the war efforts in Iraq and Afghanistan and against terrorism. This report shall also review if special access given to these retired military officers provided a competitive advantage to their employers in securing funds appropriated to the Department of Defense.

(c) LEGAL OPINION.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall issue a legal opinion to Congress on whether the Department of Defense violated appropriations prohibitions on publicity or propaganda activities established in Public Laws 107–117, 107–248, 108–87, 108–287, 109–148, 109–289, and 110–116, the Department of Defense Appropriations Acts for fiscal years 2002 through 2008, respectively, by offering special access to retired military officers who serve as media analysts, including briefings and information on war efforts, meetings with high-level department officials, and trips to Iraq and Guantanamo Bay, Cuba.

(d) RULE OF CONSTRUCTION RELATED TO INTELLIGENCE ACTIVITIES.—Nothing in this section shall be construed to apply to any lawful and authorized intelligence activity of the United States Government.

SA 5483. Ms. KLOBUCHAR submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 714. 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 5484. Mr. FEINGOLD (for himself, Mr. NELSON of Florida, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

SEC. 587. TERMINATION OR SUSPENSION OF CONTRACTS FOR WIRELESS TELEPHONE SERVICE FOR MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Title III of the Servicemembers Civil Relief Act (50 U.S.C. App. 531 et seq.) is amended by inserting after section 305 the following new section:

"SEC. 305A. TERMINATION OR SUSPENSION OF CONTRACTS FOR WIRELESS TELEPHONE SERVICE.

''(a) IN GENERAL.—A servicemember or person who is a party to a contract for wireless telephone service and receives military orders to deploy with a military unit or in support of a contingency operation for a period of not less than 90 days, or to relocate for not less than 90 days to a location that does not support the contract, may submit to the wireless telephone service provider concerned a request for the termination or suspension of the contract. The request shall include a copy of the military orders of the servicemember or person.

''(b) RELIEF.—Upon receiving the request of a servicemember or person under subsection (a), the wireless telephone service provider concerned shall, at the election of the servicemember or person—

''(1) permit the servicemember or person to terminate the contract without imposition of an early termination fee, penalty, or other obligation; or

''(2) permit the servicemember or person to suspend the contract at no charge until the servicemember or person returns to the original area of wireless telephone service coverage under the contract without requiring, whether as a condition of suspension or otherwise, that the contract be extended.

''(c) UNPAID AMOUNTS.—Nothing in this section shall be construed to relieve a servicemember or person covered by subsection (a) from the obligation to pay all outstanding amounts due under the terms of the contract before the date that the contract is terminated or suspended under subsection (b).

''(d) DEFINITIONS.—In this section:

''(1) The term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code, except that the term may include such other deployments as the Secretary of Defense may prescribe

''(2) The term 'suspension', with respect to a contract, means the temporary cessation of service under the contract as provided in subsection (b)(2).

''(3) The term 'wireless telephone service' has the meaning given the term 'commercial mobile radio services' in section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)).

''(4) The term 'wireless telephone service provider' means any entity that provides wireless telephone service.''.

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by inserting after the item relating to section 305 the following new item:

''Sec. 305A. Termination or suspension of contracts for wireless telephone service.''.

SA 5485. Mr. DODD (for himself and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle E—Comprehensive Iran Sanctions, Accountability, and Divestment

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the ''Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008''.

PART I—SANCTIONS

SEC. 1251. DEFINITIONS.

In this part:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given that term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' has the meaning given that term in section 14(2) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(3) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(4) FAMILY MEMBER.—The term ''family member'' means, with respect to an individual, the spouse, children, grandchildren, or parents of the individual.

(5) INFORMATION AND INFORMATIONAL MATERIALS.—The term ''information and informational materials''—

(A) means information and informational materials described in section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)); and

(B) does not include information or informational materials—

(i) the exportation of which is otherwise controlled—

(I) under section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2404) (as in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)); or

(II) under section 6 of that Act (50 U.S.C. App. 2405), to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(ii) with respect to which acts are prohibited by chapter 37 of title 18, United States Code.

(6) INVESTMENT.—The term ''investment'' has the meaning given that term in section 14(9) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(7) IRANIAN DIPLOMATS AND REPRESENTATIVES OF OTHER GOVERNMENT AND MILITARY OR QUASI-GOVERNMENTAL INSTITUTIONS OF IRAN.—The term ''Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran'' has the meaning given that term in section 14(11) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(8) MEDICAL DEVICE.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(9) MEDICINE.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

SEC. 1252. CLARIFICATION AND EXPANSION OF DEFINITIONS.

(a) PERSON.—Section 14(13)(B) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended—

(1) by inserting ''financial institution, insurer, underwriter, guarantor, and any other business organization, including any foreign subsidiary, parent, or affiliate of the foregoing,'' after ''trust,''; and

(2) by inserting '', such as an export credit agency'' before the semicolon.

(b) PETROLEUM RESOURCES.—Section 14(14) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) is amended by striking ''petroleum and natural gas resources'' and inserting ''petroleum, petroleum by-products, oil or liquefied natural gas, oil or liquefied natural gas tankers, and products used to construct or maintain pipelines used to transport oil or liquefied natural gas''.

SEC. 1253. ECONOMIC SANCTIONS RELATING TO IRAN.

(a) IN GENERAL.—Notwithstanding any other provision of law, and in addition to any other sanction in effect, beginning on the date that is 15 days after the effective date of this subtitle, the economic sanctions described in subsection (b) shall apply with respect to Iran.

(b) SANCTIONS.—The sanctions described in this subsection are the following:

(1) PROHIBITION ON IMPORTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no article that is the growth, product, or manufacture of Iran may be imported directly or indirectly into the United States.

(B) EXCEPTION.—The prohibition in subparagraph (A) does not apply to imports from Iran of information and informational materials.

(2) PROHIBITION ON EXPORTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no article that is the growth, product, or manufacture of the United States may be exported directly or indirectly to Iran.

(B) EXCEPTIONS.—The prohibition in subparagraph (A) does not apply to exports to Iran of—

(i) agricultural commodities, food, medicine, or medical devices;

(ii) articles exported to Iran to provide humanitarian assistance to the people of Iran;

(iii) information or informational materials; or

(iv) goods, services, or technologies necessary to ensure the safe operation of commercial passenger aircraft produced in the United States if the exportation of such goods, services, or technologies is approved by the Secretary of the Treasury, in consultation with the Secretary of Commerce, pursuant to regulations for licensing the exportation of such goods, services, or technologies, if appropriate.

(3) FREEZING ASSETS.—

(A) IN GENERAL.—At such time as the United States has access to the names of persons in Iran, including Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran, that are determined to be subject to sanctions imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or any other provision of law relating to the imposition of sanctions with respect to Iran, the President shall take such action as may be necessary to freeze immediately the funds and other assets belonging to anyone so named and any family members or associates of those so named to whom assets or property of those so named were transferred on or after January 1, 2008. The action described in the preceding sentence includes requiring any United States financial institution that holds funds and assets of a person so named to report promptly to the Office of Foreign Assets Control information regarding such funds and assets.

(B) ASSET REPORTING REQUIREMENT.—Not later than 14 days after a decision is made to freeze the property or assets of any person under this paragraph, the President shall report the name of such person to the appropriate congressional committees.

(4) UNITED STATES GOVERNMENT CONTRACTS.—The head of an executive agency may not procure, or enter into a contract for

the procurement of, any goods or services from a person that meets the criteria for the imposition of sanctions under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(c) WAIVER.—The President may waive the application of the sanctions described in subsection (b) if the President—

(1) determines that such a waiver is in the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

SEC. 1254. LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN SUBSIDIARIES.

(a) DEFINITIONS.—In this section:

(1) ENTITY.—The term ''entity'' means a partnership, association, trust, joint venture, corporation, or other organization.

(2) OWN OR CONTROL.—The term ''own or control'' means, with respect to an entity—

(A) to hold more than 50 percent of the equity interest by vote or value in the entity;

(B) to hold a majority of seats on the board of directors of the entity; or

(C) to otherwise control the actions, policies, or personnel decisions of the entity.

(3) SUBSIDIARY.—The term ''subsidiary'' means an entity that is owned or controlled, directly or indirectly, by a United States person.

(4) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a natural person who is a citizen, resident, or national of the United States; and

(B) an entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in subparagraph (A) own or control the entity.

(b) IN GENERAL.—A United States person shall be subject to a penalty for a violation of the provisions of Executive Order 12959 (50 U.S.C. 1701 note) or Executive Order 13059 (50 U.S.C. 1701 note), or any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), if—

(1) the President determines that the United States person establishes or maintains a subsidiary outside of the United States for the purpose of circumventing such provisions; and

(2) that subsidiary engages in an act that, if committed in the United States or by a United States person, would violate such provisions.

(c) WAIVER.—The President may waive the application of subsection (b) if the President—

(1) determines that such a waiver is in the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (b) shall take effect on the date of the enactment of this Act and apply with respect to acts described in subsection (b)(2) that are—

(A) commenced on or after the date of the enactment of this Act; or

(B) except as provided in paragraph (2), commenced before such date of enactment, if such acts continue on or after such date of enactment.

(2) EXCEPTION.—Subsection (b) shall not apply with respect to an act described in paragraph (1)(B) by a subsidiary owned or controlled by a United States person if the United States person divests or terminates its business with the subsidiary not later than 90 days after such date of enactment.

SEC. 1255. INCREASED CAPACITY FOR EFFORTS TO COMBAT UNLAWFUL OR TERRORIST FINANCING.

(a) FINDING.—Congress finds that the work of the Office of Terrorism and Financial Intelligence of the Department of the Treasury, which includes the Office of Foreign Assets Control and the Financial Crimes Enforcement Network, is critical to ensuring that the international financial system is not used for purposes of supporting terrorism and developing weapons of mass destruction.

(b) AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF TERRORISM AND FINANCIAL INTELLIGENCE.—There is authorized to be appropriated to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence—

(1) $61,712,000 for fiscal year 2009; and

(2) such sums as may be necessary for each of the fiscal years 2010 and 2011.

(c) AUTHORIZATION OF APPROPRIATIONS FOR THE FINANCIAL CRIMES ENFORCEMENT NETWORK.—Section 310(d)(1) of title 31, United States Code, is amended by striking ''such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005'' and inserting ''$91,335,000 for fiscal year 2009 and such sums as may be necessary for each of the fiscal years 2010 and 2011''.

SEC. 1256. REPORTING REQUIREMENTS.

(a) FOREIGN INVESTMENT IN IRAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on—

(A) any foreign investments of $20,000,000 or more made in Iran's energy sector on or after January 1, 2008, and before the date on which the President submits the report; and

(B) the determination of the President on whether each such investment qualifies as a sanctionable offense under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(2) SUBSEQUENT REPORTS.—Not later than 1 year after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the appropriate congressional committees a report on—

(A) any foreign investments of $20,000,000 or more made in Iran's energy sector during the 180-day period preceding the submission of the report; and

(B) the determination of the President on whether each such investment qualifies as a sanctionable offense under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(b) FORM OF REPORTS.—The reports required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex.

SEC. 1257. SENSE OF CONGRESS REGARDING THE IMPOSITION OF SANCTIONS ON THE CENTRAL BANK OF IRAN.

Congress urges the President, in the strongest terms, to consider immediately using the authority of the President to impose sanctions on the Central Bank of Iran and any other Iranian bank engaged in proliferation activities or support of terrorist groups.

PART II—DIVESTMENT FROM CERTAIN COMPANIES THAT INVEST IN IRAN

SEC. 1261. DEFINITIONS.

In this part:

(1) ENERGY SECTOR.—The term ''energy sector'' refers to activities to develop petroleum or natural gas resources or nuclear power.

(2) FINANCIAL INSTITUTION.—The term ''financial institution'' has the meaning given that term in section 14(5) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(3) IRAN.—The term ''Iran'' includes any agency or instrumentality of Iran.

(4) PERSON.—The term ''person'' means—

(A) a natural person, corporation, company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group;

(B) any governmental entity or instrumentality of a government, including a multilateral development institution (as defined in section 1701(c)(3) of the International Financial Institutions Act (22 U.S.C. 262r(c)(3))); and

(C) any successor, subunit, parent company, or subsidiary of any entity described in subparagraph (A) or (B).

(5) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) STATE OR LOCAL GOVERNMENT.—The term ''State or local government'' includes—

(A) any State and any agency or instrumentality thereof;

(B) any local government within a State, and any agency or instrumentality thereof;

(C) any other governmental instrumentality; and

(D) any public institution of higher education within the meaning of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

SEC. 1262. AUTHORITY OF STATE AND LOCAL GOVERNMENTS TO DIVEST FROM CERTAIN COMPANIES THAT INVEST IN IRAN.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should support the decision of any State or local government to divest from, or to prohibit the investment of assets of the State or local government in, a person that the State or local government determines poses a financial or reputational risk.

(b) AUTHORITY TO DIVEST.—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c).

(c) INVESTMENT ACTIVITIES DESCRIBED.—A person engages in investment activities in Iran described in this subsection if the person—

(1) has an investment of $20,000,000 or more—

(A) in the energy sector of Iran; or

(B) in a person that provides oil or liquified natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquified natural gas, for the energy sector in Iran; or

(2) is a financial institution that extends $20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit to invest in the energy sector in Iran.

(d) REQUIREMENTS.—Any measure taken by a State or local government under subsection (b) shall meet the following requirements:

(1) NOTICE.—The State or local government shall provide written notice to each person to which a measure is to be applied.

(2) TIMING.—The measure shall apply to a person not earlier than the date that is 90 days after the date on which written notice is provided to the person under paragraph (1).

(3) OPPORTUNITY FOR HEARING.—The State or local government shall provide an opportunity to comment in writing to each person to which a measure is to be applied. If the

person demonstrates to the State or local government that the person does not engage in investment activities in Iran described in subsection (c), the measure shall not apply to the person.

(4) SENSE OF CONGRESS ON AVOIDING ERRONEOUS TARGETING.—It is the sense of Congress that a State or local government should not adopt a measure under subsection (b) with respect to a person unless the State or local government has made every effort to avoid erroneously targeting the person and has verified that the person engages in investment activities in Iran described in subsection (c).

(e) NOTICE TO DEPARTMENT OF JUSTICE.—Not later than 30 days after adopting a measure pursuant to subsection (b), a State or local government shall submit written notice to the Attorney General describing the measure.

(f) NONPREEMPTION.—A measure of a State or local government authorized under subsection (b) is not preempted by any Federal law or regulation.

(g) DEFINITIONS.—In this section:

(1) INVESTMENT.—The ''investment'' of assets, with respect to a State or local government, includes—

(A) a commitment or contribution of assets;

(B) a loan or other extension of credit; and

(C) the entry into or renewal of a contract for goods or services.

(2) ASSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''assets'' refers to public monies and includes any pension, retirement, annuity, or endowment fund, or similar instrument, that is controlled by a State or local government.

(B) EXCEPTION.—The term ''assets'' does not include employee benefit plans covered by title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section applies to measures adopted by a State or local government before, on, or after the date of the enactment of this Act.

(2) NOTICE REQUIREMENTS.—Subsections (d) and (e) apply to measures adopted by a State or local government on or after the date of the enactment of this Act.

SEC. 1263. SAFE HARBOR FOR CHANGES OF INVESTMENT POLICIES BY ASSET MANAGERS.

(a) IN GENERAL.—Section 13(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–13(c)(1)) is amended to read as follows:

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no person may bring any civil, criminal, or administrative action against any registered investment company, or any employee, officer, director, or investment adviser thereof, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information available to the public—

''(A) conduct or have direct investments in business operations in Sudan described in section 3(d) of the Sudan Accountability and Divestment Act of 2007 (50 U.S.C. 1701 note); or

''(B) engage in investment activities in Iran described in section 1262(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008.''.

(b) SEC REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Securities and Exchange Commission shall issue any revisions the Commission determines to be necessary to the regulations requiring disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940 to include divestments of securities in accordance with paragraph (1)(B) of such section, as added by subsection (a).

SEC. 1264. SENSE OF CONGRESS REGARDING CERTAIN ERISA PLAN INVESTMENTS.

It is the sense of Congress that a fiduciary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), may divest plan assets from, or avoid investing plan assets in, any person the fiduciary determines engages in investment activities in Iran described in section 1262(c) of this Act, without breaching the responsibilities, obligations, or duties imposed upon the fiduciary by section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104), if—

(1) the fiduciary makes such determination using credible information that is available to the public; and

(2) such divestment or avoidance of investment is conducted in accordance with section 2509.94–1 of title 29, Code of Federal Regulations (as in effect on the day before the date of the enactment of this Act).

PART III—PREVENTION OF TRANSSHIPMENT, REEXPORTATION, OR DIVERSION OF SENSITIVE ITEMS TO IRAN

SEC. 1271. DEFINITIONS.

In this part:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Financial Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) END-USER.—The term ''end-user'' means an end-user as that term is used in the Export Administration Regulations.

(3) ENTITY OWNED OR CONTROLLED BY THE GOVERNMENT OF IRAN.—The term ''entity owned or controlled by the Government of Iran'' includes—

(A) any corporation, partnership, association, or other entity in which the Government of Iran owns a majority or controlling interest; and

(B) any entity that is otherwise controlled by the Government of Iran.

(4) EXPORT ADMINISTRATION REGULATIONS.—The term ''Export Administration Regulations'' means subchapter C of chapter VII of title 15, Code of Federal Regulations.

(5) GOVERNMENT.—The term ''government'' includes any agency or instrumentality of a government.

(6) IRAN.—The term ''Iran'' includes any agency or instrumentality of Iran.

(7) STATE SPONSOR OF TERRORISM.—The term ''state sponsor of terrorism'' means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor thereto);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)).

(8) TRANSSHIPMENT, REEXPORTATION, OR DIVERSION.—The term ''transshipment, reexportation, or diversion'' means the exportation, directly or indirectly, of items that originated in the United States to an end-user whose identity cannot be verified or to an entity owned or controlled by the Government of Iran in violation of the laws or regulations of the United States by any means, including by—

(A) shipping such items through 1 or more foreign countries; or

(B) by using false information regarding the country of origin of such items.

SEC. 1272. IDENTIFICATION OF LOCATIONS OF CONCERN WITH RESPECT TO TRANSSHIPMENT, REEXPORTATION, OR DIVERSION OF CERTAIN ITEMS TO IRAN.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence shall submit to the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the appropriate congressional committees a report that identifies all countries that the Director determines are of concern with respect to transshipment, reexportation, or diversion of items subject to the provisions of the Export Administration Regulations to an entity owned or controlled by the Government of Iran.

SEC. 1273. DESTINATIONS OF POSSIBLE DIVERSION CONCERN AND DESTINATIONS OF DIVERSION CONCERN.

(a) DESTINATIONS OF POSSIBLE DIVERSION CONCERN.—

(1) DESIGNATION.—The Secretary of Commerce shall designate a country as a Destination of Possible Diversion Concern if the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, determines that such designation is appropriate to carry out activities to strengthen the export control systems of that country based on criteria that include—

(A) the volume of items that originated in the United States that are transported through the country to end-users whose identities cannot be verified;

(B) the inadequacy of the export and reexport controls of the country;

(C) the unwillingness or demonstrated inability of the government of the country to control diversion activities; and

(D) the unwillingness or inability of the government of the country to cooperate with the United States in interdiction efforts.

(2) STRENGTHENING EXPORT CONTROL SYSTEMS OF DESTINATIONS OF POSSIBLE DIVERSION CONCERN.—If the Secretary of Commerce designates a country as a Destination of Possible Diversion Concern under paragraph (1), the United States shall initiate government-to-government activities described in paragraph (3) to strengthen the export control systems of the country.

(3) GOVERNMENT-TO-GOVERNMENT ACTIVITIES DESCRIBED.—The government-to-government activities described in this paragraph include—

(A) cooperation by agencies and departments of the United States with counterpart agencies and departments in a country designated as a Destination of Possible Diversion Concern under paragraph (1) to—

(i) develop or strengthen export control systems in the country;

(ii) strengthen cooperation and facilitate enforcement of export control systems in the country; and

(iii) promote information and data exchanges among agencies of the country and with the United States; and

(B) efforts by the Office of International Programs of the Department of Commerce to strengthen the export control systems of the country to—

(i) facilitate legitimate trade in high-technology goods; and

(ii) prevent terrorists and state sponsors of terrorism, including Iran, from obtaining nuclear, biological, and chemical weapons, defense technologies, components for improvised explosive devices, and other defense items.

(b) DESTINATIONS OF DIVERSION CONCERN.—

(1) DESIGNATION.—The Secretary of Commerce shall designate a country as a Destination of Diversion Concern if the Secretary, in consultation with the Secretary of State and the Secretary of the Treasury, determines—

(A) that the government of the country is directly involved in transshipment, reexportation, or diversion of items that originated in the United States to end-users whose identities cannot be verified or to entities owned or controlled by the Government of Iran; or

(B) 12 months after the Secretary of Commerce designates the country as a Destination of Possible Diversion Concern under subsection (a)(1), that the country has failed—

(i) to cooperate with the government-to-government activities initiated by the United States under subsection (a)(2); or

(ii) based on the criteria described in subsection (a)(1), to adequately strengthen the export control systems of the country.

(2) LICENSING CONTROLS WITH RESPECT TO DESTINATIONS OF DIVERSION CONCERN.—

(A) REPORT ON SUSPECT ITEMS.—

(i) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Director of National Intelligence, the Secretary of State, and the Secretary of the Treasury, shall submit to the appropriate congressional committees a report containing a list of items that, if the items were transshipped, reexported, or diverted to Iran, could contribute to—

(I) Iran obtaining nuclear, biological, or chemical weapons, defense technologies, components for improvised explosive devices, or other defense items; or

(II) support by Iran for acts of international terrorism.

(ii) CONSIDERATIONS FOR LIST.—In developing the list required under clause (i), the Secretary of Commerce shall consider—

(I) the items subject to licensing requirements under section 742.8 of title 15, Code of Federal Regulations (or any corresponding similar regulation or ruling) and other existing licensing requirements; and

(II) the items added to the list of items for which a license is required for exportation to North Korea by the final rule of the Bureau of Export Administration of the Department of Commerce issued on June 19, 2000 (65 Fed. Reg. 38148; relating to export restrictions on North Korea).

(B) LICENSING REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Commerce shall require a license to export an item on the list required under subparagraph (A)(i) to a country designated as a Destination of Diversion Concern.

(3) WAIVER.—The President may waive the imposition of the licensing requirement under paragraph (2)(B) with respect to a country designated as a Destination of Diversion Concern if the President—

(A) determines that such a waiver is in the national interest of the United States; and

(B) submits to the appropriate congressional committees a report describing the reasons for the determination.

(c) TERMINATION OF DESIGNATION.—The designation of a country as a Destination of Possible Diversion Concern or a Destination of Diversion Concern shall terminate on the date on which the Secretary of Commerce determines, based on the criteria described in subparagraphs (A) through (D) of subsection (a)(1), and certifies to Congress and the President that the country has adequately strengthened the export control systems of the country to prevent transshipment, reexportation, and diversion of items through the country to end-users whose identities cannot be verified or to entities owned or controlled by the Government of Iran.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1274. REPORT ON EXPANDING DIVERSION CONCERN SYSTEM TO COUNTRIES OTHER THAN IRAN.

Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence, in consultation with the Secretary of Commerce, the Secretary of State, and the Secretary of the Treasury, shall submit to the appropriate congressional committees a report that—

(1) identifies any country that the Director determines may be transshipping, reexporting, or diverting items subject to the provisions of the Export Administration Regulations to another country if such other country—

(A) is seeking to obtain nuclear, biological, or chemical weapons, defense technologies, components for improvised explosive devices, or other defense items; or

(B) provides support for acts of international terrorism; and

(2) assesses the feasability and advisability of expanding the system established under section 1273 for designating countries as Destinations of Possible Diversion Concern and Destinations of Diversion Concern to include countries identified under paragraph (1).

PART IV—EFFECTIVE DATE; SUNSET

SEC. 1281. EFFECTIVE DATE; SUNSET.

(a) EFFECTIVE DATE.—Except as provided in sections 1254, 1262, and 1273(b)(2)(A), the provisions of, and amendments made by, this subtitle shall take effect on the date that is 120 days after the date of the enactment of this Act.

(b) SUNSET.—The provisions of this subtitle shall terminate on the date that is 30 days after the date on which the President certifies to Congress that—

(1) the Government of Iran has ceased providing support for acts of international terrorism and no longer satisfies the requirements for designation as a state sponsor of terrorism under—

(A) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)) (or any successor thereto);

(B) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or

(C) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)); and

(2) Iran has ceased the pursuit, acquisition, and development of nuclear, biological, and chemical weapons and ballistic missiles and ballistic missile launch technology.

SA 5486. Mr. BROWN (for himself and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 303, between lines 3 and 4, insert the following:

SEC. 1056. GAO REVIEW OF ROLE OF IMPORTS IN DEFENSE INDUSTRIAL BASE.

(a) REVIEW REQUIRED.—The Comptroller General of the United States shall conduct a thorough review of the application of provisions of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and the Defense Production Act (50 U.S.C. App. 2077 et seq.).

(b) CONSIDERATIONS.—In conducting the review required under subsection (a), the Comptroller General shall examine—

(1) the safety of products and reliability of supply chains that service defense infrastructure;

(2) the legal limitations, if any, on procurement by the Department of Defense of products manufactured in countries that have exported multiple unsafe products to the United States;

(3) systems in place to determine the origin of products the Department procures and the reliability of manufacturing supply chains;

(4) information provided by suppliers to the Department about the origin of the products they use in their systems and subsystems;

(5) information the Department currently requires of suppliers about the origin of products, materials, and components;

(6) manufacturing production capacity in the United States in the case of a surge in production requests by the Department;

(7) measures in place to determine country-of-origin of products that have been substandard or not met criteria;

(8) the capacity of the United States industrial base to manufacture for the national defense in the next 10 years; and

(9) such other issues as the Comptroller General determines relevant.

(c) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate and the Committees on Financial Services and the Committee on Armed Services of the House of Representatives a report on the review conducted under subsection (a).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting any law or regulation otherwise pertaining to the protection of classified information or proprietary information sought or obtained by the Comptroller General.

SA 5487. Mr. CASEY (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. COUNTERTERRORISM STATUS REPORTS.

(a) SHORT TITLE.—This section may be cited as the ''Success in Countering Al Qaeda Reporting Requirements Act of 2008''.

(b) FINDINGS.—Congress makes the following findings:

(1) Al Qaeda and its related affiliates attacked the United States on September 11, 2001 in New York, New York, Arlington, Virginia, and Shanksville, Pennsylvania, murdering almost 3000 innocent civilians.

(2) Osama bin Laden and his deputy Ayman al-Zawahiri remain at large.

(3) In testimony to the Select Committee on Intelligence of the Senate on February 5, 2008, Director of National Intelligence J. Michael McConnell stated, ''Al-Qa'ida has been able to retain a safehaven in Pakistan's Federally Administered Tribal Areas (FATA) that provides the organization many of the advantages it once derived from its base across the border in Afghanistan''.

(4) The July 2007 National Intelligence Estimate states, ''Al Qaeda is and will remain the most serious terrorist threat to the Homeland''.

(5) In testimony to the Permanent Select Committee on Intelligence of the House of Representatives on February 7, 2008, Director of National Intelligence Michael McConnell stated, ''Al-Qa'ida and its terrorist affiliates continue to pose significant threats to the United States at home and abroad, and al-Qa'ida's central leadership based in the border area of Pakistan is its most dangerous component.''.

(6) The ''National Strategy for Combating Terrorism'', issued in September 2006, affirmed that long-term efforts are needed to win the battle of ideas against the root causes of the violent extremist ideology that sustains Al Qaeda and its affiliates. The United States has obligated resources to support democratic reforms and human development to undercut support for violent extremism, including in the Federally Administered Tribal Areas in Pakistan and the Sahel region of Africa. However, 2 reports released by the Government Accountability Office in 2008 (''Combating Terrorism: The United States Lacks Comprehensive Plan to Destroy the Terrorist Threat and Close the Safe Haven in Pakistan's Federally Administered Tribal Areas'' (GAO-08-622, April 17, 2008) and ''Combating Terrorism: Actions Needed to Enhance Implementation of Trans-Sahara Counterterrorism Partnership'' (GAO-08-860, July 31, 2008)) found that ''no comprehensive plan for meeting U.S. national security goals in the FATA have been developed,'' and ''no comprehensive integrated strategy has been developed to guide the [Sahel] program's implementation''.

(7) Such efforts to combat violent extremism and radicalism must be undertaken using all elements of national power, including military tools, intelligence assets, law enforcement resources, diplomacy, paramilitary activities, financial measures, development assistance, strategic communications, and public diplomacy.

(8) In the report entitled ''Suggested Areas for Oversight for the 110th Congress'' (GAO-08-235R, November 17, 2006), the Government Accountability Office urged greater congressional oversight in assessing the effectiveness and coordination of United States international programs focused on combating and preventing the growth of terrorism and its underlying causes.

(9) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) requires that the Secretary of State submit annual reports to Congress that detail key developments on terrorism on a country-by-country basis. These Country Reports on Terrorism provide information on acts of terrorism in countries, major developments in bilateral and multilateral counterterrorism cooperation, and the extent of state support for terrorist groups responsible for the death, kidnaping, or injury of Americans, but do not assess the scope and efficacy of United States counterterrorism efforts against Al Qaeda and its related affiliates.

(10) The Executive Branch submits regular reports to Congress that detail the status of United States combat operations in Iraq and Afghanistan, including a breakdown of budgetary allocations, key milestones achieved, and measures of political, economic, and military progress.

(11) The Department of Defense compiles a report of the monthly and cumulative incremental obligations incurred to support the Global War on Terrorism in a monthly Supplemental and Cost of War Execution Report.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) 7 years after the attacks on September 11, 2001, Al Qaeda and its related affiliates remain the most serious national security threat to the United States, with alarming signs that Al Qaeda and its related affiliates recently reconstituted their strength and ability to generate new attacks throughout the world, including against the United States;

(2) there remains insufficient information on current counterterrorism efforts undertaken by the Federal Government and the level of success achieved by specific initiatives;

(3) Congress and the American people can benefit from more specific data and metrics that can provide the basis for objective external assessments of the progress being made in the overall war being waged against violent extremism;

(4) the absence of a comparable timely assessment of the ongoing status and progress of United States counterterrorism efforts against Al Qaeda and its related affiliates in the overall Global War on Terrorism hampers the ability of Congress and the American people to independently determine whether the United States is making significant progress in this defining struggle of our time; and

(5) the Executive Branch should submit a comprehensive report to Congress, updated on an annual basis, which provides a more strategic perspective regarding—

(A) the United States' highest global counterterrorism priorities;

(B) the United States' efforts to combat and defeat Al Qaeda and its related affiliates;

(C) the United States' efforts to undercut long-term support for the violent extremism that sustains Al Qaeda and its related affiliates;

(D) the progress made by the United States as a result of such efforts;

(E) the efficacy and efficiency of the United States resource allocations; and

(F) whether the existing activities and operations of the United States are actually diminishing the national security threat posed by Al Qaeda and its related affiliates.

(d) ANNUAL COUNTERTERRORISM STATUS REPORTS.—

(1) IN GENERAL.—Not later than July 31, 2009, and every July 31 thereafter, the President shall submit a report, to the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Armed Services of the Senate, the Committee on Armed Services of the House of Representatives, the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives, which contains, for the most recent 12-month period, a review of the counterterrorism strategy of the United States Government, including—

(A) a detailed assessment of the scope, status, and progress of United States counterterrorism efforts in fighting Al Qaeda and its related affiliates and undermining long-term support for violent extremism;

(B) a judgment on the geographical region in which Al Qaeda and its related affiliates pose the greatest threat to the national security of the United States;

(C) an evaluation of the extent to which the counterterrorism efforts of the United States correspond to the plans developed by the National Counterterrorism Center and the goals established in overarching public statements of strategy issued by the executive branch;

(D) a description of the efforts of the United States Government to combat Al Qaeda and its related affiliates and undermine violent extremist ideology, which shall include—

(i) a specific list of the President's highest global counterterrorism priorities;

(ii) the degree of success achieved by the United States, and remaining areas for progress, in meeting the priorities described in clause (i); and

(iii) efforts in those countries in which the President determines that—

(I) Al Qaeda and its related affiliates have a presence; or

(II) acts of international terrorism have been perpetrated by Al Qaeda and its related affiliates;

(E) the specific status and achievements of United States counterterrorism efforts, through military, financial, political, intelligence, and paramilitary elements, relating to—

(i) bilateral security and training programs;

(ii) law enforcement and border security;

(iii) the disruption of terrorist networks; and

(iv) the denial of terrorist safe havens and sanctuaries;

(F) a description of United States Government activities to counter terrorist recruitment and radicalization, including—

(i) strategic communications;

(ii) public diplomacy;

(iii) support for economic development and political reform; and

(iv) other efforts aimed at influencing public opinion;

(G) United States Government initiatives to eliminate direct and indirect international financial support for the activities of terrorist groups;

(H) a cross-cutting analysis of the budgets of all Federal Government agencies as they relate to counterterrorism funding to battle Al Qaeda and its related affiliates abroad, including—

(i) the source of such funds; and

(ii) the allocation and use of such funds;

(I) an analysis of the extent to which specific Federal appropriations—

(i) have produced tangible, calculable results in efforts to combat and defeat Al Qaeda, its related affiliates, and its violent ideology; or

(ii) contribute to investments that have expected payoffs in the medium- to long-term;

(J) statistical assessments, including those developed by the National Counterterrorism Center, on the number of individuals belonging to Al Qaeda and its related affiliates that have been killed, injured, or taken into custody as a result of United States counterterrorism efforts; and

(K) a concise summary of the methods used by National Counterterrorism Center and other elements of the United States Government to assess and evaluate progress in its overall counterterrorism efforts, including the use of specific measures, metrics, and indices.

(2) INTERAGENCY COOPERATION.—In preparing a report under this subsection, the President shall include relevant information maintained by—

(A) the National Counterterrorism Center and the National Counterproliferation Center;

(B) Department of Justice, including the Federal Bureau of Investigation;

(C) the Department of State;

(D) the Department of Defense;

(E) the Department of Homeland Security;

(F) the Department of the Treasury;

(G) the Office of the Director of National Intelligence,

(H) the Central Intelligence Agency;

(I) the Office of Management and Budget;

(J) the United States Agency for International Development; and

(K) any other Federal department that maintains relevant information.

(3) REPORT CLASSIFICATION.—Each report required under this subsection shall be—

(A) submitted in an unclassified form, to the maximum extent practicable; and

(B) accompanied by a classified appendix, as appropriate.

SA 5488. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XII, add the following:

SEC. 1233. BIENNIAL REPORT ON MILITARY POWER OF IRAN.

(a) BIENNIAL REPORTS REQUIRED.—

(1) IN GENERAL.—Not later than December 31, 2009, and every two years thereafter through 2019, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the current and future military and security strategy of Iran.

(2) GENERAL SCOPE OF REPORTS.—Each report shall address the current and probable future course of military-technological development of the Iranian military and the tenets and probable development of the grand strategy, security strategy, and military strategy, and of military organizations and operational concepts of Iran.

(3) FORM.—Each report shall be submitted in both unclassified and classified form.

(b) ELEMENTS.—Each report under this section shall include analyses and forecasts with respect to the following:

(1) The goals of Iranian grand strategy, security strategy, and military strategy.

(2) The size, location, and capabilities of all land, sea, air, and irregular forces of Iran, and any other force controlled by the Iran Government or receiving funds or training from the Iran Government.

(3) Developments in and the capabilities of the ballistic missile and any nuclear, chemical, and biological weapons programs of Iran.

(4) The degree to which Iran depends on unconventional, irregular, or asymmetric capabilities to achieve its strategic goals.

(5) The irregular warfare capabilities of Iran, including the exploitation of asymmetric strategies and related weapons and technology, the use of covert forces, the use of proxy forces, support for terrorist organizations, and strategic communications efforts.

(6) Efforts by Iran to develop, acquire, or gain access to information, communication, nuclear, and other technologies that would enhance its military capabilities.

(7) The nature and significance of any arms, munitions, military equipment, or military or dual-use technology acquired by Iran from outside Iran, including from a foreign government or terrorist organization, or provided by Iran to any foreign government or terrorist organization.

(8) The nature and significance of any bilateral or multilateral security or defense-related cooperation agreements, whether formal or informal, between Iran and any foreign government or terrorist organization.

(9) Expenditures by Iran on each of the following:

(A) The security forces of Iran, whether regular and irregular.

(B) The programs of Iran relating to weapons of mass destruction.

(C) Support provided to terrorist groups, insurgent groups, irregular proxy forces, and other non-state actors, and related activities.

(D) Assistance to other countries.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(2) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SA 5489. Mr. LIEBERMAN (for himself, Mr. GRAHAM, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 360, after line 20, add the following:

SEC. 1233. REPORT ON THE SECURITY SITUATION IN THE CAUCASUS.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the chairs and ranking minority members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives a report in classified and unclassified form on the defense requirements of the Republic of Georgia.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the security situation in the Caucasus following the recent conflict between the Russian Federation and the Republic of Georgia, including a description of any Russian forces that continue to occupy internationally recognized Georgian territory;

(2) an assessment of the damage sustained by the armed forces of Georgia in the recent conflict with the Russian Federation;

(3) an analysis of the defense requirements of the Republic of Georgia following the conflict with the Russian Federation, with a particular focus on the needs of the republic of Georgia for enhanced air defenses and anti-armor capabilities; and

(4) detailed recommendations on how the Republic of Georgia, with United States assistance, may improve its capability for self-defense and more effectively control its territorial waters and air space.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Congress—

(A) reaffirms its previous expressions of support for continued enlargement of the North Atlantic Treaty Organization (NATO) to include qualified candidates; and

(B) supports the commitment to further enlargement of NATO to include democratic governments that are able and willing to meet the responsibilities of membership;

(2) the expansion of NATO contributes to the continued effectiveness and relevance of the organization;

(3) Georgia and Ukraine have made important progress in the areas of defense and democratic and human rights reform;

(4) a stronger, deeper relationship among the Government of Georgia, the Government of Ukraine, and NATO will be mutually beneficial to those countries and to NATO member states;

(5) the United States should take the lead and encourage other member states of NATO to support the awarding of a Membership Action Plan to Georgia and Ukraine as soon as possible;

(6) the United States Government should provide assistance to help rebuild infrastructure in Georgia and continue to develop its security partnership with the Government of the Republic of Georgia by providing security assistance to the armed forces of Georgia, as appropriate;

(7) the United States should work with fellow NATO member states to develop contingency plans and infrastructure to address the security concerns of newly joined members;

(8) the United States should expand efforts to promote the development of democratic institutions, the rule of law, and political parties in the independent states of the former Soviet Union; and

(9) the United States should work with its allies to ensure secure, reliable energy transit routes in Central Asia, the Caucasus, and Eastern Europe.

SA 5490. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 907. REVIEW AND REPORT ON ORGANIZATIONAL STRUCTURE AND MISSIONS OF THE DEPARTMENT OF DEFENSE FOR CYBER OPERATIONS.

(a) REVIEW OF ORGANIZATIONAL STRUCTURE AND MISSIONS.—The Secretary of Defense shall carry out a thorough review and assessment of the organizational structure and missions of the Department of Defense and the military departments for cyber operations.

(b) SCOPE OF REVIEW.—The review required by subsection (a) shall address the following:

(1) The chains of command for operations in cyberspace to collect intelligence, defend Department of Defense information networks and systems, and attack information networks and systems, including whether such chains of command or can be integrated effectively to ensure unity of effort and timely responses.

(2) The joint requirements for capabilities for offensive, defensive, and intelligence collection operations in cyberspace.

(3) The manner in which the military departments and Defense Agencies and commands have responded to fulfill joint requirements and gaps between requirements and capabilities, and the degree to which

plans and programs in the current future-years defense program will close such gaps.

(4) The roles and missions of the organizations within the Department of Defense and the military departments with major cyberspace responsibilities, including the roles and missions that would be assigned to an Air Force Cyber Command.

(5) The role of the Department of Defense in defending the United States and its critical infrastructure from attacks in cyberspace, including a comparison and contrast between that role and the role of the Department in defending the United States from physical attack through the air, in space, and from the ground and sea.

(6) In the event of a large-scale mobilization and movement of the Armed Forces, and the conduct of major military operations overseas, the dependence of the Department of Defense on, and its vulnerability to disruptions of, critical infrastructure from hostile cyberspace attacks, and the authorities and capabilities of Department and civil officials to take action to protect military mobilization and force projection overseas.

(7) The chain of command from the President for operations to defend the networks and information systems of the United States Government as a whole, the executive departments and independent agencies of the Government, and the critical infrastructure of the United States from large-scale attacks in cyberspace.

(c) REPORT.—

(1) IN GENERAL.—Not later than October 1, 2009, the Secretary shall submit to the congressional defense committees a report setting forth the following:

(A) A comprehensive description of the results of the review required by subsection (a), including a description of the results of each element of the review specified in subsection (b).

(B) Such recommendations for legislative or administrative action as a result of the review as the Secretary considers appropriate.

(2) FORM.—The report required by this subsection shall be in unclassified form, but may include a classified annex.

SA 5491. Mr. WARNER (for himself and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1056. REPORT ON NATIONAL SECURITY IMPACT OF RISING GLOBAL FOOD PRICES AND WORLDWIDE SHORTAGES OF FOOD AND WATER.

(a) FINDINGS.—Congress makes the following findings:

(1) Rising fuel prices, increased demand for food, and distribution challenges in developing countries have contributed to rising food prices, which are adversely affecting the security and welfare of millions of people worldwide.

(2) In 2008, rising food prices sparked violent protests in Haiti and Egypt, and have posed challenges to stability and governance throughout the sub-Saharan region.

(3) The lack of access to safe water and sanitation affects more than 2,000,000,000 people worldwide, posing a significant global security, environmental, and public health concern. Climate change may exacerbate these challenges.

(4) The World Health Report 2002 notes that effects of climate change on human health will undoubtedly have a greater impact on societies or individuals with scarce resources, where technologies are lacking, and where infrastructure and institutions such as the health sector are least able to adapt.

(5) The United States National Security Strategy dated March, 2006 states that the United States faces new security challenges, including ''environmental destruction, whether caused by human behavior or cataclysmic mega-disasters such as floods, hurricanes, earthquakes, or tsunamis. Problems of this scope may overwhelm the capacity of local authorities to respond, and may even overtax national militaries, requiring a larger international response. These challenges are not traditional national security concerns, such as the conflict of arms or ideologies. But if left unaddressed they can threaten national security.''.

(b) REPORT ON THE NATIONAL SECURITY IMPACT OF RISING GLOBAL FOOD PRICES AND WORLDWIDE SHORTAGES OF FOOD AND WATER.—

(1) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to Congress a report on the national security impact of rising global food prices and worldwide shortages of food and water.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of the economic, geographic, ecological, social, and political factors contributing to the rise in price and shortage of worldwide food supplies;

(B) a description of the impact of changing climate patterns on global stability with respect to arable land and water resources;

(C) an assessment of the implications, if any, that might exist for United States national security and future missions for the Armed Forces given the potential social and political consequences of shortages in the global supply of food and water;

(D) an assessment of the potential implications for future demand for international humanitarian operations and other international assistance activities given the potential social and political consequences of shortages in the global supply of food and water; and

(E) an assessment of the national security implications for the United States of succeeding or failing to succeed, with other leading and emerging major contributors of greenhouse gas emissions, in efforts to reduce emissions.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in an unclassified form, but may include a classified annex.

SA 5492. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title V, add the following:

SEC. 556. SENSE OF SENATE ON MARINE CORPS PROFESSIONAL MILITARY EDUCATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Marine Corps University of the United States Marine Corps was established in 1989 by the 29th Commandant of the Marine Corps, General Alfred Gray USMC (ret.), with the mission to develop, deliver, and evaluate professional military education and training through resident and distance education programs to prepare leaders to meet the challenges of national security \and to preserve, promote, and display the history and heritage of the Marine Corps.

(2) The United States Marine Corps Professional Military Education System educates members of the United States Marine Corps, the United States Army, the United States Air Force, the United States Navy, and the United States Coast Guard, civilian employees of the Department of State, the Department of Justice, the Central Intelligence Agency, and the Department of Defense civilians, and military officers of foreign countries.

(3) The national security of the United States depends upon Marines who are educated in a military education system that produces creative, adaptable, and critical who thinkers able to meet the challenges of warfare in the 21st century.

(4) The Commandant of the United States Marine Corps' Planning Guidance directed the President of the Marine Corps University to assess the health of the professional military education programs of the Marine Corps for both officers and enlisted members and make recommendations for the reorganization, resourcing, and adjustment of the number of students enrolled in such programs.

(5) In 2006, the Marine Corps University conducted a study under the leadership of General Charles Wilhelm USMC (ret.), to assess the health of the United States Marine Corps Officer Professional Military Education Program. This study concluded that the Officer Professional Military Education System was generally sound. However, without investment in facilities and information technology infrastructure, the system will be increasingly unable to meet the needs of Marine Corps officers, the Marine Corps generally, and the Nation.

(6) The Marine Corps has developed a comprehensive plan that will address the inadequate information technology infrastructure and the inadequate facilities with a realistic military construction effort that will include the construction of the new Academic Support Instructional Facility for professional military education programs for both officers and enlisted members.

(b) SENSE OF SENATE.—It is the sense of the Senate that the United States Marine Corps is to be congratulated for—

(1) remarkable achievement in providing creative, adaptive, and critical thinkers able to meet the challenges of warfare in the 21st center and the defense of the United States;

(2) conducting an in-depth, institutionally honest assessment of the United States Marine Corps Professional Military Education System; and

(3) pursuing the noble goal of creating a worldwide, world-class professional military education institution.

SA 5493. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 458, between lines 12 and 13, insert the following:

SEC. 2842. REQUIREMENTS PERTAINING TO CONSTRUCTION OF WALTER REED NATIONAL MEDICAL CENTER, BETHESDA, MARYLAND.

(a) FINDINGS.—The Senate makes the following findings:

(1) Military personnel and their families, as well as veterans and retired military personnel living in the National Capital region, deserve to be treated in world class medical facilities.

(2) World class medical facilities are defined as incorporating the best practices of the premier private health facilities in the country as well as the collaborative input of military health care professionals into a design that supports the unique needs of military personnel and their families.

(3) The closure of the Walter Reed Army Medical Center in Washington, D.C., and the resulting construction of the National Military Medical Center at the National Naval Medical Center, Bethesda, Maryland, and a new military hospital at Fort Belvoir, Virginia, offers the Department of Defense the opportunity to transition from antiquated existing facilities into world class medical centers providing the highest quality of joint service care for military personnel.

(4) Congress has supported a Department of Defense request to expedite the construction of the new facilities at Bethesda and Fort Belvoir in order to provide care in better facilities as quickly as possible.

(5) The Department of Defense has a responsibility to ensure that the expedited design and construction of such facilities do not result in degradation of the quality standards required for world class facilities.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Secretary of Defense should immediately establish a panel consisting of medical facility design experts, military healthcare professionals, representatives of premier health care facilities in the United States, and patient representatives—

(A) to review conceptual design plans for the National Military Medical Center; and

(B) to advise the Secretary whether the design, in the view of the panel, will result in the goal of providing a world-class medical facility; and

(2) if the panel determines that the conceptual design plan will not meet such goal, the panel should, as soon as possible but in no case later than 15 days after the date of the enactment of this Act, make recommendations for changes to those plans to ensure the construction of a world-class medical facility.

(c) MILESTONE SCHEDULE.—

(1) PREPARATION.—The Secretary of Defense shall prepare a complete milestone schedule for the closure of Walter Reed Army Medical Hospital, the design and construction of replacement facilities at the National Naval Medical Center and Fort Belvoir, and the relocation of operations to the replacement facilities. The schedule shall include a detailed plan regarding how the Department of Defense will carry out the transition of operations between Walter Reed Army Medical Hospital and the replacement facilities.

(2) SUBMISSION.—The Secretary of Defense shall submit the milestone schedule and transition plan prepared under paragraph (1) to the congressional defense committees as soon as possible, but in no case later than 90 days after the date of the enactment of this Act.

SA 5494. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title V, add the following:

SEC. 587. TASK FORCE ON DIVERSITY IN THE ARMED FORCES.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters related to diversity in the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The task force shall consist of not more than 24 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in managing diversity.

(2) ELIGIBLE INDIVIDUALS.—The members of the task force shall include the following:

(A) The Director of the Defense Manpower Management Center.

(B) One senior representative of the Office of the Deputy Secretary of Defense for Plans.

(C) One senior military member of each of the Army, the Navy, the Air Force, and the Marine Corps who serves or has served in a leadership position with either a military department command or a combatant command.

(D) One retired general or flag officer from each of the Army, the Navy, the Air Force, and the Marine Corps.

(E) One senior noncommissioned officer from each of the Army, the Navy, the Air Force, and the Marine Corps.

(F) Five retired senior officers who served in leadership positions with either a military department command or combatant command, of which no less than three shall represent views of gender or ethnic specific groups.

(G) Four individuals from outside the Department of Defense with expertise in cultivating diversity in organizations.

(H) An attorney with appropriate experience and expertise in constitutional and legal matters relating to the duties and recommendations of the task force.

(3) CO-CHAIRS.—The Secretary of Defense shall designate two of the members of the task force under subparagraphs (F) and (G) of paragraph (2) as co-chairs of the task force.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the task force. Any vacancy in the task force shall be filled in the same manner as the original appointment.

(5) DEADLINE FOR APPOINTMENT.—All members of the task force shall be appointed not later than 60 days after the date of the enactment of this Act.

(6) QUORUM.—12 members of the task force shall constitute a quorum but a lesser number may hold hearings.

(c) MEETINGS.—

(1) INITIAL MEETING.—The task force shall conduct its first meeting not later than 30 days after the date on which a majority of the appointed members of the task force have been appointed.

(2) MEETINGS.—The task force shall meet at the call of the co-chairs.

(d) DUTIES.—

(1) STUDY.—The task force shall study the diversity within all grades of the Armed Forces. The study shall include a comprehensive evaluation and assessment of policies that provide opportunities for the advancement of all gender and ethnic specific groups within the Armed Forces.

(2) SCOPE OF STUDY.—In carrying out the study, the task force shall examine the following:

(A) Development of a uniform, Department of Defense-wide definition of diversity that is congruent with the Department's core values and vision for the future workforce.

(B) The success of the current plans of the Department (including the plans of the military departments) at achieving diversity.

(C) Existing metrics and milestones for evaluating the diversity plans of the Department (including the plans of the military departments) and for facilitating future evaluation and oversight.

(D) The effect of expanding Department of Defense secondary educational programs, including service academy preparatory schools, to diverse civilian populations.

(E) Traditional military career paths for gender and ethnic specific members of the Armed Forces, and possible alternative career paths that could enhance professional development.

(F) The success of current recruitment and retention practices in attracting and maintaining a sufficient number of diverse, qualified individuals in officer pre-commissioning programs.

(G) The success of current activities in increasing continuation rates for ethnic and gender specific members of the Armed Forces.

(H) Pre-command billet assignments of gender and ethnic-specific members of the Armed Forces.

(I) Command selection for gender and ethnic-specific members of the Armed Forces.

(J) The existence and maintenance of fair promotion, assignment, and command opportunities for ethnic and gender specific members of the Armed Forces at the warrant officer, chief warrant officer, company grade/junior grade officer, field grade/mid-grade officer, and general/flag officer levels.

(K) The current institutional structure of the Office of Diversity Management and Equal Opportunity of the Department, and of similar offices of the military departments, and their ability to ensure effective and accountable diversity management across the Department.

(L) The benefits of conducting an annual conference attended by civilian military, active duty and retired military, and corporate leaders on diversity, to include a review of current policy and the annual demographic data from the Defense Equal Opportunity Management Institute.

(M) Private sector practices that have successfully cultivated diversity and diverse leadership.

(N) The status of prior recommendations made to the Department and the military departments, and to Congress, concerning diversity initiatives within the Armed Forces.

(O) Options for improving the substance or implementation of current plans and policies of the Department, and of the military departments, described in subparagraphs (B) through (L).

(3) ARMED FORCES DEFINED.—In this subsection, the term ''Armed Forces'' means the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard (whether or not it is operating as a service in the Navy).

(4) CONSULTATION.—In carrying out the study under this subsection, the task force may consult with appropriate private, for profit, and non-profit organizations and advocacy groups, and with appropriate Federal commissions (including the Commission of the National Guard and Reserves), to learn methods for developing, implementing, and sustaining senior diverse leadership within the Department of Defense.

(e) POWERS OF THE TASK FORCE.—

(1) HEARINGS.—The task force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the task force considers appropriate.

(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request by the co-chairs of the task force, any department or agency of the Federal Government may provide information that the task force considers necessary to carry out its duties.

(f) TASK FORCE PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the task force who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the task force. All members of the task force who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the task force.

(3) STAFF.—

(A) IN GENERAL.—The co-chairs of the task force may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the task force to perform its duties. The employment of an executive director shall be subject to confirmation by the task force.

(B) COMPENSATION.—The co-chairs of the task force may fix the compensation of the executive director and other personnel of the task force without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of position and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(g) REPORTS.—

(1) INITIAL REPORT.—Not later than three months after the first meeting of the task force, the task force shall submit the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

(A) A strategic plan for the work of the task force.

(B) A discussion of the activities of the task force as of the date of the report.

(C) Any initial findings of the task force as of the date of the report.

(2) FINAL REPORT.—Not later than twelve months after the first meeting of the task force, the task force shall submit to the Secretary of Defense, and to the committees of Congress referred to in paragraph (1), a report on the study required by subsection (d). The report shall include the following:

(A) The findings and conclusions of the task force as a result of the study.

(B) Such recommendations as the task force considers necessary in order to increase recruitment, retention, promotion, and accession of gender and ethnic specific groups in order to achieve and maintain diversity at all levels of the Armed Forces.

(C) Such other information and recommendations the task force considers appropriate.

(3) INTERIM REPORTS.—The task force may submit to the Secretary of Defense, and to the committees of Congress referred to in paragraph (1), such additional interim reports as the task force considers appropriate.

(h) TERMINATION OF TASK FORCE.—The task force shall terminate 60 days after the date on which the task force submits the report under subsection (g)(2).

(i) FUNDING.—Amounts for the task force in carrying out its duties under this section shall be derived from amounts authorized to be appropriated by this division.

SA 5495. Mr. NELSON (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 714. ENHANCEMENT OF TRANSITIONAL DENTAL CARE FOR MEMBERS OF THE RESERVE COMPONENTS ON ACTIVE DUTY FOR MORE THAN 30 DAYS IN SUPPORT OF A CONTINGENCY OPERATION.

Section 1145(a) of title 10, United States Code, is amended—

(1) in paragraph (1)(A), by inserting ''except as provided in paragraph (3),'' before ''medical and dental care'';

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively;

(3) by inserting after paragraph (2) the following new paragraph (3):

''(3) In the case of a member described in paragraph (2)(B), the dental care to which the member is entitled under this subsection shall be the dental care to which a member of the uniformed services on active duty for more than 30 days is entitled under section 1074 of this title.''; and

(4) in subparagraph (A) of paragraph (6), as redesignated by paragraph (2) of this section, by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

SA 5496. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VII, insert the following:

SEC. 702. EXPANSION OF ELIGIBILITY OF SURVIVORS UNDER THE TRICARE DENTAL PROGRAM.

Section 1076a(k)(3) of title 10, United States Code, is amended by inserting before the period at the end the following:

'', except that, in the case of a dependent described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continuing eligibility shall be the longer of the following periods beginning on such date:

''(A) Three years.

''(B) The period ending on the date on which the dependent attains 21 years of age.

''(C) In the case of a dependent who, at 21 years of age, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was, at the time of the member's death, in fact dependent on the member for over one-half of the dependent's support, the period ending on the earlier of the following dates:

''(i) The date on which the dependent ceases to pursue such a course of study, as determined by the administering Secretary.

''(ii) The date on which the dependent attains 23 years of age''.

SA 5497. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. CORKER) submitted an amendment intended to be proposed by him to the bill S. 3001, to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1083. NONCOMPETITIVE APPOINTMENT OF SPOUSES OF MILITARY PERSONNEL.

(a) DEFINITIONS.—In this section:

(1) ACTIVE DUTY.—The term ''active duty'' means full-time duty in the armed forces. In the case of a member of a reserve component of the armed forces, including a member of the National Guard performing full-time National Guard duty, the term does not include training duties or attendance at schools.

(2) PERMANENT CHANGE OF STATION.—The term ''permanent change of station'' has the meaning given that term in Appendix A, Volume 1 of the Department of Defense Joint Federal Travel Regulations.

(3) TOTALLY DISABLED RETIRED OR SEPARATED MEMBER OF THE ARMED FORCES.—The term ''totally disabled retired or separated member of the armed forces'' means an individual who—

(A) is retired from the armed forces under chapter 61 of title 10, United States Code, with a disability rating at the time of retirement of 100 percent disabled or;

(B) has a disability rating of 100 percent from the Department of Veterans Affairs.

(b) APPOINTMENT AUTHORITY.—(1) Under such regulations as the Director of the Office of Personnel Management shall prescribe, the head of an agency may make a noncompetitive appointment to a position in the competitive service to which the appointee is qualified of—

(A) the spouse of a member of the armed forces who, as determined by the Secretary of Defense, is performing active duty under orders that authorize a permanent change of station;

(B) the spouse of a totally disabled retired or separated member of the armed forces; or

(C) the unremarried widow or widower of a member of the armed forces who died on active duty.

(2) An appointment under paragraph (1)—

(A) of an individual described in paragraph (1)(A) may only be made—

(i) not more than 2 years after the station is permanently changed under the orders; and

(ii) to a duty station in the same geographical area as the changed permanent station;

(B) of an individual described in paragraph (1)(B) may only be made not more than 2 years after—

(i) the retirement of the member of the armed forces described in subsection (a)(3)(A);

(ii) the member of the armed forces described in subsection (a)(3)(B) received a disability rating described in that subsection; and

(C) of an individual described in paragraph (1)(C) may only be made not more than 2 years after the death of the member of the armed forces.

(3)(A) During any time period described in paragraph (2)(A)(i), (B), or (C), an individual may receive no more than 1 permanent appointment under paragraph (1).

(B) Any individual who received an appointment under paragraph (1) during the period described in paragraph (2)(B) may not receive an appointment during the period described in paragraph (2)(C).

(4) Before the head of an agency may make an appointment under paragraph (1), the head of the agency shall, at least to an extent that satisfies the requirements of applicable law and regulation, provide advance notice of the vacancy to employees of the agency and to others.

(c) STATUS OF PREFERENCE ELIGIBLES.—Nothing in this section shall be construed to deprive an individual who is a preference eligible of a preference in hiring over an individual who is not a preference eligible.

(d) REPORT TO CONGRESS.—(1) Not later than 4 years after the date of enactment of this Act, the Director of the Office of Personnel Management shall, in consultation with and with the assistance of the Secretary of Defense, prepare a report on activities carried out under this section and shall submit it to—

(A) the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate; and

(B) the Committee on Government Oversight and Reform and the Committee on Armed Services of the House of Representatives.

(2) The report shall include—

(A) findings and conclusions regarding—

(i) the extent to which the exercise of the authority under this section has served the public interest;

(ii) the extent to which the exercise of the authority under this section has had consequences that are counter to the public interest; and

(iii) opinions of spouses of members of the armed services and of employees and managers of agencies where appointments under subsection (b)(1) were made with respect to the authority under this section and its exercise;

(B) any available and appropriate quantitative, as well as qualitative, measures to support the findings and conclusions in subparagraph (A); and

(C) recommendations as to whether the authority under this section should be reauthorized, and, if so, recommendations whether the authority should be made permanent and codified within title 5 of the United States Code and recommendations for any amendments to this section.

(e) TERMINATION OF AUTHORITY.—The authority to make an appointment under this section shall terminate 5 years after the date of enactment of this Act.

NOTICE OF HEARING

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Monday, September 15, 2008, at 11 a.m. to receive testimony on Voter Registration for Wounded Warriors: S. 3308, the ''Veterans Voter Support Act.''

Individuals and organizations that wish to submit a statement for the hearing record are requested to contact the Chief Clerk, Lynden Armstrong, at 202–224–7078.

For further information regarding this hearing, please contact Howard Gantman at the Rules and Administration Committee, 202–224–6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on Thursday, September 11, 2008, at 12 noon, in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 11, 2008, at 9 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LAUTENBERG. 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 September 11, 2008, at 2:30 p.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LAUTENBERG. I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, September 11, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, September 11, 2008, at 10 a.m. in room SD–562 of the Dirksen Senate Office Building.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate to conduct a hearing entitled ''Business Start-up Hurdles in Underserved Communities: Access to Venture Capital and Entrepreneurship Training,'' on Thursday, September 11, 2008, beginning at 10 a.m., in room 428A of the Russell Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS AND THE HOUSE VETERANS' AFFAIRS COMMITTEE

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet jointly with the House Veterans' Affairs Committee during the session of the Senate on Thursday, September 11, 2008, in room 345 of the Cannon House Office Building, beginning at 9:30 a.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Homeland Governmental Affairs be authorized to meet on Thursday, September 11, 2008, at 9 a.m. to conduct a hearing entitled ''Dividend Tax Abuse: How Offshore Entities Dodge Taxes on U.S. Stock Dividends.''

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

SPECIAL COMMITTEE ON AGING

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, September 11, 2008, from 10 a.m.–12:30 p.m. in Russell 325.

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

PRIVILEGES OF THE FLOOR

Mr. NELSON of Nebraska. Mr. President, I ask also unanimous consent that MAJ Marc Packler, my military fellow, be given the privilege of the floor during the Senate debate on the Defense authorization bill.

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

Mr. WICKER. Mr. President, I ask unanimous consent that Chad Jungbluth and Andrew Pate, military fellows serving in my office, be granted floor privileges for the duration of the consideration of the fiscal year 2009 Defense authorization bill.

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

Mr. GRASSLEY. Madam President, I ask unanimous consent that Katie Graham of my Finance Committee staff have privileges of the floor for the duration of the 110th Congress.

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

MEASURE INDEFINITELY POSTPONED—S.J. RES. 42

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that

Calendar No. 942, S.J. Res. 42, be indefinitely postponed.

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

TERRORIST ATTACKS OF SEPTEMBER 11, 2001

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 656, submitted earlier today by Senators REID and MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 656) expressing the sense of the Senate regarding the terrorist attacks committed against the United States of America on September 11, 2001.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 656) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 656

Whereas at 8:46 AM on the morning of September 11, 2001, hijacked American Airlines Flight 11 was flown into the upper portion of the North Tower of the World Trade Center in New York City, New York;

Whereas 17 minutes later, at 9:03 AM, hijacked United Airlines Flight 175 crashed into the South Tower of the World Trade Center;

Whereas the Fire Department of New York (FDNY), the New York Police Department (NYPD), the Port Authority Police Department (PAPD), the Office of Emergency Management (OEM) of the Mayor of New York, and countless eyewitnesses and public health officials responded immediately and valiantly to these horrific events;

Whereas at 9:37 AM, the west wall of the Pentagon was hit by hijacked American Airlines Flight 77, whose impact caused immediate and catastrophic damage to the headquarters of the Department of Defense;

Whereas Pentagon officials, county fire, police, and sheriff departments, the Metropolitan Washington Airports Authority, the Ronald Reagan Washington National Airport Fire Department, the Fort Myer Fire Department, the Virginia State Police, the Virginia Department of Emergency Management, the Federal Bureau of Investigation, the Federal Emergency Management Agency, a National Medical Response Team, the Bureau of Alcohol, Tobacco, and Firearms, and numerous military personnel all responded promptly and courageously to this attack on the United States military establishment;

Whereas the passengers and crew of hijacked United Airlines Flight 93 acted heroically to retake control of the airplane and thwart the taking of additional American lives by crashing the airliner in Shanksville, Pennsylvania, and, in doing so, gave their lives to save countless others;

Whereas nearly 3,000 innocent civilians were killed in the heinous attacks of September 11, 2001;

Whereas the Fire Department of New York suffered 343 fatalities on September 11, 2001, the largest loss of life of any emergency response agency in United States history;

Whereas the Port Authority Police Department suffered 37 fatalities in the attacks, the largest loss of life of any police force in United States history;

Whereas the New York Police Department suffered 23 fatalities as a result of the terrorist attacks, the second largest loss of life of any police force in United States history, exceeded only by the number of Port Authority Police Department officers lost that same day;

Whereas seven years later, the people of the United States of America and people around the world continue to mourn the tremendous loss of innocent life on that fateful day; and

Whereas seven years later, thousands of men and women in the United States Armed Forces remain in harm's way defending our Nation against those who seek to threaten the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes September 11, 2008, as a day of solemn commemoration of the events of September 11, 2001;

(2) offers its deepest and most sincere condolences to the families, friends, and loved ones of the innocent victims of the September 11, 2001, terrorist attacks;

(3) honors the heroic service, actions, and sacrifices of first responders, law enforcement personnel, State and local officials, volunteers, and countless others who aided the innocent victims of these attacks and, in doing so, bravely risked and often gave their own lives;

(4) recognizes the valiant service, actions, and sacrifices of United States personnel, including members of the United States Armed Forces, the United States intelligence agencies, the United States diplomatic service, law enforcement personnel, and their families, who have given so much, including their lives and well-being, to support the cause of freedom and defend our Nation's security; and

(5) reaffirms that the people of the United States will never forget the challenges our country endured on and since September 11, 2001, and will work tirelessly to defeat those who attacked our Nation.

ORDERS FOR FRIDAY, SEPTEMBER 12, 2008

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Friday, September 12; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3001, the Defense authorization bill. I further ask that the previous prohibition on motions to proceed be in effect during Friday's session of the Senate.

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

PROGRAM

Mr. NELSON of Florida. Mr. President, as previously announced, there will be no rollcall votes tomorrow or Monday. However, the managers of the bill will be on the floor to debate any further amendments to the Defense authorization bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NELSON of Florida. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7 p.m., adjourned until Friday, September 12, 2008, at 9:30 a.m.